

March 11, 1982

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that time taken up in this fashion is going to be needed for many of the issues that we have coming up before us and we should certainly dispose of this in a quick manner. Thank you, Mr. President.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I have some articles I am going to hand around to you. This bill that Senator Stoney is offering I think is somewhat more pernicious than the hodgepodge that came out yesterday. I will turn to the last page of this lengthy amendment. It is labeled Request #2788 so the record will be clear. There is an attempt to limit the discretion of the prosecutor which cannot be done. I know it will look good to the public again just like so much of the window dressing in that hodgepodge we did yesterday to say that you are going to compel a prosecutor to bring a certain charge. Let me read the language. It is called Section 5. "Whenever a prosecutor has reasonable cause to charge a person with a violation of Section 39-669.07 or 39-669.08, he or she shall prosecute the person for that crime and shall not plea bargain on that charge." Now if a prosecutor feels there is reasonable grounds to prosecute, that is not...to charge a person with a violation, the prosecutor could have reasonable grounds to bring a charge but may not believe that he can get a conviction. The thing that determines a prosecutor's exercise of discretion is the likelihood of obtaining a conviction, not a likelihood that a certain charge ought to be brought. So these kind of laws are written and drafted by people who don't even understand what the system is now and that is wherein lies my frustration. Anybody could have any opinion they want to about how to deal with drunk drivers. If there develops a certain self-righteousness, you can say, punish, punish, punish, burn at the stake, cut out their tongue, or like the Inquisition, punch a little hole in it, put a padlock on it to show you don't want them drinking that wicked liquor anymore. But that is not going to work at all just like the things yesterday won't work. So there is no way that you can compel a prosecutor to bring the kind of charge that you want that prosecutor to bring. There is no way you can prevent plea bargaining. I don't care what you say or what you try to do but I tell you again this is that kind of window dressing unenforceable type legislation which will trick the public into maybe thinking that something is being done that really is not, but when you get away from this part about no plea bargaining and trying to coerce the prosecutor's discretion, which you cannot legally do anyway, you can look, if you are interested, either now or later at the four brief articles that I attached to this handout.

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