

May 23, 1979

LB 262

of the people in this matter. They want the retention of the death penalty. Do we know better than they? Senator Labeledz wanted a couple of minutes, Mr. Speaker, and with that, I have no further closing and with your permission...

SPEAKER MARVEL: Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. President. I, too, agree with John that we are not doing our job by keeping them on the average of fifteen to eighteen years. Senator Chambers, in LB 262, has eliminated class one penalty which is death. He has taken class one A penalty and made that into a thirty year mandatory sentence. I think probably the most reason I am upset about it because there are so many that are convinced on the thirty year mandatory sentence and I would like to explain that I, too, agree that class one A penalty should have a mandatory thirty year sentence. Now class one A penalty is life imprisonment and if we can tell the Parole Board that they definitely cannot parole anybody unless they have served at least thirty years for first degree murder, then I think that portion of the bill should remain. Class one felony death should remain. Now in 1977 and this will explain why I think that there is no thirty year mandatory sentence right now because Paul Douglas, the Attorney General, sent us an opinion and I would like to read just the one paragraph. "We feel it is necessary to point out that LB 64 in either its original form or your amended form could not affect or eliminate the exercise of the pardoning board power held by the Governor, the Secretary of State and the Attorney General as granted in article 4, section 13." This is the most important. "A life sentence or a sentence of thirty to ninety years, regardless what it is, without parole would not and could not prevent the Board of Pardons from commuting each sentence to a certain term of years because the Board of Pardons is granted the power to grant pardons and commutations by the constitution. Legislation cannot impair the exercise of that power either directly or indirectly and, therefore, LB 64 were it to be enacted into law, either in its original form or its amended form could not restrict the pardoning board, pardoning power of the board, over the class of offenders to which it applies. In our opinion the language of the constitutional provision relating to the Board of Pardons fixes absolute power to pardon in the Governor, the Secretary of State and the Attorney General. Except for the express restriction concerning treason and impeachment the grant of pardoning power to the board is absolute and such unlimited language has been historically so construed."

SPEAKER MARVEL: You have one minute.