

March 5, 1982

LB 809

It will merely create the impression in the minds of the public that the Legislature is "tough on criminals". Well, I don't feel that this is the direction that the Legislature ought to be moving and fortunately Chief Justice Krivosha has begun to speak out and even if the Legislature won't listen, the public will. If you are going to talk...he tried to use an example for business people so that they would understand, you are going to continue to increase your inventory but you don't have any turnover, what you have to do is increase your storage space. He was trying to use the language that business people could understand. We'll now substitute human beings for inventory, substitute penal facilities for storage space. And if you are going to impose mandatory sentences and continue to put people in the lock-up with no possibility of probation, then you have got to increase the space available. Now I am certain that if a child of anyone of us, or a child of the friend of any of ours would come within the provinces of this law, we would not want that person to have to go to jail for 24 hours. So I think it is a bad bill, and here is what will result, and were I a prosecutor is what I would do. Since there cannot be any plea bargain, I simply would not file a charge. You cannot impinge on the discretion of the prosecutor and that is recognized on page 3 in the nature of the language...if the prosecutor has sufficient evidence to convict a person. Well, now the prosecutor doesn't determine whether the person will be convicted first of all. The prosecutor can only determine whether or not there might be a likelihood on the basis of the evidence that a conviction could be obtained under any circumstances dealing with any trier of the facts. So I think it is a bad bill and will result in no charges being brought at all rather than a charge being brought and the person being given 24 hours in jail. Hey! Thank you. Ordinarily I don't do that but this is one of the times I couldn't hear myself talk. Now there are a lot of times when I will be visiting with a person on an issue, but I don't talk at the top of my voice when somebody else is speaking. I recognize the contempt that I enjoy in this body but there comes a point when I am going to assert myself and insist on certain considerations. Usually when the Chair tries to obtain order I will say, never mind, forget it, it doesn't matter, they don't have to listen. And that is the case here. But literally, I could not hear what I was saying. I was having to raise my voice louder and louder and I don't like to do that unless it is on purpose to make a point. I don't like to just raise my voice simply to be heard. Now that I have your attention or at least some silence, I am going to say again, this is

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