

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 10, 2004 LB 1049

be added to this bill. But if it is, I'm still going to fight against the bill. And I have not even begun to fight against the bill yet, because I haven't offered any of the amendments that I have. I wish Senator Vrtiska had not dashed out of the Chamber, because I had a question I was going to put to him. But even without him being here, I will discuss the principle. It's known as proportionality, where the punishment fits the offense. Judges are given discretion so that they can personalize and individualize the sentence they impose on an individual. That's what the discretion is there for. When you have a range of possible sentences, 3 to 5 years, 2 to 20 years, it means that even though the conduct is going to bear one designation as a crime, there are degrees of it, there are variations, there are mitigating circumstances, there are aggravating circumstances. So two people may engage in the identical conduct, but when you look at the surrounding circumstances, there's a different punishment to be imposed, because the level of culpability differs. Not everybody who commits an offense is punished the same way, nor should everybody who commits an offense be punished the same way. If somebody sticks up one bank, but he's a rich person's kid, he won't get any time, so let's assume he's not. He sticks up one bank; somebody else sticks up ten banks. The one who stuck up the ten banks is going to get a bigger sentence, but both of them are bank robbers. What Senator Cunningham and his 28 or 29 cohorts on this bill want to say is that they are so blinded by desire for vengeance and retribution that they say every act of misconduct that can result in firing is the same as every other one. No matter how minor it is, it's going to be punished to the maximum, and that is wrong. And I'm going to fight this bill. And if you all manage to get 33 votes around me on this bill, I'm going to fight every other bill that I decide I'm going to fight, to punish the body for what it's doing by punishing people who don't deserve it. Not everybody who deserves to be punished deserves to be punished with the maximum sentence. Don't you all understand that? Do you all even care? If it was you, you would want some consideration. You all don't even want me to treat every one of your bills like I treat some of these bills I hate. You say, my bill is different. I'm not going to start seeing these distinctions, these nuances, and these shades of gray, because you don't see it when you're