

January 25, 1982

LR 208, 209  
LB 378, 572, 698

eliminated and they are now not able to....

SENATOR CLARK: You have 30 seconds left.

SENATOR WESELY: Thank you, Mr. President...not presently able to function at least for another couple of months. So it seems to me that this appeal board has not served its function well. It should be eliminated, should speed up the process and when we talk about the delays that Senator Schmit did, this would cut down on some of those delays and I think do a better job of dealing with the issues at hand on CON.

SENATOR CLARK: The question before the House is the adoption of the Wesely amendments. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted?

SENATOR WESELY: Record vote again, please.

SENATOR CLARK: Pardon?

SENATOR WESELY: Record vote, please.

SENATOR CLARK: A record vote has been requested. Record the vote.

CLERK: (Read the record vote as found on page 401 of the Legislative Journal). 15 ayes, 25 nays, Mr. President.

SENATOR CLARK: The motion lost. Are there any other amendments? The Clerk would like to read in.

CLERK: Mr. President, your committee on Education reports LB 572 to General File with committee amendments attached. (See page 401 of the Journal).

Mr. President, Urban Affairs reports LB 698 as indefinitely postponed.

Mr. President, new resolution, LR 208. (Read LR 208 as found on page 402 of the Legislative Journal). That will be laid over, Mr. President. LR 209 signed by Senator Haberman and several members. (Read LR 209 as found on pages 402 and 403 of the Journal). Mr. President, that too will be laid over.

PRESIDENT: The Chair takes pleasure in introducing a guest of Senator Nichol, under the South balcony, Mr. Vernon Allan of Scottsbluff, Nebraska, United Telephone Company of the West, Vice President of Public Affairs. Mr. Allan, would you show us your presence and welcome to your Unicameral. I'd also like to take this opportunity, I see her back there, Mrs. Norden, would you show us your presence. Pastor Norden's wife is sitting back there. I would like to introduce her to the Legislature. Welcome, Mrs. Norden. We're ready for agenda item #4, Resolutions. Ready, Mr. Clerk, for LR 208.

CLERK: Mr. President, LR 208 offered by Senators Fowler, Vard Johnson and Chambers, found on page 402 of the Journal. (Read.)

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President, my two cosponsors aren't here. If they are within listening distance I would urge them to come on up if they want to say anything on the resolution. I think it speaks simply for itself. It indicates that the Legislature would simply ask the Judiciary Committee to review a situation and circumstances at the penal complex and to give a report back. Ah, there is one of the cosponsors. Thanks, Vard. In no way is there any judgment within the resolution positive or negative, about activities at the penal complex or decisions with regards to the Director of Corrections and I want to stress that again. In no way does this resolution in one way or another express any opinion because I think not all information is available and for that reason, due to the seriousness of some of the allegations, due to the seriousness of the changes it was felt that it would be appropriate to have the committee that deals with our correctional area, the Judiciary Committee, the Law Enforcement and Justice Advisory Committee which is one and the same, to look at this at their own timetable and to report back if there is anything significant that they think should be shared with the Legislature. I think it is a real straightforward resolution and I think that this Legislature has a certain responsibility when a matter that appears as serious as this happened to at least have one of its committees make a review and provide information back and that is the function of the resolution and I would move for its adoption.

PRESIDENT: Senator Vard Johnson, would you like to add anything to Senator Fowler's introductory remarks?

SENATOR V. JOHNSON: Well, I would like to say, Mr. Speaker, members of the body, I was approaching the floor when I did

Senator Fowler indicate that the other two cosponsors of the resolution were not here and when his dulcet call came in, why of course I responded. The simple purpose behind the resolution is to have the Legislature take a look at what is happening in our penal system as a result of the most recent activities by the Governor and by the Warden and the like. I think it is highly appropriate that the Judiciary Committee does examine this institution. As you and I well know we can ill afford to have a portion of our population affected by practices that we would not approve of, we would find wanting. I have no idea as to what the inquiry will reveal but I think that one of the principal functions of a legislative body is an oversight function and this is the time to engage in that oversight.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I have a question of Senator Fowler.

PRESIDENT: Senator Fowler, will you respond.

SENATOR DWORAK: Senator Fowler, I would like to know precisely what you plan on accomplishing with this resolution. When you review or the Judiciary Committee reviews all letters, all papers, what do you perceive as a possible outcome from this perusal of this matter? Are you suggesting...I'll have another question then.

SENATOR FOWLER: Okay, let me say again that there is no prejudgment inherent in this resolution and there is no conclusion expected and I would also indicate that I would not be involved in the investigation because it is the Judiciary Committee that would do it. So in no way would I be involved or Senator Johnson in the outcome of this. It simply is to be a review and I guess that there are... it could be a statement that everything is going well at the penal complex, that the Director of Correction took the appropriate actions, the right amount of actions, that he was not too overly harsh, that he had foundation for what he did. I think it could certainly be a vindication of the Director of Corrections. That is one possible outcome. Another would be a statement of concern that perhaps there needs to be more done one way or another. Perhaps certain practices, accounting practices or certain budgetary practices or something need to be reviewed and changed from a legislative point of view. It seems again we're only acting on the basis of allegations and I think that is one reason there needs to be a review. Perhaps if it is possible for people to be paid for overtime without having ever worked overtime, there may be

something wrong with the state accounting or personnel system or something like that and let me just say that is a hypothetical because very limited information has been shared and that is why I think there needs to be a review.

SENATOR DWORAK: Thank you, Senator Fowler. It seems to me that the Judiciary Committee has all the authority and all the power to go over to the Corrections administration and review this instance. I think even though you indicate and I believe you are sincere that the resolution in itself has no implications of impropriety. I think the fact that we have a resolution when the committee has all the power vested in it right now to do what the resolution calls for seems to, whether we like it or not, imply impropriety. I think we've got a very delicate and a very difficult situation in our Corrections Department right now that is going to have to be handled with utmost skill and I think at this point any public, and I won't use the word harassment because it isn't intended to be harassment, but I don't see any public involvement by the Legislature other than its normal constituted authority at this time is in ill favor. I'm going to vote against the resolution.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, I think you all know that the Judiciary Committee has this authority anyway and we have been almost in constant touch with the administration for the last year and a half or so. Our involvement is a little bit different than some of the others who have taken it upon themselves to make investigations and so forth in this institution. Our involvement so far has been the committee has made arrangements to go down and visit with four or five different divisions of the penitentiary namely, we visited with a group of black inmates, a group of Mexican-American inmates, a group of native American inmates, a group of white inmates and then we also visited with several members of the staff in the past year and a half. All of this time other functions were happening and investigations were being made by various entities. Ours was on a low key rather than a high key where it was loudly proclaimed in the news media. We had two or three incidences out there that we were able to handle without notoriety and I have received letters and if you would be interested in them from inmates thanking us for the involvement and we don't need a lot of notoriety in the press and news media when we solve these simple problems having to do with personnel. We don't want to become involved in a loud shakeup in the news media because of small items

that we are attempting to correct down there. We have had complete cooperation from the present administration and had cooperation from the administration before. I think the present, Mr. Charlie Benson would welcome exposing anything that is irregular. We have no, or I have no feeling one way or the other about the resolution. We intend to stay at it anyway and if you would like a report on it, that part of the resolution I do not object to. I think we have the authority already and o whatever you want to.

PRESIDENT: The Chair recognizes Senator VonMinden.

SENATOR VONMINDEN: Mr. President, members of the body, it appears to me this resolution is uncalled for. I am relatively a newcomer down here but I think I was sent down here to make laws and not interfere with something that we do partially have some control over but we really don't have. But it seems to me like there are corrections being made out there now and I think perhaps we should keep our nose out of the business out there and go about making laws here. Thank you.

PRESIDENT: Any further discussion on LR 208? If not, Senator Fowler, you may close on your motion to advance the resolution, to adopt.

SENATOR FOWLER: I would like to share the closing with the cosponsor that is here, Senator Johnson. I guess Senator Nichol indicates certainly that they are in touch with things at the Department of Corrections. He did not really indicate as to whether or not they have done any specific review of this situation and I think that again the allegations that have been made are fairly serious in nature and they are a bit above the usual personnel questions and the resignations certainly are a bit above the level that we normally deal with. Now it seems to me that our function is not just to pass laws. Our function is to monitor state government and to see if there is a need for legislation and to see how expenditures are being made and to see how our institutions are being managed. And when several top officials are asked to resign because of allegations of improprieties and perhaps illegal activities it would seem to me that that is something this Legislature might be a little concerned about. Now again there is no judgment in this resolution that it was proper or improper for those people to resign. In no way is this resolution any sort of vote of confidence one way or another on the Director of Corrections but it is a statement that this Legislature as a whole feels that this matter is significant enough, that

our Judiciary Committee should take a few moments, review it and report back to us. Senator Dworak himself described this as a very serious and sensitive situation and it is because it is a serious and sensitive situation that I believe the Judiciary Committee and its membership should review this. So I would urge adoption of this resolution and I would give the rest of my closing to Senator Johnson.

PRESIDENT: The Chair recognizes Senator Johnson for the rest of the closing.

SENATOR V. JOHNSON: Mr. President, members of the body, I want you to know that I am very glad to know that the Judiciary Committee does have an ongoing monitoring function and, in fact, will be watching what does happen in our penal complex because that is very important. But I also think it is important that the Legislature as a whole express its genuine concern about activities in the penal complex and specifically ask the Judiciary Committee to make certain that things are going fine. Or if they are not going fine, that we then know about them because as Senator VonMinden so wisely points out we are the lawmaking body and as the lawmaking body we may very well be called upon to make some law to deal with the situation that is not in as good a shape as it should be but we won't know that unless we ask the appropriate committee, the Judiciary Committee to take a look at what is happening. Now the Judiciary Committee can move at its own pace and it can move rapidly or it can move slowly. It can gauge the delicacy of the situation and it very carefully can look into it but I think this body really ought to express itself as saying we do want the Judiciary Committee to undertake this function and undertake it appropriately. Senator Nichol has just asked me if I would give him thirty seconds of my closing time and if I have thirty seconds I am more than happy to yield to Senator Nichol.

PRESIDENT: Senator Nichol.

SENATOR NICHOL: Mr. President, thank you, Senator Vard Johnson. I would just say that we would intend to do this following the legislative session this year because of the "jammed upness" of the session this year, at least at what we expect. I doubt that the members of Judiciary Committee would have ample time to do it during the session so I would like to make that clear to you. We would do it after the session if it is okay with you.

PRESIDENT: Anything further now? Anything further on the closing, Senator Fowler, Senator Johnson? Alright, the question then is the adoption of LR 208. All those

in favor vote aye, opposed nay. Have you all voted? Senator Vard Johnson, would you like to bring in the troops?

SENATOR V. JOHNSON: Yes, I would request a Call of the House, Mr. President.

PRESIDENT: Alright, the motion is, shall the House go under Call. All those in favor vote aye, opposed nay. The motion is for the House to go under Call. Have you all voted on the Call? Record the vote.

CLERK: 17 ayes, 0 nays to go under Call, Mr. President.

PRESIDENT: The motion carries. The House is under Call. The Sergeant at Arms will see that all legislators who are not at their desks will be in the chamber at their desks. All members of the Legislature will register your presence. All unauthorized personnel will leave the floor. The House is under Call. There are approximately eleven legislators excused. We're looking for Senator DeCamp, Senator Haberman. Senator Kilmarin, are you here? Senator John, would you...

SENATOR V. JOHNSON: (inaudible)...roll call vote.

PRESIDENT: Alright, we're down to that now so we'll have a roll call vote. Alright, a request has been made to read the resolution. Mr. Clerk, would you read the resolution and then we're going to have a roll call vote as requested. Read the resolution. The House is under Call.

CLERK: (Read LR 208.) The resolution is on page 402 of the Journal, Mr. President. (Read roll call vote as found on page 448 of the Legislative Journal.) 19 ayes, 19 nays Mr. President, on adoption of the resolution.

PRESIDENT: The motion fails. The resolution is not adopted. Before we go to the next resolution the Chair would like to introduce some guest of Senator Haberman. Under the South balcony is Karla Radcliff, Cindy Bullock and Mike Milder, II. Would all three of you stand up and be recognized. Welcome to your Unicameral. And do you want the Call raised? Senator Vickers wants the Call raised so the Call is raised. We will proceed then with the LR 209, Mr. Clerk.

CLERK: Mr. President, LR 209 offered by Senator Haberman and a number of senators. (Read.)

PRESIDENT: The Chair recognizes Senator Haberman.