

January 30, 1980

LB 306

body needs to be extremely cautious when we seek to impede the normal transaction of business and commerce. We can lay endless roadblocks to defend how many cases of need that have been put before you. How many specific abuses have been handed to you that we need defend against in the manner that this statute presently defends needlessly and to hamper the normal course of business. Senator Beutler, if I may, would it be just as equitable to insist that inasmuch as a joint bank account is a joint tenancy, that anyone who accepts a check from one of the spouses on a joint bank account would have to have the signature of the other spouse in order to validate the acceptance of that check? Aren't we talking about almost a similar circumstance?

SENATOR BEUTLER: I didn't...I am sorry, I didn't hear your previous conversation with Senator Fowler, but...

SENATOR MURPHY: We are saying that if two people have joint tenancy of property, real property, that if the defense against use of that property is contingent on requiring the signatures of both parties, now then the same two parties have a joint bank account...this is an intangible asset, owned jointly, contributed to jointly, upon which one person writes a check. If I accept that check knowing full well it is a joint account, should I be prohibited from collecting the check unless I can get the signature of the spouse?

SENATOR BEUTLER: Well, as you are aware under present law you are not required to get the other signature.

SENATOR MURPHY: That is fine and...

SENATOR BEUTLER: To be...to be...

SENATOR MURPHY: ...hopefully it will stay that way.

SENATOR BEUTLER: Right, yes.

SENATOR MURPHY: Hopefully it will stay that way, because it is a natural function of commerce that it should stay that way, and certainly it is a natural function of commerce that one spouse of joint property should be held at least for his proportionate share of that property, and I think we are arguing and arguing and arguing, and I think Senator Cullan probably would learn more law here than at Creighton with a few more days of this. I have to support Senator Beutler's motion on this bill. It is to facilitate commerce. Bankers are not sitting on the edge of their chair waiting for a spouse to die so they can run to court and spend a bundle of money trying to collect an asset if it becomes necessary.