

April 5, 1982

LB 568

most of you will be aware is a bill to abolish, Senator Hefner, a bill to abolish the death penalty in certain cases but not all. Since we are in Chapter 28, the Criminal Code, it is not appropriate to offer such an amendment to a bill dealing with Chapter 28. This proposition that I am offering you are very familiar with. It represents the amended version of 202. The Beutler amendment which said that the death penalty would be retained only in cases of first degree murder committed by somebody incarcerated. Even under those circumstances there would have to be the aggravating conditions found in the existing statute which makes such a thing possible. So, what I am asking that you do, is take this amendment that you find on page 1427, 28 and 29 and the top of 30 in the Journal and add it to this bill as an amendment. The reason that I want this done, the reason I feel there is a justification is because of the very things that we have been talking about with reference to drunk driving. When you impose harsh sentences in the statute but they are not carried out, not only is no deterrent provided, which is what people offer in justification of a death penalty, but it subverts the purpose, the intention and the integrity of the law. Because in Nebraska there are 93 counties and you are trying right now with drunk driving legislation to make the punishments uniform in these counties, there certainly ought to be a uniformity of punishment when you deal with the harshest punishment that can be imposed, namely the taking of life as a punishment for an offense. Since you have 93 counties, each one presided over by a county attorney and not all of the county attorneys believe in the death penalty you are saying that you have a punishment which is not state wide. It can only have the possibility of applying in those counties where a county attorney will bring a charge bearing the death penalty. But, in most of the counties throughout this state there is not a willingness to pay the cost of the prosecution and the defense. Such being the case, even if a first degree murder charge is brought against an individual if a very heinous murder has been committed such as in Norfolk that I have mentioned from time to time, where the young man with the Spanish surname had his head cut off. A plea was allowed to be copped to a lesser offense and one case I think a first degree murder with the understanding that there would be no death penalty. But, I am certain, that if three individuals with Spanish surnames had decapitated a person with an Anglo last name there would not have been a plea to a lesser offense nor an opportunity to escape the possibility of the death penalty. So, the race of the victim in Nebraska, as in other states, goes a long way in determining whether you are even a candidate for this punishment.

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