

SPEAKER MARVEL: In the North balcony from Senator Merz' district, 28 Seniors from Humboldt High School, Humboldt, Nebraska, with Glen Hass the teacher. Will you stand so we may recognize you. Are you ready for LB 306?

CLERK: Yes, sir. Mr. President, LB 306 had been on Final Reading. Senator Beutler moved to return it to Select File for a specific amendment. That motion prevailed. We now have pending the specific amendment as offered by Senator Beutler. The amendment is found on page 646, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, let me quickly refresh your memories as to what the amendment does. First of all remember that the amendment is in two parts. The first part is a rewrite of the Chambers amendment and the second part are some technical changes that the Bar Association wanted to see. With regard to the first part, the Chambers amendment, you may recall that Senator Chambers had an amendment which said that no creditor shall have any rights after the death of the decedent which such creditor would have had prior to the death of the decedent. Okay, this amendment was rejected by the Bar Association for vagueness and for possible construction problems that might be in it. The Attorney General has given an opinion that possibly has an adverse effect upon the bill and may negate part of the bill. So, what I have done is to rewrite that amendment to do what I thought Senator Chambers intended to do in the first place and what the amendment says now is that a surviving joint tenant shall have all the same defenses in any action to collect the debt as the decedent debtor would have had. In other words, the spouse will be able to use the same defenses, whatever they may be, that the instrument wasn't sufficiently executed or duress or all the traditional legal defenses that the decedent himself would have had had he lived. And then it also provides that any amount recovered under this act against the surviving joint tenant may not be greater than the amount which the creditor would have recovered against the decedent debtor had he or she survived. I think this latter sentence is more on point as to what Senator Chambers really wanted to insure against. That is the first part of the amendment. The second part, as I indicated to you earlier, is a technical amendment that the Bar Association wanted to see in order to insure again that this right would not constitute a lien on the property prior to the taking of a judgment. Now I remind you that a year ago the Title Committee of the Bar Association looked at this once before but they had some further thoughts on it I guess and so they changed their mind and they wanted a