

now it is 37 states, since 1982 New Jersey and Oregon have passed legislation allowing capital punishment, reinstating capital punishment. So the Legislatures of 37 states would not have restored the death penalty after the Fuhrman decision if they had not been convinced that deterred murderers. They heard the evidence and they concluded that it did. And the Supreme Court has said that is their prerogative. And Mr. Justice Stewart, nevertheless, held that the value of capital punishment as a deterrent of crime is a complex, factual issue. Thus on the question of deterrence the Legislatures can make their own informed choices. The question is so important, however, it may be well to analyze the arguments on each side and let the reader decide. The death penalty was dormant from 1967, when the last man was executed, until the Florida execution. We have had almost a 10-year hiatus in the infliction of capital punishment. To deter a certain course of action, the threat must be perceived as real and not imaginary or illusory, or not going to happen. During the period in which the death penalty constituted no real threat in the United States, the number of murders almost doubled, from roughly 10,000 to 20,000 a year. And we have seen the contempt for the death penalty being carried out in appeal after appeal, and in the...

PRESIDENT MOUL: One minute.

SENATOR PIRSCH: ...knowledge that probably they would never be carried out. Now you have heard that the federal appeal process is also concerned about this, and they are changing, they are thinking of changing that frivolous appeal. Ernest Vandenhag (phonetic) said, a failure to terminate a murderer's life isn't a celebration of human life, but exactly the opposite. Those who believe in the sacred right of an individual to live his life span, uninterrupted by murder, cannot affirm their devotion to that principle by dealing frivolously with those who violate it. The proposition is best understood as a demonstration of reductio ad absurdum, a society that punishes a murderer by giving him a jail sentence of one week is a society that does not set much store by human life.

PRESIDENT MOUL: Time.

SENATOR PIRSCH: A society that holds human life so sacred that it is prepared to execute anyone who takes another innocent human life, is a society that believes deeply in the sacredness of human life.