

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

March 13, 1997 LB 422

SENATOR BRUNING: Doesn't it say though that...I mean the "limiting construction" saves it, so the construction as it is saves it from violating? So as it is it's not violating the constitution?

SENATOR CHAMBERS: It saves it as far as the Nebraska Supreme Court is concerned, because it will apply it in this way so that they can uphold the death sentence. But the federal court is not bound by what the Nebraska Supreme Court does. And, as you know, they have...

SENATOR CROSBY: One minute.

SENATOR CHAMBERS: ...overturned decisions that the Nebraska Supreme Court has given because of its misconstruction of the law and application.

SENATOR BRUNING: Thank you.

SENATOR CROSBY: Thank you, Senator Bruning. Senator Matzke.

SENATOR MATZKE: Thank you, Madam President and members of the Legislature. I think this is my third time to bat and my last opportunity to address this issue. I think Senator Bruning made the point that probably is apparent to all of us, that when we believe that the Supreme Court has done the right thing, and they have done the right thing in this case and through a series of cases, and I would reiterate, and perhaps it's becoming boring, but I would reiterate that these cases are very difficult cases, as Senator Chambers has mentioned, they're highly litigated. You've got to understand that in every case of a conviction for first degree murder there is an automatic appeal to the Nebraska Supreme Court, for every single first degree murder case is reviewed by the Nebraska Supreme Court after a sentence has been imposed, and the sentence is imposed by either the trial judge, or the trial judge may request that two other judges be assigned to sit with him. So you can get a sentence imposed by either one judge or three judges. And in very serious capital cases it is customary for the trial judge to ask for two additional judges to sit with him so that the decision in these cases are made by three judges. In fact,