

that are going to be placed into it that I feel certainly have no place in this crime package, so I'm going to be opposing this amendment and I feel that this is one of those amendments that, if it does attached, it could jeopardize the ability to attract enough votes to enact the bill. So I would urge the body not to...not to support this amendment and to vote against it. Thank you.

SENATOR HALL: Thank you, Senator Abboud. Senator Chambers, you are recognized on this portion of the Lindsay amendment.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, first of all, this is Senator Lindsay's bill and he wants to get it passed and it's his amendment. The way the language is drafted may be difficult for those not trained in the law to understand, and maybe the example I was trying to give earlier led to some confusion. But here is what it is saying. If, in order to have the offense that you're talking about, there must be a gun or the offense cannot be committed, the use of the gun cannot be tacked on as a separate offense when the underlying offense contains the use of a gun as a part of the definition of the offense. And the example I was going to give was with the vehicle. There might be something such as...after what Senator Abboud said, I don't know if I ought to try to give an example because that might cloud the issue more, but let me just describe motor vehicular homicide. When you are in the vehicle and a person is killed under the circumstances that result in that crime, motor vehicular homicide cannot be committed unless you are in a vehicle. So you cannot have the offense of motor vehicular homicide and then add to that, it's worse because you used a vehicle to do it. You couldn't do it without a vehicle, that is what comprises the crime. So if the use of the gun is the crime then the fact that you used the gun cannot be made a second offense. You are creating two offenses out of one. I don't know how to make it clearer, but I'm going to try to discuss it a bit further. And if any of you have questions of me, ask me so that I can try to clarify it. A crime in this state, and any state, consists of specific discreet elements. Each element must be proved beyond a reasonable doubt. If one of the elements of the crime is the gun, then the fact that the gun was used cannot be made a separate offense. You cannot take the element of one offense and because that element is present create a second offense from that. It cannot be done. What this language does is clarify. If it is not clarified, you could well wind up with a situation