

knows this and takes it anyway, but this is an affirmative defense to the defendant, and that the amount of money that was given to him is considered to be a loan and that there was automatically a loan made to that individual for that amount of money and they can then secure their money, like they would with any other loan. However, there is a burden of proving that an affirmative defense is on the defendant, I point that out to you, that is in section three. The entire bill though, the theory of the bill is and there is no two ways about it, was to reduce the population of those persons convicted of this particular felony offense in the penal complex.

PRESIDENT: That is the proposed committee amendment, I understand that there are also amendments to the committee amendments.

CLERK: There are amendments to the committee amendment by Senator Richendifer. Page 2 line 19 of the committee amendment, strike a thousand and add ~~three~~ hundred.

PRESIDENT: The Chair recognizes Senator Richendifer.

SENATOR RICHENDIFER: Mr. President and members of the Legislature, I think that I represent part of the business community and we felt that a thousand dollars was a little high on this. Three hundred dollars going from 75 to 300 dollars seems to be a good compromise, there is no question about it that it should be raised from 75 dollars, but a thousand dollars in my country is still a lot of money. It might not be in Lincoln or Omaha, but it is still a lot of money. I would move for the adoption of the amendments to the committee amendments of 300 dollars.

PRESIDENT: We now have an amendment to the committee amendments, and that is what we are discussing. Senator Carpenter?

SENATOR CARPENTER: Now Mr. President, this is the field of compromise again. I attempted to work out a compromise between the Senator and the Chairman of the committee and they are both a little bit stubborn men, and I found from experience that when you get two heads and they have their feet spread, that you don't get anything. I would like to amend the amendment to five hundred dollars. I think that is the realistic thing, and the only purpose of this thing is to keep people out of the penitentiary. Now in years gone by, we have had from anywhere from 25 to 30% of the total population in the penitentiary due to writing the checks. Now, yesterday we asked the warden how many they had out there, he said 12½%. Now whenever you send a man down to the penitentiary, you put a stripe on his back that he never gets rid of. I am one of those who are confronted with the numerous amount of small bad checks, and it is my opinion that as time goes on they are going to get even more of them rather than less of them, but I think that if you have it on the local level where people who write checks can adopt a policy of even of putting a man in the county jail for one day, one day, that will be sufficient to take care of most of them. Now there are chronic check writers that you could hang them and they would still write checks, that is something that we can't correct by a law. It is like alcohol, a man won't stop drinking until he wants to stop drinking, and a man won't stop writing checks until he has to or he wants to quit, and sometimes circumstances will not permit him to do otherwise. You take a man who writes a two or three dollar check, and we have lots of them, in which the bank charges them a dollar for a no-good check, and most people who in the area of the merchants charge them anywhere from one to two dollars, if you want to talk about usury, that is it. And a guy writes a small check probably because he doesn't know what else to do at the time he does it, or else he doesn't have control of his mental faculties. Now I think that we have to be realistic and I think that five hundred dollars ought to be a practical amount and I would hope that both the chairman