

incurs. Let me go back and remind you again what the bill does. The bill has three limitations to it. When a person signs a note by himself and then dies, he cannot go after the joint tenancy property except if there are no other assets to pay the debt, and then only to the extent that he contributed, and then in no event greater than fifty percent of the property. That again is what the bill is doing. Keep in mind what the present law is with respect to a person who signs a note that doesn't afterwards die. If he continued to live and did not pay the debt, the present law is that a judgment could be obtained against him and the joint tenancy property to the extent that he contributed to it would be used in payment of a debt. You know, it is a great surprise to me that one of the arguments you hear so often about 306 is that it catches the spouse by surprise. Let me ask you what is the basis for the spouse's surprise? When the property is put into joint tenancy with right of survivorship, it is put into joint tenancy subject to the law, and the law is that if either of the spouses incurs a debt against the property on their sole signature and does not die, the property will ultimately be used to satisfy that debt. That should have been the expectation of any joint tenant. If there was any surprise involved, it was probably a very pleasant surprise when they discover they don't have to pay a just debt. Again, I go back and ask the opponents of this bill to focus on a proper solution to the problem if they think that a surviving spouse does not retain enough property upon the death of the other spouse. Go back and increase the exemptions applicable to the estate of deceased persons. In fact, there is a bill now before the Legislature to increase those exemptions. Go back and liberalize the bankruptcy law. Do not distort the proper principles of our present law...

PRESIDENT: One minute, Senator Beutler. One minute.

SENATOR BEUTLER: ...to serve this purpose. And I repeat again, if, for example, you allowed a joint tenant who is a widow to get out of the debt in this manner, why would you not also allow a widow whose husband's property was in his name alone to get out of the debt in the same manner? Let me make one final point. I alluded the first time around to the problem of exalting form over substance. Let me make another analogy. If there are two lawyers sitting down to settle a divorce case, and I represent the husband and Senator Marsh represents the wife, and I have two deeds, that's all the property that is involved, and they are both in the husband's name, in his name solely, and I say, Senator Marsh, the husband should get all of this property in this