

because I think they are already covered under present law and they are covered under present law with more severe penalties. I think that with the more severe penalties there is a greater deterrent. That is the general theory that we use in the criminal law, anyway. Not only is there a greater deterrent, but there is a greater likelihood that the city prosecutor, or the county attorney will take the time to prosecute them. Okay. If you look at the Lundy amendment, on page 1217 of your Journal, down where it says Section 5, now the first one says, "Any person who takes, or exercises control over, any library material with the intent of depriving the library of such material shall be guilty of an infraction." The section of the statutes that I think quite clearly applies to that are the theft provisions of our current statute. Under the theft provisions there is a gradation of offenses, and if you are talking about something with a value of \$100 or less, which would probably usually be the case with library materials, then it is a Class II misdemeanor which has a possible criminal penalty, maximum of six months, and \$1,000 fine. So I think it is better to leave it as a theft offense. I might back up a little here and say what I probably should have said preliminarily. If you think about the debate that we've had so far on this particular issue, no one has said, no one has indicated to you that somebody has had trouble prosecuting our current laws. It seems to me that at a very minimum someone is coming and asking you to change wholesale your laws, then they ought to present to you some evidence that it is the law that is the problem, as opposed to getting county attorneys or city prosecutors to prosecute, or as opposed to lack of good inventory control within the library system. No one has said that here today, and yet they are asking for wholesale changes in the law. But getting back to my point, I think subsection (1) of Section 5 is unnecessary because it is covered by our theft statute. Now subsection (2) says, any person who unlawfully or maliciously cuts, writes, tears, defaces, disfigures, soils, in other words does damage to library material, shall be guilty of an infraction. That is covered under our present, what we call criminal mischief statute. It says a person commits criminal mischief if he or she damages property of another intentionally or recklessly. I don't see any way that you can read that...the damage of library materials to be anything other than exactly that. There is no question but that the criminal mischief statute covers that particular item. Now criminal mischief, the penalties there