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FLOOR DEBATE

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pregnancy to term, she can do so. The state does not compel anybody to have an abortion. There was something else that...oh, Senator Foley mentioned that there might be a situation arising under the circumstances laid out in the hypothetical of Senator Johnson where a prosecutor would simply refuse to prosecute because a determination could not be made which of several malefactors may have produced the injury that would be the cause of a criminal charge, if one was to be lodged. And then he talked about prosecutorial discretion. Up to that point, he is correct. But a prosecutor should not be in a position of saying, I cannot and will not prosecute because the law, as written, makes it impossible; I can't prosecute somebody for damaging something that is not even visible to the naked eye; I will not prosecute somebody for causing bodily harm...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...where there is no body; I will not do that. And that is not prosecutorial discretion in the ordinary sense of the term. That's talking about prosecutorial impossibility. But because they think in fuzzy terms and are willing to accept anything that they see written in some other state, their analytical faculties, which they do have, are not called into play. They do not examine the impact in the real world of the words they want to put into the statute books and create a criminal offense. The criminal law should be drafted with more care than any other law, because it invokes the coercive, and in some cases the violent, power of the state against an individual for engaging in conduct which the Legislature said shall not be engaged in without consequence.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: You've heard the closing on FA199 to LB 57 by Senator Chambers. The question before the body is, shall that amendment be adopted? All in favor vote aye; all those opposed