

Minnesota and have a file in my office on exactly that topic, and when we were looking at the eight bill maximum, I decided that was the bill to jettison to meet the limit, and then I decided that I would not introduce the bill this year to create a sentencing commission to look at criteria for sentencing and establishing the bench marks that Senator Johnson was talking about. For one thing in the past in Minnesota the cost for that commission was roughly \$50,000 and I thought this is not the year to propose a project that would cost roughly \$50,000 to accomplish but let me tell you that that is the appropriate way to proceed. What was done there was to take time for judges to meet together with prosecutors and with citizens in publicly held hearings to establish what was the priority between crimes, which were the most heinous kinds of crimes and what were the appropriate punishments to attach to crimes. One of the essential principles of Anglo-Saxon law is that the punishment should fit the crime, and if we would look in our statutes now we would find statutes that read one to five years, one to ten years, one to fifty years in some cases, and there is no criteria as to how the judge should proceed. Secondly, and this is an important fact, in the recent study of sentencing in Nebraska the State Court Administration out of Williamsburg, Virginia, found evidence of a bias in Nebraska sentencing which indicated the probability of a black defendant being jailed for an offense was two or three times higher than for a white defendant charged with exactly the same offense and found guilty of the same offense. They were trying to understand why that was and the study at that point begins to peter out. The reasons for that discrepancy were never made clear in the study but there was clear evidence of that distinction occurring, all the more reason for sentencing standards which would eliminate such kinds of biases as to color, sex or age of a defendant. The point is sentencing should be made more clear. We should reduce that flexibility of five to ten years by aiming at a particular mark and that is what a sentencing commission does. It creates standards. Those standards come back to the Legislature. They are enacted into law, and then in the event a trial court does not follow them, the trial court has to create a written reason into the record as to why those standards were not being applied. I, too, would say that the kernel of LB 402 that we are talking about, the right to appeal a too lenient sentence, should exist in law but make it part of that package which would be more systematic and I hope the body will choose not to act on 402 and we will be committed to the idea of a sentencing commission which will create exact standards, weigh our various criminal laws and see which ones are more