

February 7, 1996 LB 584

SENATOR COORDSEN: There's a fear of that on the part of landowners unless there's some good fence, and I understand that in the trespass law we could get into that. But that's a little...

SENATOR ABBOD: Right, but in instances where there's an attractive nuisance, there's a pond on a...there's a family...

SENATOR CROSBY: Senator Coordsen, would you speak into your microphone, please.

SENATOR COORDSEN: No! (Laughter.)

SENATOR CROSBY: Just going to tell him ahead of time to be sure he did it. (Laughter.)

SENATOR ABBOD: We'll just have a transcript of me talking I guess. The issue of the attractive nuisance is that there will be a pond there, a family will be bicycling across the...on this trail. A young child, a 12-year-old child maybe wander off into the pond and drown, and that's...the attractive nuisance would come into play in that instance. Now, because of the maintenance of the fence line I would assume then that the liability would flow then to the Game and Parks and the state of Nebraska in that particular issue, if there is an action.

SENATOR COORDSEN: But wouldn't you think, though that Senator Beutler...Senator Beutler, I'm looking at Senator Beutler because I can't...I've got to talk into my mike, I've been told that. But I...as you people that have practiced before the bar know, these issues get to be something that is decided by either a judge or a jury at some point in time. But if the state of Nebraska had done everything in the maintenance of the fence, what liability would they have? If the people crawled under, climbed over, then that becomes another issue. If the fence was in disrepair, then I think Game and Parks would have some share in the liability. Of course they're always going to be named, I would presume.

SENATOR ABBOD: Right, certainly, if the fence was properly maintained I don't see where there could be any kind of liability that would flow to the Game and Parks. But in a case where you had a...