

the way to the State Supreme Court. If the State Supreme Court disagrees with you, you take that appeal into the federal system. You appeal that all the way up to the U. S. Supreme Court. If that fails, then you seek a habeas corpus action and you start that in the Federal District Court. You go from the Federal District Court to the Eighth Circuit, or whatever the number circuit, but to the intermediate court of appeal, then to the U. S. Supreme Court. This process takes years. There is one person on death row in Nebraska right now who has been there close to seven or eight years now but the total number of years of all the people on death row right now in Nebraska adds up to 43 and there is no certitude that the death penalty will be carried out after all these appeals have been exhausted. Simants was a case that I mentioned. Dennis Sell is one which shows that despite how upset we become about heinous crimes, as mentioned by Senator Hefner and Senator Kahle and others, you cannot control the prosecutor's discretion. He or she has absolute unreviewable discretion as to the charge that will be brought. So if you have a case of a Dennis Sell who had pleaded guilty of second degree murder in the rape and murder of a woman and a subsequent murder is charged to him, it seems that in this situation those who want the death penalty would certainly insist on it here. But again, the prosecutor allowed a plea bargain to second degree murder which meant that there was no possibility...

SENATOR LAMB: One minute, Senator.

SENATOR CHAMBERS: Thank you, Mr. Chairman. ...of a death penalty. If you go through the types of crimes that have been committed in Nebraska which were plea bargained out, you will see that much worse murders, if there is such a thing, were committed by people in other parts of the state than Omaha and Lincoln and Grand Island who were allowed to plea bargain out on a lesser offense and thereby not even face the possibility of the death penalty. So the fact that it cannot be carried out, the delays and the expense, we have a punishment which is not a punishment and which cannot deter because nobody expects to get it, and even the judges admit, they are reluctant to carry the sentence out and they will give a condemned person every opportunity to overturn the conviction, and Judge Rehnquist who is in favor of the death penalty said that the accused person is given so many bites at the apple that the odds favor some point along the line this individual finding a court that will overturn his sentence, which means that after all that time and money, the death penalty is defeated anyway. So we ought to do away...

SENATOR LAMB: Your time is up, Senator.