

expressed by Senator Beutler should be sufficient evidence in the minds of the members of this body to realize that we have something that is certainly suspect as far as the Constitution is concerned. Let me read for you because I realize that some of you have not had an opportunity to look at the packet that went out to you a few minutes ago. The amendment attempts to vest legal title as well as equitable title to all real estate owned by the bank, the Banking Department, if individuals representing 85 percent of the deposits and claims assigned their legal interest to the Department. First of all, there is nothing magical about 85 percent. Even if the concept of the amendment could correct the defect in 691, which I do not believe it does, the unconstitutionality taking argument could surely be raised by the 15 percent not making the assignment. In other words, what happens to the other 15 percent? You get 85 percent to agree to something, you are not representing 100 percent. You're only representing 85 percent and, therefore, the other 15 percent are not being dealt with at all. Secondly, the Lincoln City Attorney indicates it is doubtful whether the unsecured depositors and creditors have a legal interest in the real estate to assign since they are not the owners of the real estate. Finally, whatever interests such an amendment would give the Banking Department, the department would still hold such property as a receiver acting in a fiduciary capacity. The Attorney General's Opinion was very clear on this point. As a receiver the Banking Department does not have full control and authority over such property. I think that speaks it all right there, that this would not be legally possible to do this kind of thing. Now...

PRESIDENT: One minute, please.

SENATOR LUNDY: ...there are other points that others will bring out, but certainly I think we need to consider one other one. If it is possible to do this, if it is possible to do this, then I wonder if the bill shouldn't be amended so that anybody, anybody in the State of Nebraska that goes belly up couldn't make a similar request of their city government or county government and say, forgive us of all the taxes that are outstanding on this property because I am bankrupt and, therefore, I am entitled to the same thing as the City of Lincoln and the Commonwealth depositors are. It is something to think about. If we are going to go this route, then let's amend the bill and make it fair for