

February 12, 1980

LB 306

SENATOR BEUTLER: All right if you are talking about a specific piece of property, if that property is sold before the judgment is obtained then the creditor in this instance would have no right to proceed against that property.

SENATOR CHAMBERS: All right, now if a person is alive and has a debt and is a joint tenant with rights of survivorship, partition can be obtained as a result of court action to satisfy a debt but at what point can partition be sought? If I borrowed \$1,000 from you, when can you enforce...when can you force partition?

SENATOR BEUTLER: Subsequent to obtaining of judgment.

SENATOR LEWIS: One minute, Senator Chambers.

SENATOR CHAMBERS: And what would have to precede your obtaining a judgment?

SENATOR BEUTLER: I'm not sure what you are looking for. A court action?

SENATOR CHAMBERS: Well would I have to be in default in my payments?

SENATOR BEUTLER: Sure.

SENATOR CHAMBERS: Now suppose I have paid as I am supposed to, could you force a partition then?

SENATOR BEUTLER: A living situation and you have paid the debt in accordance with its term?

SENATOR CHAMBERS: Yes.

SENATOR BEUTLER: No.

SENATOR CHAMBERS: Okay, then I am halfway through paying it, then I die. At what point could you force partition? For 306, for the purposes of 306? If you obtained a lien, could you force sale? If you had a judgment? Let's say that the debtor dies. The surviving spouse does not continue paying the debt because he or she does not know. Would you have to give that spouse notice of the existence of the debt before you could obtain a judgment against the property or is the judgment against the surviving spouse?

SENATOR LEWIS: Senator Chambers, I apologize but your time is up.

7012