

January 7, 1982

LB 679 - 686

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of amended proposal number 16.

PRESIDENT: The motion carries and amended proposed Rule 16 is adopted. There are a few more rule changes but we will read some matters in, Mr. Clerk. Go ahead.

CLERK: Mr. President, I have some new bills. LB 679 introduced by Senators DeCamp, Kilgarin, Wesely, Labedz, Higgins, Haberman, Barrett, Rumery, Nichol, Stoney, Remmers, Kahle, Howard Peterson, Chronister, Hefner and Lowell Johnson. (Read title as found on page 137 of the Journal). LB 680 offered by Senator Cope. (Read title). LB 681 offered by the Government, Military and Veterans Affairs Committee. (Read title). LB 682 offered by the Government, Military and Veterans Affairs Committee. (Read title). LB 683 offered by Senator Beutler. (Read title). LB 684 offered by Senators VonMinden, Hefner, Pirsch and Stoney. (Read title). LB 685 offered by the Miscellaneous Subjects Committee. (Read title). LB 686 offered by the Miscellaneous Subjects Committee. (Read title). (See pages 137 through 138 of the Legislative Journal).

Mr. President, I have a report from the Committee on Committees. That will be inserted in the Legislative Journal. (See pages 138 and 139 of the Journal). That is all that I have now, Mr. President.

PRESIDENT: We are back on rules. I understand there are some more rules that have been proposed...rules that have been submitted. Do you want to read the next one?

CLERK: Mr. President, the next proposed rules change is offered by Senator DeCamp. Senator DeCamp would move to amend Rule 7, Section 7(c)(1) by striking "three-fifths" and inserting "majority of the elected members." That is offered by Senator DeCamp.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Well, Mr. President, it is a simple rule, just keeps conformity with our other reconsideration motions. At the present time if a bill fails on Final, it requires 30 votes to reconsider it. We have had occasion after occasion in here that I can recall and everybody in here has had a bill or two that is has happened to, I would guess, where because it was a tight issue and you had 25, 27, 29 votes, whatever, 4 or 5 people were excused that day. For one reason or another somebody had to go on a trip or somebody

February 16, 1982

LB 259, 335, 435, 679, 714,  
725, 733, 770, 779, 781,  
805, 866, 901

Your committee on Public Health reports LB 714 advanced to General File with committee amendments; 725 advanced to General File; 781 General File with amendments; 805 advanced to General File with amendments; 901 advanced to General File with amendments; 733 indefinitely postponed; 679 indefinitely postponed; all signed by Senator Nichol.

Your committee on Banking reports LB 866 advanced to General File with amendments.

Mr. President, Senator Fowler asks unanimous consent to add his name to LB 259 as co-introducer.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 779; Senator DeCamp to 335; Senator Landis to LB 435.

Mr. President, Senator Fenger would like to be excused Wednesday, February 17 at 10:30 a.m.

And Senator Labeledz announces a meeting of the Constitutional Revision and Recreation Committee for Wednesday morning at eight-thirty in Room 2102, Wednesday morning, 2102, Constitutional Revision and Recreation.

Mr. President, a motion from Senators Beutler and Fowler that LB 770 be placed on General File notwithstanding the actions of the Revenue Committee, and they say that is Senator Wesely and Beutler, Mr. President.

SPEAKER MARVEL: That bill will be laid over. Any other items, Mr. Clerk.

CLERK: Nothing further, Mr. President.

SPEAKER MARVEL: Okay, Senator Chronister, do you want to adjourn us until February 17th at nine o'clock?

SENATOR CHRONISTER: Mr. Chairman, I move that we adjourn until 9:00 a.m. Wednesday morning.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. Motion is carried. We are adjourned until February 17th, 9:00 a.m.

Edited by

  
Mary K. Turner

7705

February 19, 1982

LR 225, 226, 227  
LB 454, 378, 440, 623, 645,  
673, 679, 717, 759, 827

clause. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 769 and 770 of the Legislative Journal). 34 ayes, 9 nays, 1 excused and not voting, 5 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed with the emergency clause attached. The Clerk has got some business to read in to the.....

CLERK: Mr. President, I have a motion from Senators Nichol, Wesely, Higgins, Rumery, Kilgarin, L. Johnson, DeCamp, Kahle, Remmers, Koch, and Haberman to advance LB 679 to General File notwithstanding the action of the Judiciary Committee That will be laid over.

I have a lobby registration report for February 11 through February 18.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 759 advanced to General File; 645 indefinitely postponed; 673 indefinitely postponed.

Senator DeCamp would like to print amendments to 623.

Mr. President, I have new resolutions. LR 225 by Senator Nichol calls for a study of considering the legislative solution allowing the Mexican American Commission to provide direct services, assisting both the area service providers, agencies, and organizations. The second study resolution from Senator Nichol calls for a study on the way to improve the older Hispanic's knowledge of and participation in applicable service programs. (LR 226.) Mr. President, LR 227 by Senator Marsh. (Read resolution. See pages 773 and 774, Legislative Journal.) That will be laid over, Mr. President.

Mr. President, Senator Higgins offers explanation of vote; Senator Haberman offers explanation of vote.

Senator Higgins would like to withdraw her name as co-introducer from 827; and Senator Koch to add his name as co-introducer to 440.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: I have Attorney General opinions, one to Senator Cullan regarding LB 378; and one to Senator DeCamp regarding LB 717.

And Mr. President, I have a hearing notice from the Appropriations Committee.

Before we go into the next matter on the agenda the Chair would like to introduce some 32 eighth graders from the Cathedral of the Risen Christ School here in Lincoln, Cathy Hayden, teacher. They are up here in the North balcony. I guess they are about to leave. Wave to us as you are leaving up there and welcome to your Unicameral. We're ready then to resume our discussion on motions under agenda item #6, LB 679 for a ten minute limit again. This time Senator Wesely's LB 679. Mr. Clerk, do you want to go ahead.

CLERK: Mr. President, Senator Wesely would move to suspend Rule 3, Section 16 so as to place LB 679 on General File notwithstanding the action of the Judiciary Committee.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you. Mr. President, members of the Legislature, the motion before you is going to be, I hope, very brief and I think our understanding is that I'll speak and perhaps somebody can speak against it. It doesn't matter and then we should close discussion and vote. The reason I am bringing up this motion, it was cosigned I believe by close to a dozen various senators, the bill itself, LB 679, was cosponsored by I believe seventeen senators, is that I think we ought to get a feel for how the Legislature considers this issue and that we should have a vote so that there is an indication of whether or not it is worth pursuing in the future. I guess that is my interest in the issue. And what is the issue? That is the grandparent visitation rights question which has been before this body twice in the past couple of years. Now the issue that has come before you in the past was in the form of a bill by Senator Nichol and Senator Stoney in 1979 or 1980 I believe which would have established the broad based visitation rights for grandparents. That bill was killed on the floor of the Legislature and was reintroduced in a different form but essentially in the same concept by Senator Higgins last year. That bill was killed in committee. This year in cooperation with the other senators that cosigned the bill we narrowed the focus of this legislation to the point at which it now deals with only those situations where one of the spouses has died. The surviving spouse has the children and the grandparents-in-law are not given a chance to visit those grandchildren and at this time that is the only situation we're talking about. Now why is this a particularly important situation? Well it is important because of the fact that if you have a divorce case the spouse that doesn't have the children still has visitation rights in the courts so his parents can visit those grandchildren through the times that he visits them himself, so that there is an access to the grandchildren under those circumstances. But when one of the spouses dies and the parents of that spouse really have no standing whatsoever in the courts because right now there is no

March 10, 1982

LB 679

right that they have for visitation to see their grandchildren and there isn't any secondary opportunity, indirect way in which they can provide for those visitation rights. So in this case we're talking about a very particular situation that I believe deserves attention by this Legislature and should be passed. The bill before you, LB 679, is not a priority bill so it will not be considered this session once it is brought out of committee and I hope you will bring it out of committee. What I'd like to see as I discuss this and I know many of you are not paying too much attention to the discussion but for those of you who are, what I want to know is whether or not there is an interest in even pursuing the concept of giving grandparents the right to visit their grandchildren in the case that we're talking about where their daughter or son has died. It seems to me that there is that right that should be established and that it is only reasonable that we provide that right to these grandparents. But as I told you the bill has been killed twice before. It was killed in committee this year and it seems pretty clear that this Nebraska Legislature does not want to deal with that issue. Now let me tell you that I got a call from Boston just about a week ago and it was from Garnett Knight-Ridder who contacted me and wanted to know why Nebraska was one of the only nine states that did not provide for some visitation rights for grandparents. He was doing a national story about the fact that there are so few states that had recognized the fact that in certain circumstances grandparents should have the right to visit their grandchildren when they are being denied that opportunity and as I said this is a very limited application. And I explained to him the history that I just explained to you and the fact that it hadn't got very far and he was dumbfounded by it because in other states they do have this right. It has worked, it has been a benefit and he could not understand why we hadn't seen the light yet here. And evidently in other states where they do have this right it is much broader than what we are talking about here. Not only do they provide it for the case where the one spouse has died, they provide it in cases of divorce and they provide it even in cases where there isn't divorce and there is a conflict between the parents and the grandparents. I don't want to go that far and I don't think we should go that far. I'm talking about a very particular case that I think has merit that we ought to consider and I want to get a sense from this Legislature as to whether or not you're concerned about the right of grandparents to visit their grandchildren or not. I think that after three attempts, if we aren't able to pull this bill out of committee and if there isn't an indication of support, it seems pretty clear to me that this Legislature does not want to pursue the issue any further and I would be very disappointed in that. But I do think you ought to be familiar with the issue by now after three years of it and would ask you very strongly to

support this issue. This has become a very key issue to a lot of older Nebraskans and across the country older citizen groups that are supporting the concept. They are working across the nation to try and provide these sort of rights and evidently it has become quite a movement and at this point in Nebraska it has just begun. The issue has been here three years before but there hasn't been that broad based attention paid to it. Now because of the introduction of this bill and the attention it has received statewide, it seems to me that there is more and more support in Nebraska for the idea. So although we may not be successful in passing the legislation this year, if you will show your indication of support for giving grandparents this visitation rights, I can assure you that the issue will be back in the future and it has a good chance of being considered and hopefully passed. So with that background, the issue has been before us before, this is a much narrower version of that proposal. There is a much broader interest in the issue and much greater support for it at this point than there was in the past. This bill will not be passed this year because it is not a priority bill and I will not ask for a special order from the Speaker. Thus, I am asking you just to give an indication on this vote and I will ask for a record vote on this as to whether or not you are willing to allow grandparents some minimal, some narrow rights to visit their grandchildren when their spouse has died and I think that this is a very key issue but ask for your support. Thank you very much.

PRESIDENT: The Chair recognizes Senator Cullan. Is Senator Cullan in the Chamber? Well let's go on because time is running. Senator Chambers, do you wish to speak? We'll call on you next and then on to Senator Cullan. We have very few minutes left so go ahead.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am opposed to Senator Wesely's motion. I was the one who made the kill motion in the Judiciary Committee this year and I am probably the one who made it the other time the bill came up and I would make such a motion any time the bill came before us. I'm looking at the interest of the child involved and not the grandparents. They have made their life. They have had their children, had their family and for whatever reason bad blood exists between them and the custodial parent of the child. To have the court intervene and force that child to deal with grandparents whom the child may not even like, I think is a serious mistake. I've received mail in opposition to this bill from custodial parents who are being harassed by grandparents of the child to force that custodial parent to letting them see the child and they have been threatened with legal action if the custodial parent does not accede to the demands of the grandparents of the child. In addition to that I've received mail from grandparents who have stated that it is a bad bill and they mentioned

the meddlesome ways that some grandparents can have in a situation like this and the child, just as the child can become a point of negotiation or means to get even between two warring parents, the child can become the bone of contention between a grandparent of the child and the custodial parent of the child. It always arises where the grandparents, as Senator Wesely pointed out, are the parents of the parent who has died. There is bad blood between the grandparents and the custodial parent. So what we are trying to do here with such a bill is to say that the Legislature should intrude into this domestic situation and make it worse by giving the grandparents of the child a hammer to hold over the head of the custodial parent. I think most of the senators, I'm sure those on the Judiciary Committee got a copy of the letter where a lady had a husband who died. The parents of the husband then came in and had all of the stuff taken from the farm and referred to their son who was now deceased as their number one worker or farmhand or something like that. So they felt they had a right to take everything that was on the farmstead and they had gotten a good deal of it and one time the lady had to call law enforcement officials to stop these grandparents of the child from taking additional property. So then the grandfather of the child came over with the tractor and plowed under some clover seed which was of no profit to him and no benefit to the mother of the child. So it reached a situation where the child finally got to the age of seven years old and suddenly the grandparents were interested in this child and wanted to be able to compel the custodial parent to let them deal with this child. The child did not want to be bothered with the grandparents, did not know the grandparents, so even if you had a bill like this and there could be assurances offered on this floor that a court might in the best interest of the child not allow this type of grandparent to have visitation rights, nevertheless, a litigation has been initiated. There still is the full blown hearing. There is a presentation of evidence by both sides. The child has to be brought into this in a formal courtroom setting and I think it is not wise at all. It is not a bill aimed at the interest of the child. It is something to give the old people a thing to play with. I know that I, myself, one day will have grandchildren. Perhaps I will fall out with the custodial parent but I have not conducted myself in such a way as to be on good relationships with the mother or father of my grandchild, then that is a failing on my part and I should not be allowed to use the courts to intervene. I'm opposed to the motion.

PRESIDENT: Alright, now the time is up on the bill, so, Senator Wesely, you may close. We'll give you...the way as I understand it, now the ten minutes are up so you may now close on your motion.

SENATOR WESELY: Thank you, Mr. President, I'll be very brief. I understand Senator Chambers' opposition to the bill but I do

have to make one point clear. As he said, the bill does deal with the one concept that it has to be in the best interests of the grandchild in order for the court to grant visitation rights. It does not grant de facto rights to the grandparents to visit those grandchildren. They have got to prove and the burden of proof is on the grandparents that it is in the best interest of that grandchild to allow them the right to visit. So in my estimation the example that Senator Chambers gave, obviously I would, if I were the judge involved in that case, rule against the grandparents and not allow them the chance to visit that grandchild but I have just as many other cases on the other side of the coin where the parents have been unreasonable, not the grandparents, and the parents have been jealous of the grandparents and not allow them a chance to visit their children to the detriment of their children. The case that came before you that was so well heard, publicized just the last few months was a case from my district where the grandparents helped to raise the child and then their own child died, the parent, and they were denied access to the grandchild who they had helped to rear, who they had loved and cared for and were very close to and the parent that took over custody that had divorced their daughter who had died, denied them the right to visit and it seemed clear to me that they should have had the right to visit that grandchild. So there are also very many other cases that I think counterbalance what Senator Chambers talked about and without any rights whatsoever in the courts right now grandparents in these situations do not have any recourse to go to the court to ask for relief and a chance to visit their grandchild. All we're asking for is standing in the court to ask for this right and then the courts can decide what is in the best interest of the grandchild. I ask for your support on this motion.

PRESIDENT: The motion then before the House is the placing on General File notwithstanding the action of the committee. All those in favor vote aye, opposed vote nay. Since the bill was killed it does require 30 votes, Senator Wesely, so... You want a record vote. Okay. Have you all voted? Do you just want a record vote, Senator Wesely? Record the vote and a record vote has been requested.

CLERK: (Read record vote as found on page 1090 of the Legislative Journal.) 11 ayes, 21 nays, Mr. President, on the motion to raise the bill.

PRESIDENT: The motion fails. Before we go to the next matter the Chair takes pleasure in introducing the Jolly Neighbors Extension Group from Ord from Senator Wagner's district. They are under the South balcony, Evelyn Jackson, Eva Vogt, Lorraine Krajnik (phonetic), Velma Warner, Pam Arnold, Judy Warner, Betty Moudry, Bernadine Lang and Gert Wagner. Would they all stand,