

gave us, there is a heading "Other Provisions". One of them says, "The penalty for driving when a persons license has been permanently revoked, under this bill, is a Class IV felony up to five years, \$10,000 or both". Senator Nichol, is that correct?

SENATOR LAMB: Senator Nichol, would you respond.

SENATOR NICHOL: Yes, that is correct, Senator Chambers.

SENATOR CHAMBERS: So this means that if a person is behind the wheel of a car and the car is in motion or on a public street he or she does not have to be involved in an accident or any infraction of the law, just driving.

SENATOR NICHOL: That is correct.

SENATOR CHAMBERS: Thank you. Members of the Legislature, there is such a think as "over kill". Not too many days ago somebody from the University wrote an article to the news paper and talked about over severity in establishing sentences. His thesis was that those who want extremely harsh penalties may wind up with extremely lenient penalties and it is based on what has been discussed here throughout consideration of this bill, namely, that if the penalty is too harsh it is not going to be imposed at all. Consequently you have a far, far more lenient penalty than you would have had had you scaled that penalty down to a realistic level. If a penalty is too lenient, then naturally you have in effect no penalty at all. So, perhaps those of us who feel that some of these penalties are too harsh or unrealistic ought to vote for them and we would almost be assured of them never being enforced. But the problem with that is that you make it possible for certain offenses to be committed with impunity. The person committing the infraction need not worry about any penalty realistically being imposed and that is not what I want. I don't know if it is what anybody wants. But this is one of those situations where the judge in some cases, I know people are skeptical of them and so am I. But the judge in some cases has to function like a tailor or a shoe sales person. You measure each foot for the shoe, you measure each person for the clothes that you are fitting. We would hope that the purpose of the measuring is not to discriminate against those who are unpopular or who are poor or be biased on behalf of those who are wealthy, have standing in the community or can be of political benefit to the judge if he is to sentence or to the prosecutor if he is to charge. So a happy medium, if such a thing is possible, would have to be struck. The way I view it, some kind of discretion is