

March 15, 1982

LB 202

CLERK: (Roll call vote taken. See pages 1168 and 1169, Legislative Journal.) 26 ayes, 19 nays, Mr. President, on adoption of the DeCamp-Beutler amendment.

SENATOR LAMB: The amendment is adopted. On the bill, Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I rise to speak on behalf of the bill as amended. I think most of us in the body can now fully appreciate the significance of the amendment, what it would do very simply is it would replace capital punishment for those who commit premeditated crimes with a life sentence which is not parolable and the pardonable aspects of the life sentence only begin at the end of thirty years. In addition, if a person is in the penitentiary or under the care of a corrections officer and then killed another with premeditation, that individual could still be executed under our capital punishment statutes. Senator DeCamp made an excellent statement a few minutes ago when he said simply that to a large extent our society is married to a mythological system of criminal justice which has prevented us as a society from really doing justice to our criminal system. So many people in our society believe in their heart that the only way to handle a violent offender, the murderer, is to kill the individual as soon as he is apprehended. However, as Senator DeCamp so ably pointed out, whether or not the violent murderer will be executed is dependent on many, many circumstances. The first circumstance is, will he be caught? The second circumstance is, what charge, what charge will the prosecutor lodge against the individual once he is apprehended? The third circumstance is, what was the nature of the individual's mind? Was it warped or was he rational? He is a killer but what was the nature of his mind? Will he be able to avoid the clutches of the law by exercising the insanity defense? The next circumstance is, what is the quality of the evidence? What is the quality of the evidence that the prosecutor has marshalled against this offender? And that is something that we really don't take into consideration very much because so many offenders are being tried on the most circumstantial of evidence and the prosecutor himself or herself recognizes that the evidence is circumstantial, the evidence of guilt, and is fearful that he or she cannot get a conviction of first degree murder. So along the way as part and parcel of our overall justice process, we will reduce, we will reduce the charge from first degree to second degree or to manslaughter and we will allow a plea bargain to be arranged not because the offender is any less guilty of killing another human being but simply because the quality of the evidence is not terribly strong to be able to assure the

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