

March 20, 1973

from Senator Fellman's district. They're seated in the South Balcony. Their instructors are William Nelson, Richard Hicks, Jon Stromberg, and Dennis McIntyre. Seated also in the South Balcony are 18 students from the Government class of New Castle High School. New Castle, Nebraska. Out there in just by chance, Senator Murphy's District, and they're seated in the South Balcony, their instructor is Mrs. Bernetta Frericks and Mr. James Walsh. A I want to report to the students from New Castle, Nebraska, that your Senator is disabled this morning because he's lost his green light and we think that it was a pixie prank, that perhaps was imposed by a leprechaun over the week end in the celebration of Saint Patrick's Day, but never the less we're hoping to get his green light restored so that he can rejoin us. We're delighted to have you here today as observers to the Nebraska Unicameral Legislature and we hope you enjoy your visit to Lincoln and the Capitol city and of course the only Unicameral chamber in the United States. Now Senator Luedtke, are you ready to respond there to Senator Stahmers question?

SENATOR LUEDTKE: A Mr. President, members of the Legislature in response to Senator Stahmers question, I agree with him. I don't believe that it is exactly clear other than to say that the way I understood it, would be that the presiding judge of the district court at which in which court the individual was found guilty, would probably determine, this is the way it is now, a presiding judge determines which judge hears anything, and, therefore, the only court procedure that could be followed would be that the presiding judge under court rule. This, undoubtedly, could be established, Senator Stahmer, by court rule. By the rules of the Supreme Court, but there is also no reason why it could not be put into the bill is the Legislature deems it necessary.

SENATOR STAHMER: That was my question, whether...to me it is not specifically spelled out and to me it raises an area of confusion. Who, indeed, would be making these determinations?

SENATOR LUEDTKE: This merely gives alternative types of determination.

SENATOR STAHMER: But to whom? Would it be to the judge, the original judge? It doesn't say that, I don't believe, in the bill.

SENATOR LUEDTKE: No, it wouldn't be the original judge because he is one of the alternatives. He would be the first one.

SENATOR STAHMER: Who will select one of the three alternatives?

SENATOR LUEDTKE: I'm saying that the presiding judge would be the only one who could make such a determination. The presiding judge in that district.

SENATOR STAHMER: So, if he chose, he could be the sole judge.

SENATOR LUEDTKE: He could say, Judge X, you preside at the trial. You are going to do it. Or he could say, We'll have a panel, as a second one, a panel of three judges including the judge that presided. Or they could ask for a panel of three judges named by the Chief Justice. They could put it off on the Chief Justice. Now all of this, I'm sure, would have to be developed by Rules of Court which are adopted by the Supreme Court of the state of Nebraska.

SENATOR STAHMER: Did these options offer any capricious opportunities, either for or against the defendant?