

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

May 22, 2003

LB 270

when you committed that crime, not only will you go to prison but we're going to make you stay there even longer. I've got difficulty with that, as did other senators in 1997. Senator Chambers argued passionately against the hate crimes statute as recently as 1997, as did Senators Landis and Beutler, and probably others too. I can go through the transcript for you. So my position today is fully consistent with where I've been always on these decision... on these statutes that have been called into suspicion, if you will, by virtue of the Ring decision. Senator Brashear, just to confirm my legal understanding of the Ring decision, essentially the difficulty that the Supreme Court had with our statute and the statutes of other states was that the jury was not involved in the establishment of whether or not the person's thinking was afoul when they committed the crime. If Senator Brashear would yield.

SENATOR BRASHEAR: (Microphone malfunction) Yes.

SENATOR CUDABACK: Would you yield, Senator Brashear, to a question?

SENATOR BRASHEAR: Yes, Mr. President. That is correct. This is the Apprendi argument about something which is or is like unto an element of a crime which must be decided by the jury as opposed to a judge, and it must be proven beyond a reasonable doubt by...beyond a reasonable doubt to the satisfaction of the jury of one's peers. I don't want to take more time than you want me to take

SENATOR FOLEY: No, please, take as much as you'd like, Senator.

SENATOR BRASHEAR: All right. I could even make the argument...we've fallen into this...

SPEAKER BROMM PRESIDING

SPEAKER BROMM: One minute.

SENATOR BRASHEAR: ...concept of trying to persuade one another. I could even make the argument that you ought, you, with your view, ought to support what we're doing here, and the reason is,