

May 15, 1979

LB 262

that had abolished the death penalty. In fact, in the following year forty-three homicides occurred in prisons that had the death penalty as a potential sentence and only eleven occurred in abolitionists states. Also in a 1955 survey of prison administrators in abolitionists states, the conclusion was unanimous according to the Surgeon General of Massachusetts, that those serving life sentences, in other words, those who were in for murder one, present no special problems to guard or inmate safety. The entire area of statistical analysis with respect to prison guards and prison inmate and homicide rates was summarized by Justice Marshal in the *Funam v. Georgia* decision on the death penalty issue and he said, "the existence of the death penalty has virtually no effect on the homicide rates in prisons." Also I might point out that inmates are simply not credible witnesses and I would defy Senator Newell to give me one example of a death penalty based on a prison homicide. It is simply not the case that juries attach death penalties on the kinds of testimony they get from inmates that testify against a fellow inmate. It is just simply not done and the testimony is not credible and it is just simply not a tool that can be used to create a deterrence factor in prison administration. With respect to police and their protection, I would point out that in 1972 California struck down their own death penalty law. In that year six policemen were killed in that state. However, in the two previous years when they had the death penalty thirty-four policemen were killed. Professor Sellin, in an analysis of every police homicide between 1919 and 1954 said, the incidence of fatal attacks on policemen in cities that have abolished the death penalty is the same or lower than in cities that have the death penalty operative. In 1963 to 1972 there were over seven hundred police homicides, however, the vast majority of these are instances in which the criminal is confronted at the scene of the crime or in pursuit. There is no chance to think about it. There is no chance to weigh the penalties. The criminal simply draws the gun, pulls the trigger and shoots. Sometimes the police fire first. Sometimes the criminal is the one who dies. Sometimes it is the policeman but, in fact, in that moment nobody sits down and starts weighing out, well, wait a second. Does LB 262... is that passed yet or not? They don't measure in that split second what is on the books. They simply pull the gun and they pull the trigger and that goes for both sides, the criminal and the policeman. There is no way to deter the criminal in that moment by passing the Newell amendment. Let me go on to the argument that

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