

March 6, 1984

LB 1039

can understand very clearly the context in which I am going to discuss my amendment. On March 2nd a bill of Senator Beutler was on consent calendar dealing with credit unions and making it a crime for certain false entries and other activities to occur in a credit union which are crimes right now if they occur in other depository institutions. Now one of the things which is a Class IV felony for a clerk or somebody who makes a false entry, if they fail to make a correct entry in a record book, if they do not follow the manner and form prescribed by the Department of Banking in making an entry in a record book that person is guilty of a Class IV felony. If the person mutilates, alters, destroys, secretes or removes any books or records of an institution without the prior consent of the Director of the Department of Banking he or she is guilty of a Class IV felony. Now this is activity which obviously should not be allowed to go without punishment in depository institutions because the money and the life savings of people are to be protected by those who have custody. Therefore, the Legislature felt that when the Banking Department prescribes certain forms for making entries in books anybody who incorrectly made an entry is guilty of a Class IV felony. Now we come to the boss, the banker, who is engaging in a pattern of conduct which can carry the institution under, insider loans, unsecured loans, allowing the capital to deteriorate, taking action which will destroy the necessary liquidity of the institution. So in order to avoid a run on the bank by having prosecution immediately instituted, the Director of the Department of Banking issues a cease and desist order. The banker disregards it and it is just a misdemeanor and the banker has the hammer by saying, "You mean to tell me you are going to risk a run on the bank by trying to bring me to book on a misdemeanor. What city attorney in Omaha or Lincoln is going to prosecute me on a misdemeanor?" There ought to be a correlation between the nature of the offense and the punishment. You draw that correlation by determining how much harm is done to the public by virtue of the offense. The offense is of the magnitude that can bring an institution under which would be very hurtful to the public at large and the financial industry specifically. If the Director of the Department of Banking attempts to stop that action by issuing a cease and desist order that order

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