

SENATOR BEUTLER: Okay. The only reason I am asking is to try to understand how to best facilitate the debate.

SPEAKER WITHEM: Time. Senator Matzke.

SENATOR MATZKE: Mr. Speaker and members of the Legislature, I want to oppose Senator Beutler's amendment, and I want to make my argument on the basis of personal experience. When I was first appointed to represent a defendant in a first degree murder case that was tried in Kimball County, the case was eventually appealed to the Supreme Court, and there is not a level playing field under the present system. In the present system, if you have a conviction in a first degree murder case, a serious case, and it is appealed, it is the Attorney General's Office that handles the appeal on the part of the prosecution, but the court-appointed defense lawyer has to handle his own appeal at the expense of the county. So to propose that a county be given the right to opt out of this commission that would be established by Senator Kristensen's bill perpetuates the lack of equality that is presently in our system, which gives the prosecution a certain advantage because they have the benefit of the Attorney General's Office to assist them. And if we are going to graft onto this bill the right to opt out, then, and I suggest this facetiously, maybe we ought to include a provision in this bill that would permit counties to opt out of the Attorney General's Department, because if you are going to say to counties, you have got to pay for the cost of defense of indigent defendants, and you have to pay the cost of defense counsel appealing it to the Supreme Court, the prosecution gets a free ride off of the Attorney General's Department. What we have got is an unequal playing field as between the prosecution and the defense which would, to a large extent, be equalized by Senator Kristensen's bill. And when this bill contained a fund of money that would have been funneled to local counties, I think Senator Beutler's proposal made some sense because we are fully aware that most of the larger counties, particularly Lancaster and Douglas County, have very substantial public defender systems. But now that this bill is not going to have a fund of money to distribute to counties, I don't think the opt-out provision has any particular relevancy unless, again, and I say facetiously, we are going to amend this law to let people opt out of the Attorney General's Department. So I would urge the members of this legislative body to disapprove this amendment.