

May 9, 1979

LB 262

my time to the things that really mean something to me. When I came down here, I was a moving force as far as penal reform was concerned but the stumbling block for me to that has been the death penalty on the books though not applied and to show you that the death penalty is not applied in this state, I wish you would look at this, a partial list of those who have committed homicides since the present death law was put on the books, and this is not the only list. Here is an additional computer printout. Now with this number of homicides and only eight people on death row minus Simants now, how can we say that the penalty has any significance. It is not a valid penalty. It is unjustifiable and indefensible and in no other area of the law do we have a penalty which is imposed so infrequently, irrationally and capriciously. You recently saw where a person had committed a crime several years ago and due to an indiscretion of a sheriff that whole thing was thrown out and it starts again. These are just some of the things I hope you will consider as you think about this bill. What you also ought to realize is that in the Governor's mansion of this state people convicted of first degree murder have worked on the staff of the Governor. First degree murderers have worked on the Governor's staff. You have all been told that the Governor has stated he would veto a bill to abolish the death penalty but the point which has not been emphasized is the proviso that the Governor himself attached. If he could be shown a bill drafted in the way that this one is, LB 262, which imposes a substantial mandatory prison sentence, then he cannot say that he will veto such a bill. So in order that we can remove this penalty which is not imposed, this bill, LB 262, ought to be advanced, and in order not to prolong my bit of discussion, I would like to emphasize one other point then read you a bit from an editorial from the New York Times dated April 10th of this year. No matter what law we put on the books relative to the death penalty, the Legislature does not decide who will die or who even will be exposed to the death penalty. The prosecutor determines that by the charge he files. If a plea bargain is obtained in the case of a Dennis Sell, there is no exposure to the death penalty, no placing of that person in jeopardy from the beginning. If the charge is filed and the jury is allowed to choose among various degrees of homicide, they have been showing recently that they opt for the lowest grade or manslaughter and I have handed you articles to this effect. I would like to read something...oh, and even in cases where the charge is first degree murder, the jury convicts of first degree murder, judges have been very reluctant to sentence to death. When the bill first was enacted, the new death law,