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SENATOR LUEDTKE: I would think not. I would think it is just other means and other methods of doing it. In other words, perhaps, for some particular reason the presiding judge may decide that the judge who take care of the trial should not make the decision, either by way of suggested prejudice or something like that, so he would have others do it, or that they would because of the nature of the case they might decide to have the Chief Justice do it. Now, this could be spelled out that the Rules of the Court would state who makes the decision.

SENATOR STAHLER: But is this good to have a Judge who didn't hear the case make the decision when he doesn't know the mitigating circumstances?

SENATOR LUEDTKE: No, the second. The sentence part of it then decides the mitigating and aggravating circumstances. They don't go into that in the first trial. That has nothing to do with it.

SENATOR STAHLER: All right. Thank you.

SENATOR LUEDTKE: That's separate.

PRESIDENT: The chair next recognizes Senator Duis.

SENATOR DUIS: Mr. President, I realize this is a very serious situation that we are in and a very serious vote, and I have been sitting listening to a number of the arguments pro and con, including the amendments made by Senator DeCamp which I voted to reject because I felt as though they might make this bill again unconstitutional. I would appreciate very much if the Chairman of the Judiciary Committee, Senator Luedtke, would make a statement in regard to this piece of legislation so that I might hear that. I believe that Senator Chambers made reference to him when he was speaking as probably not going along entirely with this bill. Senator Luedtke, would you please clear my mind a little bit because I think it would help me and might help some of the other gentlemen here. If we are going to have, I do believe Senator Luedtke, that if it is necessary and it is necessary to pass Senator Chambers bill, the one that's bracketed now, we have to do that first. Then, we must follow up with something like this if we feel there should be some type of a death penalty. Now, if you would just enlarge your thoughts in regard to just this one bill, 268, I'd appreciate it very much.

PRESIDENT: Do you care to respond, Senator Luedtke?

SENATOR LUEDTKE: All right. Mr. President, members of the Legislature, Senator Duis, I would be happy to do that, to respond to you. First of all, it is true that Senator Chambers' bill would have to be passed under any circumstances if this bill is not passed because as we have it now the death penalty laws as we have on the books are null and void. The Attorney General has agreed to this and we have a particular problem with kidnapping, with the kidnapping, felony, murder rule in Nebraska. So we do have to get rid of that law. So the Attorney General is very interested in doing that. Now getting to LB 268. Is 268 the answer to what the United States Supreme Court has decreed we the Legislature of the state of Nebraska should do. This is just my own personal opinion. You will note that I voted against advancing this bill and you will see that I will vote against advancing it again here today. At the same time, I want to reiterate what Senator Chambers said. Philosophically, I stand in favor of capital punishment. I do not feel that LB 268 is going to meet the test. This just happens to be a difference between the Attorney General and myself. The Attorney General will tell you as he told our Committee, he's not sure. He thinks it will meet muster. He thinks it will. He thinks its the best answer that they can come up with. Perhaps, it is. I don't