

conceptually that of a creditor making a loan to a debtor, the debtor dying and then a recovery being effected, or even possibly the creditor extending credit to the debtor through the sale of goods but not collecting until later on, the debtor then dying and the creditor being able to recover from the joint tenancy property. That is essentially the concept. I raise the specter of tort liability. Senator Beutler responds to that. Let me give you another specter that is sitting out there. We talk about contingent contract liability. What is contingent contract liability? I guarantee somebody else's debts. All right, I am a farmer. I am a rancher. My neighbor wants to borrow money from the bank and the bank says, we can't really...you don't have enough property to secure that indebtedness. You don't have enough property, can you get a friend to do it for you? Can you get a relative to do it for you? The relative says, fine. They go in, they sign that contract. That is a guarantee. They have guaranteed their relative or their friend's indebtedness. They now die. The guarantor dies. That is a contract in writing. Okay, the guarantor dies. The bank has in effect a contingent claim against the estate of the guarantor. It is contingent...what it is contingent upon, it is contingent simply upon the default....

PRESIDENT: One minute, Senator Johnson.

SENATOR JOHNSON: ...the default by the first borrower. If the first borrower defaults, then the bank can look to the estate of the guarantor. LB 306, even with Senator Beutler's thoughtful amendment, still would allow that kind of debt to likewise draw upon the joint tenancy property of the guaranteeing decedent debtor. I think it goes too far. While I would encourage the adoption of the Beutler amendment because it tends to improve a poor bill, in the end the bill itself still should be defeated because it does not represent sound policy in this state.

PRESIDENT: The Chair recognizes Senator Murphy.

SENATOR MURPHY: Well, Mr. Speaker, I don't whether I have learned more about law or more about banking throughout all this discussion. I have suddenly discovered that banks are not a focal point of commerce where excess monies that many people have are used to facilitate business so that the entire community benefits in that in the process the bank extracts their pound of flesh which I am sure Senator Chambers would agree with wholeheartedly. But the fact of the matter is that a loan that is made is not made in anticipation of going a long, painful, expensive route of going to court.