

in Nebraska, a little used penalty, something which can be used to give the public the impression that a criminal justice punishment exists which in fact does not. If the law enforcement professionals tell you that a punishment is a hoax, that should do something to give you a basis for abolishing this penalty. When we had a Judiciary Committee hearing on this bill March 4th, a former county attorney from Custer County testified and he pointed out in his testimony that the only ones deterred by the death penalty are jurors. They will not find people guilty when to do so may lead to a death penalty. So his experience was that contrary to it being a deterrent to crime, it was a deterrent to jurors convicting. And, he said these words: It is very easy when someone comes up to you on the phone or in a poll and asks you, do you believe in capital punishment. To say to that general question, yes I do. But when a farmer or a housewife or a business man goes into a jury and they sit in a court room day after day, watching a man accused of murder and that man doesn't look all that different than they do, it is very difficult for them to make a decision that may cost that man his life. What they end up doing is finding that man guilty of second degree murder, the only difference between first degree murder and second degree murder is the intent of the killer. In Nebraska the minimum sentence for second degree murder is ten years. This is a former prosecutor talking. So, in 90% of the cases of people who are convicted of second degree murder they do eight years. They do roughly eight years. What happens is people who may very well be guilty of first degree murder are sentenced to eight years imprisonment. This is the hidden cost that society pays for having a death penalty. The hope that the threat of death deters murder, that is all that it is is a hope, because there are no statistics or any evidence to prove that. The hope that death deters murder overlooks and misunderstands the criminal psychology. Also at that hearing was a family who had had a daughter that they lost to murder. This mans name is Kenneth Messner and he said to the committee. I'm Kenneth Messner from Central City, Nebraska. I don't have a prepared statement but I would like to say a little bit about the way my wife and I feel about this matter. First, we feel that the taking of another life won't diminish the loss that we feel, the loss of our daughter. Beyond that, we agree with the idea that the death penalty is not warranted in any case. I don't think that the death penalty does deter the committing of crimes and it obviously didn't in the case of our daughter. I guess that is about all that I have to say. Senator Nichol then asked this question. Mr. Messner, was your daughter murdered or was she killed in a car accident or what? Kenneth Messner: No, she was murdered. Nobody