

January 16, 1992 LB 671

Supreme Court is...

PRESIDENT MOUL: One minute.

SENATOR BEUTLER: ...when we fail to make law, when we fail to make law, when we leave whole areas of the law open for them to decide instead of the representatives of the people to decide. So I would encourage you most strongly today, whatever your particular beliefs are on how much state regulation there should be, to go ahead and propose that regulation, but do not neglect to pass a law that gives people and doctors, everybody working in the area, a framework for proceeding to exercise their constitutional right to a living will. That much I think we owe to the people. Thank you.

PRESIDENT MOUL: Thank you, Senator Beutler. Senator Pirsch.

SENATOR PIRSCH: Thank you, Madam President. Thank you, Senator Beutler, for that comment of that we should be arguing for what is the best way to do this and not just be against it. I appreciate Senator Landis. There were a few corrections that needed to be made, could possibly have been made in the committee amendment, but because it was pulled up on the floor, they were not and I will look forward to seeing those being changed. One of the problems that I have had with previous legislation is that the definitions of the legislation were perhaps too deep, and when I advise people to put a living will or make a declaration of their medical care, I tell them to consult with their doctor, not necessarily their lawyer, and to know all of those procedures and things and be aware of exactly what they want to be specific in their declaration. Senator Landis, I would like to ask you a couple of questions. Now what happens if, like Nancy Cruzan in Missouri, a person does not make a declaration of their medical care?

SENATOR LANDIS: The Cruzan decision tells us that there is a liberty interest under the Fourteenth Amendment which means that on her behalf family members could bring in court an action seeking to withdraw medical treatment. It is what the family did and, subsequently, at great expense to the family, and at the course of about two years time, they ultimately were able to withdraw tubes. So there was a way of dealing with it.

SENATOR PIRSCH: Okay, thank you. I just wanted to make that clear that then it would pass to a family member. I have one