

kind of a change. And then Senator Chambers stands up and says, well, in this trying to address the problem that has been brought up by my colleague, Senator Johnson, my goodness, what about the contractual relationship that may spring into existence because of this kind of a change. Well, in fact, there is a lot of whipsawing going on between people who are like-minded in an attempt to get at the _____ response by Senator Beutler to the problem. In fact, the kinds of situations that Senator Chambers is talking about are, number one, very very rare, if they exist. I don't know of them personally in my experience as a lawyer, as a contractual obligation. Secondly, no one needs to contract for that. The person who has the judgment has the legal mechanism to attach, so there is no reason for them to contract away their rights. That is why it does not happen. So even though we may be talking about a legal abstract in his case there, it is not something that happens on a day to day basis by any means, and that is what this Legislature should be concerned with, the channels of commerce, the channels of credit, the mechanisms of debt attachment and the like, that work in this state, and not some far-fetched and remote possibility. However, in the case of Senator Fowler's amendment, let me just talk about whether or not that is a genuine approach or not, and if you assume from joint property, from his perspective, I am sure that you will agree with that amendment. If joint property is somehow passed to the surviving spouse completely with no understanding that, in fact, part of that property was contributed to, supported by and, in fact, owned by the decedent, then, of course, the decedent's debts should not apply against that property. However, I have a perception and it is shared by Senator Beutler. The joint property is, in fact, a legal fiction, a legal fiction to describe the fact that two people have ownership in the property and that to the extent that I own property and I die my property, not my spouse's, but my property should go to the satisfaction of my debts. Senator Beutler is never requesting the property that belongs to or is contributed by the surviving spouse in the real sense be tapped for the debts of the decedent, only where the decedent has left a proprietary interest in the real sense in that joint property, up to that amount, up to the decedent's amount of property holdings the debt should apply. And that is not a threatening idea, particularly since that is the case when somebody has not died...

PRESIDENT: One minute, Senator Landis.

SENATOR LANDIS: If you own joint property now it is susceptible to the attachments due to the debts of one of the two parties