

April 28, 1981

LB 213

necessary to ensure due process and equal protection under the law. We did have to revise our insanity criminal statutes and Section 29-0203 was revised a few years ago to comply with the decisions of that 1973 United States Supreme Court and that revision mandates that the mental health board can no longer confine an individual acquitted by reason of insanity on the sole basis of his or her being mentally ill and a fit subject for custody and treatment. The law as decided by the Supreme Court of our land now requires that the defendant be mentally ill dangerous before he or she may be lawfully confined and because of the lack of controls and safeguards after that civil commitment under this new mental health rulings by the Supreme Court, I feel the plea of not guilty by reason of insanity is being used more and more frequently. We have a delicately balanced system of law and that must be ensured to ensure rights to all individuals and whenever legislation is enacted we must be careful not to tip that scale of Justice that other groups of individuals be disadvantaged and it is in this light that I feel that we must change our statute in the not guilty by reason of insanity plea. An article by Jim Fogarty which appeared in the World Herald on July 11, 1979, noted that the insanity defense is successful in 90% of those cases in Nebraska in which it is an issue. He adds that the plea is used in one of every five murder or manslaughter cases yet persons who have had first-hand experience with those defendants disagree over whether or not they are impaired to the extent that the law requires if they are to be exonerated.

SENATOR NICHOL: Time is up.

SENATOR PIRSCH: Okay, thank you.

SENATOR NICHOL: Senator Hefner, did you want to hold your amendment until later?

SENATOR HEFNER: Mr. Chairman, I believe I will hold my amendment for Select File. It is getting late in the day.

SENATOR NICHOL: All right, thank you, Senator Hefner, we appreciate it. Senator Hoagland, did you wish to close?

SENATOR HOAGLAND: I think we should waive closing, Mr. President, unless somebody has a specific question, why, I don't think there is anything more to add at this point.

SENATOR NICHOL: There are no other lights on so we are voting on the advancement of LB 213. All those in favor signify by voting aye. Those opposed nay.