

crime. When they brought the individual who was the victim to testify or to pick out somebody, she picked a picture of the individual who was locked up and swore that that was the man who had raped her. After this was done the prosecutor checked to see if this individual was still locked up or out engaging in this conduct again, was he on furlough or anything else. No, he was still locked up. The victim was confronted with this same individual and she swore this was the man who raped her, although it was a practical impossibility because he was locked up at the time. When they finally caught another individual, the judge said the similarity between the two was remarkable. That there had probably been a miscarriage of justice. A new trial was ordered for the individual who had been falsely accused and convicted and imprisoned and bail at the last report was being sought and will probably be granted. The purpose of allowing a person bail is because in this country even now, Senator Clark, in this country with the type of attitudes people have against the freedoms guaranteed by the Bill of Rights a person is not to be considered guilty until proved so, in a trial. Senator Duis' bill assumes and presumes that an accusation is the same as a conviction. You treat the accused individual as though he was already convicted. Now, bail is allowed so that the person accused but not convicted can obtain legal counsel and prepare a defense against the charge that was brought. Senator Duis says that if a charge is brought, that is sufficient to keep a person in jail until trial occurs. Sometimes trials do occur a great amount of time after the charge is brought. I believe that you ought to look at the integrity of the criminal justice and specifically the judicial system. The Constitution should not be perverted by making it a laundry list of crimes and offenses in the way that a statute can do. It has been necessary to rewrite all of the laws related to what was called rape and convert that offense into a sexual assault type affair so that there could be divisions and distinctions recognized as far as the seriousness of this offense is concerned. If it has been necessary, Senator Kremer, to rewrite after much study the sexual offense statutes, what will happen when you put something in the Constitution and find out that it was improperly placed there and it does not address itself to the problem. If a judge is going to review a situation and grant bail, that is a part of the way the system operates. You should not try to respond to a specific situation by modifying the Constitution. Constitutions are difficult to amend. The Legislature can not do it. In order that there will be given time to think and consider what is being done before the fundamental law of the land, the foundation of the law is altered. If it is to be altered, it should be done only after very careful thought and consideration. Senator Duis has frankly admitted from the beginning that these bills were offered by him in response to and only because of the Dennis Sell incident in Lexington. I can understand the reaction of the people out there. But, nevertheless, I have a responsibility since I chose to come to this Legislature and I am supposedly operating under the Constitutional laws of this state to see that the integrity of the Constitution is upheld. I think that a provision such as is contained in LB 553 not only will damage the integrity of the Constitution but it is contrary to what the purpose of the Constitution is. If a person accuses an individual of rape, look at the nature of the offense, the nature of the accusation, how easy it is for someone to be placed in that situation. I'm talking about