

April 10, 1980

LB 991

The first one on 991 in its original form said the bill was unconstitutional. Second A.G.'s opinion on 991 with the committee amendments, said it wasn't quite as bad, still unconstitutional. Another Attorney General's opinion on a blue ribbon committee which I established made up of twenty-five individuals from law enforcement, drug agencies, president of Nebraska PTA, et cetera, et cetera, et cetera. It said essentially you have taken...tried to make a silk purse out of a sow's ear. It is better than it was before. It is still unconstitutional. A fourth A.G.'s opinion, this one was addressed to Senator DeCamp who tried to copy some legislation from Colorado, said it was unconstitutional. Fifth and last A.G.'s opinion that is on Request #2308. The white copy is in the book. It is also on this sheet. That is the one which would restrict it to eighteen years, sales of...individuals eighteen years and younger. Senator Venditte and those individuals that want to abolish the head shops, and I personally do too because the first approach that I took was to do exactly that and I tried to work with Senator Venditte's bill. The problem is the bill is like a cancer. It is riddled with unconstitution- alities so even putting the severability clause won't do any good because you have to start removing all the can- cerous parts and there is nothing left of the bill. So this was the only attempt that we had to make a bill that was constitutional. I have received a tremendous amount of criticism from Senator Venditte and others in doing so and quite honestly, right now I am at the point of trying to make a decision what I intend to do about this. I would of course have some satisfaction in laying back and laughing at Senator Venditte when the bill was en- joined and then later on when it is declared unconsti- tutional because what is going to happen and make this clear. This is the scenario that is going to take place on this bill. Number one, I don't think the Governor is going to sign the bill. That is the understanding that I have and if Senator Venditte tells you other on the floor this morning, or this afternoon, I think he is mistaken. The last time I checked, the Governor will not sign this bill. He will not sign something that is uncon- stitutional. Even if he would or even if the Legislature overrode the veto, rest assured, the bill will be enjoined. That much is a guarantee. I would also say very clearly based on the Attorney General's opinion that the bill is definitely unconstitutional. Bills that have been enjoined in this area have been enjoined for at least a couple of years. So the bill will not be able to take in force for at least two years even if it is constitutional, even giv- ing Senator Venditte that, which I don't. So what happens then is it will be business as usual for at least two years.

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