

Approved 4/10/85
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~p.m.~~ on March 20, 1985 in room 254-E of the Capitol.

All members were present.~~except~~

Committee staff present:

Fred Carman, Assistant Revisor of Statutes
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Representative Clyde Graeber
Governor Bill Avery, Wakefield, Kansas
Thomas E. Kelly, Director, Kansas Bureau of Investigation
John Blythe, Kansas Farm Bureau
Richard Ney, Chief Public Defender, Wichita, Kansas
William J. Lucero, Criminal Justice Task Force Coordinator, Unitarian Church, Topeka
William R. Arnold, Criminologist, Kansas Citizens for Justice
Sister Donna M. Schneweis, Amnesty International USA, Salina, Kansas
Sister Dolores Brinkel, Catholic Charities of the Archdiocese, Kansas City, Kansas
Donald Roberts, Church of the Brethren, Topeka
Bernard Dunn, Social Concerns Committee, Most Pure Heart of Mary Parish, Topeka
T. A. Lockhart, National Association for the Advancement of Colored People, Leavenworth
Ann Nebberger, League of Women Voters of Kansas
John Miller, Route 2, Box 34-1A, Atchison
Ron Miles, Director of State Board of Indigent Defense Services

HB2135 - concerning death penalty; certain crimes.

The Chairman announced that HB2135 would be heard today, and that he would allow 40 minutes for proponents and 40 minutes for opponents. Representative Clyde Graeber the prime sponsor of the bill, was introduced as the first proponent. He said that capital punishment is the punishment our society reserves for the most heinous of our nation's criminals and that the death penalty is the price victims pay at the hand of killers. He stated that the state must return to the time-honored principle of providing safety for its citizens. His prepared statement is Attachment #1.

Former Governor of Kansas, Bill Avery, was the next proponent. It is his conclusion that a death penalty should be enacted in order to sustain a stable and orderly society. His prepared statement is Attachment #2.

Thomas E. Kelly, Director, Kansas Bureau of Investigation, was the next proponent. He said the death penalty is not a deterrent if it is never used, but is a deterrent to the offender when it is carried out. He stated that absence of a death penalty does not provide guaranteed options that the offender will not be released back into the society which should be protected. His prepared statement is Attachment #3.

John Blythe, of the Kansas Farm Bureau, was a proponent. The Kansas Farm Bureau believes capital punishment to be a deterrent to violent crime. Mr. Blythe's prepared statement is Attachment #4. This concluded appearance of proponents.

Richard Ney, Chief Public Defender, Sedgwick County, was the next conferee. Mr. Ney stated that reimposition of the death penalty in the State of Kansas will require increased expenditures for state and county government for the trial and incarceration of the capital defendants. His prepared statement is Attachment #5.

William J. Lucero, Criminal Justice Task Force Coordinator, Unitarian Universalist Service Committee Unit of Kansas, was the next opponent of the bill. Mr. Lucero said it is absurd to argue that death sentencing is a deterrent to murder. Mr. Lucero, whose father was murdered, said that vengeance is what is being sought in the death sentence, and vengeance brings no joy. His prepared statement is Attachment #6, along with data concerning Murder Rates per 100,000 Inhabitants of the 50 States, Attachment #6A.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m. ~~p.m.~~ on March 20, 1985

William R. Arnold, Criminologist, Kansas Citizens for Justice (Kansas Council on Crime and Delinquency) was an opponent of HB2135. He cites statistics and states that the safety of the public is no greater when the death penalty is available and making murder a capital offense has no effect on the homicides of police and prison personnel. His statement is Attachment #7.

Sr. Donna M. Schneweis, representing Amnesty International USA, appeared as an opponent of HB2135. She states that our country was founded on a basis of respect for inalienable human rights which each person has simply by reason of birth, and that every person has a right to life. Her statement is Attachment #8.

Sr. Dolores Brinkel was the next opponent. She represents the Criminal Justice Ministry--Catholic Charities of the Archdiocese of Kansas City, Kansas. She said she has worked with three paroled murderers, witnessed their conversion and feels that criminals are not beyond redemption. Her statement is Attachment #9. Sr. Dolores also presented a written statement from the Coalition to Keep Kansas Free of the Death Penalty. The Coalition believes the death penalty is morally wrong and that it continues to be applied in a discriminatory way. They also believe that it cannot be reversed because it ends life; also that it costs too much and generates violence. Their written statement is Attachment #10. Also, she distributed the statement from Bob Runnels, who was unable to attend, for the Kansas Catholic Conference. It is an association of the four Catholic Dioceses of Kansas, and they oppose HB2135; they feel its use threatens to undermine belief in the inherent worth of human life and that it gives official sanction to violence. Mr. Runnels' statement is Attachment #11.

Donald Roberts, the Church of the Brethren, was the next opponent. He presented a written statement from the Coalition of Topeka Clergy against the Death Penalty. It is a copy of their Press Conference Statement which includes a statement speaking against the death penalty, and requesting defeat of the death penalty so spiritual energies may be turned to positive approaches that would reconcile and bring hope. Their statements and signatures of supporters are all part of the packet which is Attachment #12.

Bernard Dunn, Co-Chairperson, Social Concerns Committee of Most Pure Heart of Mary Parish Council, was the next opponent. Mr. Dunn believes that Kansas adoption of the death penalty may help to decivilize Kansas; also that it removes the incentive to stop killing once started and increases the danger to witnesses. His statement is Attachment #13.

T. A. Lockhart, of the National Association for the Advancement of Colored People, was the next opponent. Mr. Lockhart stated that one reason they oppose the legislation is that the NAACP has historically opposed death punishment because statistics have shown that Blacks and certain other ethnic groups have been so sentenced when others have been able to escape the outcome. They feel that punishment should be based on equity in application and that this has not occurred. His written statement is Attachment #14.

Ann Hebberger, League of Women Voters of Kansas, appeared in opposition to the bill. She said the League opposes the death penalty as a matter of policy. Her statement is Attachment #15.

John Miller, student from Maur Hill at Atchison, was the next opponent. Mr. Miller states that the death penalty is ineffective and unjust, that the death penalty does not deter, is cruel and unusual punishment and discriminates against the poor, and once it is carried out it is irreversible. His statement is Attachment #16.

Ron Miles, Director of the State Board of Indigents' Defense Services, appeared as neither a proponent nor opponent of HB2135, but in his official capacity as director. He suggested the bill be amended to allow the court to appoint the chief public defender in districts that are currently serviced by a public defender office. He says the amendment will insure a higher quality representation and will significantly reduce the fiscal impact of the bill. His statement and suggested amendments are Attachment #17 and Attachment #18.

The Chairman stated that this will conclude hearings on HB2135.

The meeting was adjourned.

Mr. Chairman, committee members, my name is Clyde Graeber, I am the prime sponsor of House Bill 2135 which you are to consider this morning. You must face this morning the question of whether our state should reinstate capital punishment for first degree premeditated murder.

This legislature in its wisdom and in its ability to respond to the desires of its respective constituencies and certainly the desires of a majority of the people of our state has previously passed in both houses of our legislature a capital punishment law only to have it vetoed by the Governor.

I trust you have noted I refer to House Bill 2135 as a capital punishment law and not a death penalty.

Capital punishment is the punishment our society reserves for the most heinous and the most fiendish of our nation's criminals as the price they may pay for their vicious and merciless acts. The death penalty is what price victims pay at the hands of these killers. The death penalty is what those two young men gave when they were forced to lay face up on the country road outside of Colby and then made to look at their killers when they were shot in the face as their killers laughed; ridiculed ^{them} and enjoyed their merciless act ^{of killing}.

I strongly believe we, in our state, must return to some of our time honored principles, one of the foremost being ^{that} the safety of our people is the supreme law.

An unprecedented 84% of the American public now support the capital punishment concept according to a media General/Associated Press Poll.

The idea of capital punishment is certainly a repugnant concept; but so is the idea that an individual can ~~kill~~ casually or deliberately or out of sheer meanness, or for enjoyment; murder another person with the assurance that he or she will not in turn suffer the same loss of life.

You, no doubt, will hear ~~that~~ capital punishment is no deterrent to murder. I would point out to you since capital punishment has not been used with any degree of consistency in recent decades, it is quite impossible statistically to evaluate its deterrent potential with any degree of accuracy. Those against capital punishment often claim a lack of significant difference between the murder rate in states ~~with and without~~ ^{having} capital punishment ^{saying this} ~~proves~~ ^{that} ~~the~~ capital punishment concept does not deter murder. That is nonsense. Even states with the law have used it so little as to preclude any meaningful comparison. Any punishment even death will cease to be an effective deterrent once it is recognized as a mere bluff.

It is interesting to note statistics in England since they abolished the death penalty. There were more murders, rapes, and assaults in London in 1966, the second year after the death penalty was abolished than in any previous year in its 2000 year history.

According to the uniform crime reports during the period 1968-75 forty-nine policemen were slain from ambush in the United States. No such murders occurred during 1966-67, the last 2 years the death penalty was actually used in this country.

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We as legislators must now face this issue because we have a responsibility to our fellow law abiding Kansas citizens. Criminal defendants must be held accountable for their actions. There needs to be a resolution. There needs to be an effort by the law making bodies of this nation; and as Chief Justice Warren Burger has said; to bring a certainty of penalty, to apply that penalty and bring this country and our state back on a course where there is respect for the lives and peace of others. A resolution where the criminal knows he will pay the maximum for crimes that take the lives of our citizens and invade the peace and tranquility of our state.

Capital punishment is the mark of a society which holds dear the life of its citizens. It is the society which holds life cheap that imposes weak penalties for the taking of life.

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3/20/85
Attachment #2

STATEMENT BEFORE THE FEDERAL AND STATE AFFAIRS COMMITTEE
KANSAS STATE SENATE
ON HOUSE BILL # 2135
MARCH 20, 1985 BY WILLIAM H. AVERY

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

SOME MEMBERS OF THE COMMITTEE MAY RECALL THAT FOR QUITE A NUMBER OF YEARS, I SAT ON YOUR SIDE OF THE ROSTRUM, BOTH IN THIS CAPITOL BUILDING, AND THE ONE ON THE POTOMAC. IT WAS ROUTINE FOR A WITNESS TO COMMENCE HIS OR HER TESTIMONY WITH THE STATEMENT, "MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO APPEAR HERE TODAY". I WILL DEPART FROM THAT OPENING STATEMENT TODAY. WHEREAS, MY SUPPORT OF HOUSE BILL 2135 IS WITHOUT RESERVATION, IT IS WITH A SENSE OF SADNESS THAT I AM HERE TODAY. I APPEAR HERE TODAY ONLY BECAUSE IT IS MY CONCLUSION THAT HUMAN BEHAVIOR, THOUGH EXCEPTIONAL, IS SUCH, ON OCCASIONS, THAT A DEATH PENALTY SHOULD BE ENACTED IN ORDER TO SUSTAIN A STABLE AND ORDERLY SOCIETY.

THE OFFICE OF GOVERNOR OCCUPIES A UNIQUE POSITION IN THE ADMINISTRATION OF CRIMINAL LAW, BUT, MORE SPECIFICALLY, IF CAPITAL PUNISHMENT IS OR HAS BEEN ENACTED BY A LEGISLATIVE BODY. WHEN A PERSON ANNOUNCES HIS OR HER INTENTION TO SEEK THE OFFICE OF GOVERNOR OF A STATE, THE CANDIDATE NOT ONLY ASPIRES TO HOLD THE HONOR OF THE OFFICE, BUT, IN MOST CASES, SUBMITS AN AGENDA TO THE VOTERS THAT IS HOPED TO BE ACCOMPLISHED IF ELECTED. I QUESTION FEW, IF ANY, DULY ELECTED EXECUTIVES OF A STATE EVER REFLECTED, OR CONTEMPLATED THE AWESOME RESPONSIBILITY OF SITTING AS THE LAST AND ULTIMATE LEVEL OF APPEAL TO POSTPONE OR TO COMMUTE THE PENALTY OF A DEATH SENTENCE. THIS DECISION IS NOT MADE LESS BURDENSOME AFTER THE ACCUSED HAS BEEN FOUND GUILTY BY A JURY OF HIS PEERS, SENTENCED BY THE PRESIDING JUDGE, AND THE ENTIRE PROCEEDINGS REVIEWED BY EVERY LEVEL OF JUDICIAL APPEAL ONE OR MORE TIMES.

CERTAINLY I HAD NOT REFLECTED ON THIS RESPONSIBILITY UNTIL SOON AFTER TAKING OFFICE, I WAS CONFRONTED BY AN APPEAL FROM

THE LAWYERS FOR PERRY SMITH AND RICHARD HICKOCK AND THE FAMILY OF RICHARD HICKOCK. YOU MAY RECALL THESE TWO INDIVIDUALS HAD BEEN FOUND GUILTY OF MURDERING FOUR MEMBERS OF THE CLUTTER FAMILY IN HOLCOMB, KANSAS. IT WAS MY EXPERIENCE, AS A RESULT OF THAT TRAGEDY AND ANOTHER THAT FOLLOWED, THAT PROMPTED ME TO APPEAR HERE TODAY.

PERHAPS MEMBERS OF THE COMMITTEE WILL RECALL THE SEQUENCE OF EVENTS THAT FOLLOWED THE WANTON KILLING OF THE FOUR MEMBERS OF THE CLUTTER FAMILY IN THEIR HOME ON NOVEMBER 15, 1959. AFTER BEING TAKEN INTO CUSTODY IN LAS VEGAS ON THE BASIS OF A PAROLE VIOLATION, THEY WERE RETURNED TO GARDEN CITY, WHERE THEY WERE ARRAIGNED AND EACH CHARGED WITH FOUR COUNTS OF FIRST DEGREE MURDER. THEY WERE TRIED BEFORE A JURY IN THE DISTRICT COURT OF JUDGE ROLAND TATE. THE RESULTING DEATH SENTENCE FROM JUDGE TATE'S COURT WAS APPEALED AND LEFT STANDING BY THE KANSAS SUPREME COURT, THEN FURTHER APPEALED ON TECHNICAL GROUNDS TO THE FEDERAL DISTRICT COURT IN TOPEKA, THEN ON THREE SUBSEQUENT OCCASIONS TO THE SUPREME COURT OF THE UNITED STATES. ON EACH SUCH APPEAL, THE U. S. SUPREME COURT DENIED A REVIEW OF THE CASE, AND THIS LEFT THE ORIGINAL CONVICTION STANDING. THE EXECUTION WAS ORDERED FOR APRIL 15, 1965.

IT WAS ONLY AFTER THIS THIRD REFUSAL FOR REVIEW BY THE U. S. SUPREME COURT THAT MY ADMINISTRATIVE ASSISTANT SUGGESTED THAT I SHOULD BE CONSIDERING THE FACTS AND THE HISTORY OF THE CLUTTER CASE, AS AN APPEAL TO THE OFFICE OF GOVERNOR WAS TO BE EXPECTED. THIS WAS FIVE YEARS AFTER THE CRIME HAD BEEN COMMITTED, AND DURING THOSE YEARS, I HAD BEEN SERVING IN CONGRESS AND AWAY FROM THE DAY BY DAY HEADLINES THAT THE TRIAL HAD GENERATED. ACTUALLY, I HAD NOT THOUGHT MUCH ABOUT THE MATTER AFTER THE INITIAL SHOCK FOLLOWING THE NEWS OF THE MURDERS AND THAT THE ACCUSED HAD BEEN TRIED AND CONVICTED AND SENTENCED. I MENTION THIS TO POINT OUT THAT I HAD NOT BECOME CAUGHT UP BY THE EMOTION ASSOCIATED WITH THE CASE, AND HAD NOT THOUGHT ABOUT POSSIBLE SUBSEQUENT OF EVENTS FOLLOWING THE TRIAL. IT WAS AT THE TIME AN APPEAL TO THE GOVERNOR WAS EMINENT THAT I FIRST BECAME AWARE THAT AN AWESOME RESPONSIBILITY WAS ABOUT TO CONFRONT ME. I REVIEWED SOME OF THE

TESTIMONY FROM THE TRIAL, BUT MORE ESPECIALLY DIRECTED MY LEGAL AIDES TO REVIEW THE SEVERAL APPEALS FROM JUDGE TATE'S COURT, AND MORE SPECIFICALLY, IF DURING THE APPEAL PROCEDURE, ANY COURT OR JUDGE HAD TAKEN ISSUE, OR QUESTIONED (A) THE CONDUCT OF THE TRIAL, (B) THE AVAILABILITY OF COMPETENT LEGAL COUNSEL, AND (C) IF FURTHER APPEALS MIGHT BE ANTICIPATED.

SEVERAL PERSONS ASKED TO BE HEARD ON BEHALF OF THE CONVICTED FELONS, BUT I ELECTED TO HEAR ONLY THE DEFENDANTS' ATTORNEYS AND THE MOTHER AND BROTHER OF RICHARD HICKOCK. I THINK THIS WAS THE MOST DIFFICULT PERIOD OF THIS ENTIRE PROCEEDING. IT WAS AN EMOTIONAL EXPERIENCE TO HEAR A MOTHER PLEAD FOR THE LIFE OF HER SON. HOWEVER, WHILE SHE WAS PLEADING FOR THE LIFE OF HER SON, I COULD NOT PUT THE PICTURE OUT OF MY MIND OF HERB CLUTTER PLEADING FOR THE LIVES OF HIS FAMILY. THAT IS, HE WOULD HAVE BEEN PLEADING HAD HE NOT BEEN BOUND AND GAGGED.

I PERMITTED HER TO USE AS MUCH TIME AS SHE WISHED, AND ADVISED HER THAT I WOULD BE MAKING A DECISION, AND WOULD SO ADVISE THE ATTORNEYS.

I DO NOT WISH TO DRAMATIZE MY STATEMENT. HOWEVER, I WANT TO READ SEVERAL SHORT PARAGRAPHS EXCERPTED FROM A STATEMENT MADE BY AL DEWEY, THE K.B.I. AGENT IN CHARGE OF THE CASE. THESE PARAGRAPHS ARE NOT FROM THE TRANSCRIPT OF THE TRIAL, BUT LATER SUMMARIZED BY AGENT DEWEY, BASED ON STATEMENTS MADE BY THE DEFENDANTS UPON INTERROGATION, AND HAD PREVIOUSLY BEEN MADE BY AGENT DEWEY AS A SWORN WITNESS AT THE TRIAL.

The final and futile search for the safe kind of blew it for them, Smith indicated. "All hell broke out ... that's when the violence started," he said.

They were frustrated, disappointed, mad. They had to decide what to do ... had to do something. Everyone in the house had seen them good. They argued about shooting because of the noise it would make. Hickock patted the knife. There was a quieter way, he said. Then there was silence.

"Well, I'll do it," Smith said at last. He took the knife.

Back downstairs, he made a pretense of adjusting the cord on Clutter's hands as he knelt over him. Then he raised the knife and plunged it into Clutter's throat. Mr. Clutter struggled, thrashed about, got a hand loose and grabbed at his throat. There was a gurgling sound.

Unnerved, Hickock said, "Take the shotgun." Smith did and handed over the knife. As he

walked away, he heard the slap of the knife going in once more, maybe twice. Hickock came up beside him and said, "Let's get the hell out of here."

The gurgling and struggling continued in the furnace room. Smith protested that they couldn't leave the man that way.

"Should we shoot him?" he asked.

"Go ahead, go ahead," Hickock answered.

"So I went over close, raised the shotgun and pulled the trigger," Smith said.

Hickock picked up the shell. "You'd better get the boy, too." Smith did. Hickock held the flashlight and picked up the shell.

As they started for the stairs, Smith said, he didn't know how to explain how or what he felt.

He told Hickock, "I can't do anything else."

Hickock handed him the knife and said, "Well, then give me the gun."

They went to Nancy's room upstairs. She turned her head to the wall as they approached.

Hickock raised the gun and fired at her head as Smith held the light. Smith picked up the shell. Then they went to Mrs. Clutter's room and repeated the procedure: Smith held the flashlight, Hickock fired the shot. They had to search for a while to find the shell.

THE INFORMATION FROM THAT TESTIMONY DID, FRANKLY, WEIGH ON MY MIND.

ON THE NIGHT OF THE SCHEDULED EXECUTION, I HAD MADE CAREFUL ARRANGEMENTS WITH THE DIRECTOR OF PRISONS, CHARLES McATEE, TO BE NEAR THE TELEPHONE IN THE EVENT OF A LAST MINUTE ORDER WHICH MIGHT BE FORTHCOMING FROM THE SUPREME COURT, STAYING THE EXECUTIONS. NO SUCH CALL CAME AND THE EXECUTIONS WERE CARRIED OUT.

SO MUCH FOR THE BACKGROUND OF THIS HISTORIC AND REPUGNANT CASE. IN RECITING THESE EVENTS, IT HAS BEEN MY INTENTION TO SET OUT A FRAMEWORK THROUGH WHICH I COULD SHARE WITH YOU THE SEVERAL PERSPECTIVES THROUGH WHICH I VIEWED THIS CASE AND THE QUESTION OF THE DEATH PENALTY ITSELF.

JUST ABOVE, I MENTIONED THAT I DID NOT RECEIVE A CALL FROM CHARLES McATEE THE NIGHT OF THE EXECUTIONS. HOWEVER, QUITE UNEXPECTEDLY, MY TELEPHONE RANG ALMOST CONTINUOUSLY FROM ABOUT 6:00 P. M. UNTIL THE EARLY MORNING HOURS. THESE CALLS WERE FROM PERSONS WHO WERE PLEADING, OR DEMANDING, THAT THE EXECUTIONS BE STAYED. THE CALLERS RANGED FROM MINISTERS INSISTING UPON A STAY, BASED ON THEIR MORAL AND RELIGIOUS CONVICTIONS, TO MANY OTHER PERSONS WHOSE IDENTITIES WERE NOT DISCLOSED, DEMANDING THAT THE EXECUTIONS BE STAYED, OR, IF NOT, THREATENING ME AND THE LIVES OF MY TEENAGE CHILDREN. I THINK IT IS INTERESTING TO NOTE THAT THESE PROTESTS OF THE DEATH SENTENCES CAME FROM TWO DIVERGENT ATTITUDES AND PERSPECTIVES. THE CLERGY HOPED TO INTERVENE BECAUSE OF THEIR MORAL STANDARDS AND, AT THE OTHER END OF THE SPECTRUM CAME THREATS OF VIOLENCE. WOULD IT NOT BE REASONABLE TO ASSUME THAT THE MAJORITY OF CITIZENS WHO WERE NOT HEARD FROM, LIKE ME, WERE SADDENED AND DISTRESSED BY THE WHOLE EPISODE, BUT FELT JUSTICE WAS BEING CARRIED OUT? THIS CONCLUSION WOULD SEEM TO BE SUPPORTED BY A RECENT ASSOCIATED PRESS POLL ON THE DEATH SENTENCE, WHICH APPEARED IN THE TOPEKA CAPITAL AS RECENT AS MARCH 10TH. PERHAPS THE MEMBERS OF THE COMMITTEE NOTED THIS ARTICLE AND I WILL NOT DWELL ON IT AS IT IS ATTACHED TO MY STATEMENT AS "ATTACHMENT #1". IT IS FURTHER IMPORTANT TO NOTE THAT ALTHOUGH 84% OF THOSE POLLED ENDORSED CAPITAL PUNISHMENT IN SOME

FORM, ONLY 57% APPROVED OF IT UNDER CERTAIN CIRCUMSTANCES. AS I READ HOUSE BILL 2135, THE DEATH PENALTY COULD ONLY BE IMPOSED UNDER THE BILL IN A LIMITED SET OF CIRCUMSTANCES, SUCH AS GENERALLY ENDORSED IN THIS SURVEY.

IT SHOULD BE STATED HERE TOO THAT I DID NOT KNOW HERB CLUTTER NOR ANY MEMBERS OF HIS FAMILY. I MET HIM ONLY ONCE WHEN I WAS A MEMBER OF THE HOUSE. HE WAS WORKING FOR THE AUTHORIZATION OF WHAT LATER BECAME THE KANSAS WHEAT COMMISSION. I DID KNOW JUDGE TATE QUITE WELL, AND IT WAS NO SURPRISE TO ME THAT NO APPELLATE COURT ON THE STATE OR FEDERAL LEVEL COULD DISCERN ANY FLAW IN THE CONDUCT OF THE TRIAL.

I DO NOT VIEW THE DEATH PENALTY AS "AN ACT OF VENGEANCE" AS IT IS FREQUENTLY CHARACTERIZED BY THOSE OPPOSING THE CONCEPT. THROUGHOUT THE HISTORY OF MANKIND, AN ORGANIZED SOCIETY HAS SET OUT CERTAIN RULES OF CONDUCT AS DETERMINED TO BE IN THE BEST INTERESTS OF MAINTAINING^A STABLE SOCIAL ORDER. AT THE SAME TIME, A PENALTY HAS BEEN ASSESSED FOR A VIOLATION OF THOSE RULES. IN OUR SYSTEM OF JURISPRUDENCE, THE MOST SEVERE PENALTY, THE DEATH PENALTY, CAN ONLY BE IMPOSED BY A PUBLIC TRIAL AND BY A JURY OF THE ACCUSED "PEERS". AS I READ THE LANGUAGE OF THE BILL BEFORE THE COMMITTEE IT IS OF LIMITED APPLICATION AND COULD ONLY BE IMPOSED FOR THE "KILLING OF A HUMAN BEING IN THE PERPETRATION OF A FELONY". A SECOND LEVEL OF PROTECTION FOR THE ACCUSED IS ADDED PROVIDING THAT A JUDGEMENT RESULTING IN THE DEATH PENALTY WOULD AUTOMATICALLY BE REVIEWED BY THE SUPREME COURT OF KANSAS.

IT HAS BEEN ALLEGED, ON OCCASIONS, THAT THE DEATH PENALTY CARRIES WITH IT CERTAIN RACIAL OVERTONES. I REJECT THIS ALLEGATION AND REFER YOU TO "ATTACHMENT #2" OF MY STATEMENT, WHICH INDICATES THAT OF THE 24 EXECUTIONS BY THE STATE IN THE LAST 123 YEARS, ONLY 3 HAVE BEEN BLACKS, WITH 2 OTHERS OF MIXED RACIAL IDENTIFICATION. THIS IS NOT IN A GREAT VARIANCE FROM THE RACIAL MIX IN THE STATE.

THERE IS ANOTHER CURIOUS ASPECT OF THE NATURE OF THE OPPOSITION TO THIS LEGISLATION, AND TO OTHER PROPOSALS SIMILAR TO IT. AS MENTIONED EARLIER IN THIS STATEMENT, MY APPEARANCE HERE TODAY WAS PROMPTED BY MY EXPERIENCE OF EXERCISING THE OBLIGATION OF THE OFFICE OF GOVERNOR AS THE LAST LEVEL OF APPEAL FROM THE

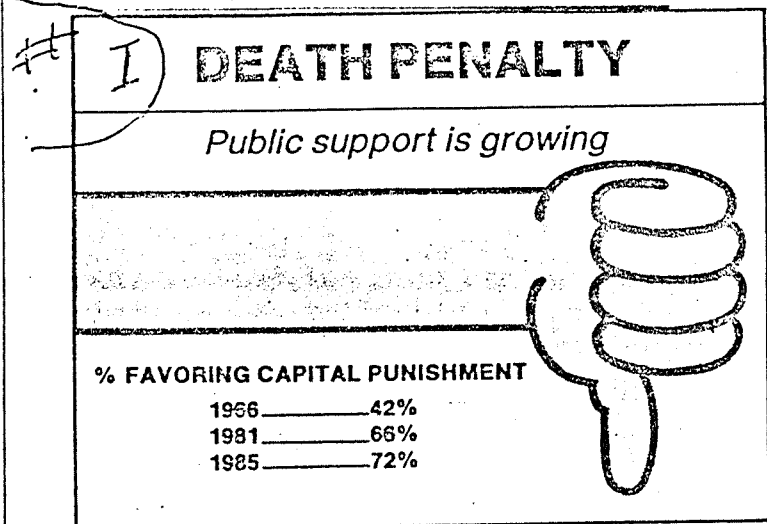
DEATH SENTENCE, IN THE INSTANCE OF HICKOCK AND SMITH. A SIMILAR CONFRONTATION OCCURRED ABOUT SIXTY DAYS LATER. THIS WAS IN THE CASE OF JAMES LATHAM AND GEORGE YORK.

WHEREAS THEIR CASE DID NOT RECEIVE THE NATIONAL PUBLICITY OR NEWS ATTENTION AS DID THE HICKOCK-SMITH TRIAL, THERE WAS CONSIDERABLE COVERAGE IN THE KANSAS MEDIA. THEIR CASE HAD BEEN IN THE APPEAL PROCESS SINCE 1961, AFTER THEIR BEING CONVICTED OF KILLING SEVEN PERSONS IN FIVE DIFFERENT STATES OVER A TEN-DAY PERIOD.

I ALSO MENTIONED THAT MY TELEPHONE RANG CONTINUOUSLY ON THE EVENING OF APRIL 14TH FROM PERSONS SEEKING TO STAY THE EXECUTION OF THE CLUTTER MURDERERS. DESPITE THE PUBLIC KNOWLEDGE OF THE PENDING EXECUTION OF YORK AND LATHAM, NOT ONE CALL WAS RECEIVED SEEKING TO POSTPONE OR COMMUTE THEIR SENTENCE. I COULD NEVER UNDERSTAND WHY SO MUCH EMOTION AND CONCERN WAS GENERATED REGARDING THE HICKOCK-SMITH CASE, AND APPARENT APATHY IN THE CASE OF YORK AND LATHAM. I THINK HAD I BEEN SIMILARLY CONCERNED OVER THE LIFE OF ANY ONE INDIVIDUAL, I WOULD HAVE HAD THE SAME CONCERN FOR ANY OTHER.

IT IS ALWAYS UNWISE TO MAKE GENERAL STATEMENTS IN TESTIMONY SUCH AS THIS, BUT I WILL RISK ONE. IT HAS BEEN MY IMPRESSION THAT THE PSYCHIATRIC FRATERNITY HAS BEEN GENERALLY OPPOSED TO THE DEATH PENALTY. IT WOULD SEEM THEIR CONCERN MIGHT BE AT LEAST PARTIALLY MITIGATED BY A RECENT UNITED STATES SUPREME COURT DECISION WHICH HELD THAT IMPOVERISHED CRIMINAL SUSPECTS, WHOSE SANITY IS SERIOUSLY IN DOUBT, HAVE A CONSTITUTIONAL RIGHT TO A PSYCHIATRIST'S HELP AT TAXPAYER EXPENSE. THE OPINION FOR THE MAJORITY WAS WRITTEN BY JUSTICE THURGOOD MARSHALL. SEVERAL STATES ALREADY HAD THIS PROVISION AND NOW ALL STATES MUST COMPLY. (41)

MR. CHAIRMAN, IT WOULD SEEM TO ME THAT THIS ISSUE REDUCES DOWN TO A VERY DIFFICULT, BUT RELATIVELY SIMPLE DECISION. IS THE IMPOSITION OF THE DEATH PENALTY, UNDER CAREFULLY DEFINED CIRCUMSTANCES, A MATTER OF RETRIBUTION OR A MATTER OF THE ADMINISTRATION OF JUSTICE? IT WAS MY DIFFICULT DECISION IN 1965 THAT IT WAS THE ADMINISTRATION OF JUSTICE, AND I STILL SUPPORT THAT CONCLUSION.



(Source: Gallup Poll)

NEA GRAPHIC

Opinions disagree on who should die

By DON GRAFF
Newspaper Enterprise Association

Most Americans approve of the death penalty.

In an Associated Press poll released at the beginning of the year, 84 percent of respondents — an all-time high — endorsed it in some form.

Only 12 percent were unequivocally opposed. Four percent were undecided.

The figures do not surprise Charles Fulwood, coordinator of Amnesty International's campaign to abolish capital punishment. High public approval is inevitable, he says, when the issue is presented in general terms. But when it is posed in respect to specific crimes, the percentages show significant variations.

He can point to the same poll as evidence. A clear majority — 57 percent — approved only under certain circumstances, such as cases involving the killing of children or police, multiple murders and murders for hire. Only 27 percent would impose it across the board in all murder cases.

Further, many penalty supporters — more than half of those approving in certain circumstances — also believed the penalty is imposed unfairly, with minorities and the poor more likely to be condemned for their crimes than more advantaged defendants.

Statistics support them. Of the more than 1,400 inmates on death row today, more than 60 percent are unskilled. Roughly the same percent were unemployed at the time of their crimes.

Forty-two percent are black — more than three times the black share of the total population.

Money makes a big difference in determining who is sent to death row. A study of the Texas judicial system found that in capital-crime trials, three out of four defendants with court-appointed lawyers were sentenced to death. For those who could afford private attorneys, the ratio dropped to one in three.

There is much more. But the bottom line, according to Fulwood, is that the death penalty is inherently unfair. There is no way it can be imposed in consistent fashion. It remains arbitrary and capricious, as the Supreme Court held in a 1972 decision striking down state laws then on the books.

Besides, it is not an effective way. Most people who murder, according to Amnesty, do not see beyond their action. They kill quickly and without premeditation, driven by fear or emotional stress, under the influence of drugs or alcohol. As a meaningful deterrent, capital punishment is a non-starter.

The first execution following a 10-year moratorium took place in the United States in 1977 to intense publicity. It didn't last. There were no executions the next year, two in 1979, none in 1980, one in 1981, two in 1982 and five in 1983, concentrated in a few states — Florida, Georgia, Louisiana, Texas.

Public reaction has been minimal, even with a jump last year to 21.

At Amnesty, they think that may be because the cumulative effect has yet to hit home. It could begin to this year, with the possibility of as many as 60 executions. When they begin clearing out death rows throughout the country, the public attitude may change.

#2

LEGAL HANGINGS IN KANSAS

CRIME	Date	Name	Place	RACE	Law	AGE
R/r	1862 - July 11	Pvt. John Bell	Iola		Military	24-2
M	1863 - February 12	Carl Horne	Leavenworth		State	35
R/r	1863 - May 6	John Shirley	Ft. Leavenworth		Military	
M	1863 - May 27	Claudeus C. Frizell	Fort Scott		Military	
M	1863 - October 30	William Griffith	Mound City		State	
M	1865 - December 29	John Hendley	Lawrence		State	
M	1866 - January 19	Ernest Wa-tee-cha	Lawrence	I	State	26
M	1866 - August 10	Ben Lewis	Paola	I	State	26
M	1867 - February 20	Martin W. Bates	Burlingame		State	19
M	1867 - November 15	Scott Holderman	Lawrence		State	25
M	1868 - September 18	Melvin E. Baughn	Seneca		State	
M	1870 - August 9	William Dickson	Leavenworth		State	40
M	1887 - November 15	Lee Mosier	Wichita		Federal	19
M	1888 - November 21	Jake Tobler	Wichita	I/B	Federal	23
M	1888 - November 21	Joe Tobler	Wichita	I/B	Federal	21
M	1930 - September 5	Carl Panzran	U.S.P., Leavenworth		Federal	36
M	1938 - August 12	Robert J. Suhay	U.S.P., Leavenworth		Federal	25
M	1938 - August 12	Glen J. Applegate	U.S.P., Leavenworth		Federal	40
M	1944 - March 10	Ernest L. Hoefgen	Lansing (Marion Co.)		State	31
M	1944 - April 15	Fred L. Brady	Lansing (Cowley Co.)		State	46
M	1944 - April 15	Clark B. Knox	Lansing (Wyandotte Co.)	B	State	26
M	1947 - July 29	Cecil Tate	Lansing (Kingman Co.)	B	State	22
M	1947 - July 29	George F. Guntow	Lansing (Kingman Co.)		State	21
M	1950 - May 6	George Miller	Lansing (Miami Co.)		State	60
M	1951 - April 6	Preston McBride	Lansing (Reno Co.)		State	25
M	1952 - January 5	James Lammers	Lansing (Doniphan Co.)		State	27
M	1954 - May 21	Nathaniel Germany	Lansing (Wyandotte Co.)	B	State	29
M	1954 - July 16	Merle William Martin	Lansing (Johnson Co.)		State	LL
M	*1954 - July 31	Bernard J. O'Brien (KSP)	Ft. Leavenworth		Military	32
M	*1955 - March 1	Chastine Beverly (KSP)	Ft. Leavenworth	B	Military	25
M	*1955 - March 1	James L. Riggins (KSP)	Ft. Leavenworth	[B]	Military	28
M	*1955 - March 1	Louis M. Suttles (KSP)	Ft. Leavenworth	[B]	Military	26
M	1957 - February 14	Winfred D. Moore	USDB Ft. Leavenworth	B	Military	23
M	1957 - February 14	Thomas J. Edwards	USDB Ft. Leavenworth	B	Military	23
M	1957 - April 3	Ernest L. Ranson	USDB Ft. Leavenworth	B	Military	26
M	1958 - July 23	Abraham Thomas	USDB Ft. Leavenworth	B	Military	29
M	1959 - September 23	John E. Day	USDB Ft. Leavenworth	B	Military	30
M	1961 - April 13	John A. Bennett	USDB Ft. Leavenworth		Military	25
M	1962 - November 30	Lowell Lee Andrews	Lansing (Wyandotte Co.)	W	State	22
M	1965 - April 14	Richard E. Hickock	Lansing (Finney Co.)	W	State	33
M	1965 - April 14	Perry E. Smith	Lansing (Finney Co.)	W	State	36
M	1965 - June 22	James D. Latham	Lansing (Russell Co.)	W	State	23
M	1965 - June 22	George R. York	Lansing (Russell Co.)	W	State	22

As of ^{January, 1971} ~~December~~, 1965, ^{no} ~~one~~ prisoners ^{are} ~~is~~ awaiting execution at Lansing.

* Kansas State Penitentiary gallows used for execution of Military prisoner.

Griffith-no indication of age [about 45?] Recognized 5 years later as having taken part 1858 Marais de Cygnes Massacre.

Hendley- no statement of age. Was a farm laborer.

Baughn- no statement of age. Was Pony Express rider "60-61"

Attachment #3
3/20/85



THOMAS E. KELLY
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS
1620 TYLER
TOPEKA, KANSAS 66612
(913) 232-6000



ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY OF THOMAS E. KELLY, DIRECTOR, KANSAS BUREAU OF INVESTIGATION
IN SUPPORT OF HB 2135 BEFORE THE SENATE COMMITTEE ON FEDERAL
AND STATE AFFAIRS ON MARCH 20, 1985.

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today as a proponent of House Bill 2135.

In listening to the testimony of Governor William Avery concerning the murder of the Herb CLUTTER family, I was reminded of the fact the KBI still has the gun, the knife, the rope, the tape, and the bloody shoeprint, which was evidence and is a grim and tragic reminder of that tragic case.

I have been associated with law enforcement since 1940 on a local, state or federal level and well aware of the law enforcement involvement in murder investigations. Professional law enforcement training requires the officers to be totally objective in their investigations and encourages understanding and compassion for the victims and the perpetrator, but in the case of a murder, it is difficult to find compassion for the murderer.

We are aware that criminal penalties are designed to:

- 1 - Rehabilitate
- 2 - Punish
- 3 - Protect society

The severity of the crime dictates the penalty to be assessed and in murder cases the penalty appears to be based on the need for punishment and the need to protect society. In considering the issue of the "death penalty" the question most commonly asked involves the deterrent effect of the penalty; and, statistics may be used to attempt to prove the pro or con position taken on the issue.

I submit to you that it is impossible to prove either side of the issue with statistics and I use the "lighthouse" as an example on this point. As we know a lighthouse is placed on a point to warn ships of the presence of a dangerous reef or rocks and by means of horns or light as a signal, the danger is communicated to the ship crew. When the crew can hear the horn or see the light they know they are on a course which is dangerous unless they change course to avoid the danger. It is impossible to know

how many ships heed the warning and change course to avoid the rocks, but we do know how many ignore the warnings because they end up on the rocks. And so it is with the "Death Penalty", we can never know how many people may be deterred by the knowledge that a death penalty could be invoked against them if they commit a 1st degree murder. The only statistics we can show are the number of murders committed.

We do know that the "Death Penalty" is not a deterrent if it is available, but never used as we have seen in some states.

We do know that the "Death Penalty" is a deterrent as to the offender when it is carried out by execution.

Absence of a "Death Penalty" does not provide guaranteed options the offender will not be released back into the society which should be protected. As an example I would like to cite a case where an individual was sentenced to the Kansas State Penitentiary for murder, and after serving a few years was paroled to return to his home area. Within a matter of a few months the parolee brutally murdered three people and has been convicted of the murders and returned to the state penitentiary. With this person's record of murder, is it fair that members of the prison population have him in their midst? The members of the prison population are certainly entitled to some degree of security, and it is entirely possible this murderer will kill again while in prison.

I recall the celebrated case of Leopold and Loeb, in the State of Illinois many years ago. These men were homosexuals who sexually assaulted a young boy, killed him, dismembered his body and stuffed the remains in a sewer. They were apprehended and convicted of this heinous crime which received a great deal of publicity. They were sentenced to life in prison and the order also instructed they were never to be considered for parole. One of them was killed while still in prison and the other one was paroled after serving some 20 odd years in prison. The prohibition against parole in the original sentence of this murderer was overcome by his good record as a prisoner and the passage of time.

It is equally clear that you cannot guarantee a murderer, sentenced to life in prison, will not have his sentence commuted by a sympathetic Governor.

Since November of 1984 Kansas has suffered four triple homicides where nine of the twelve victims were defenseless women or children. The crime scenes have been staggering, brutal and vicious acts where the bodies of two-year-old victims have been blasted by shotguns and other young children extensively slashed and stabbed.

Our veteran agents have been shocked by some of the crime scenes we have worked on. We have observed victims that have suffered unspeakable mutilations, and it appears the phenomenon of multiple murders of unusual horror may become common place.

We have heard testimony about the execution style murders that recently occurred in the area of Colby, Kansas, where two helpless victims were shot to death. This is a common practice with murderers who kill their victims to be certain they cannot identify and testify against them. This is frequently the case in robberies of convenience stores or service stations where there is one employee on duty and the robber kills them to prevent detection even though the robbery was for a small amount of money.

I submit to you that Murder in the 1st Degree is the ultimate crime and should be afforded the ultimate penalty -- the Death Penalty.

Thank you -- Open for questions.

3/20/85
Attachment #4



Kansas Farm Bureau, Inc.

2321 Anderson Avenue, Manhattan, Kansas 66502 / (913) 537-2261

Statement of Kansas Farm Bureau
to the
Senate Federal & State Affairs Committee

RE: H.B. 2135--Death Penalty

March 20, 1985
Topeka, Kansas

Presented by:
John K. Blythe, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and members of the Committee:

We appreciate the opportunity to make a brief statement on the important issue of the death penalty. Our members at our recent Kansas Farm Bureau annual meeting in Wichita, December 4, 1984, stated their policy relating to capital punishment which is as follows:

Capital Punishment

We believe capital punishment to be a deterrent to violent crime. Capital punishment should be reinstated in Kansas and the Kansas law should be in keeping with the U.S. Supreme Court ruling and guidelines for imposition of capital punishment. We support the right of Kansas citizens to vote on a Constitutional Amendment allowing Capital Punishment.

Our members very strongly support the death penalty and have indicated their support by the adoption of the above policy statement for a number of years.

Our policy statement very clearly states the Kansas Farm Bureau position.

If there are questions, I will attempt to answer them. Thank you!

3/20/85
Attachment #5

Richard Ney
Chief Public Defender
Sedgwick County
731 N. Water, Suite 2
Wichita, Kansas 67203
(316) 264-8700

IMPACT OF CAPITAL PUNISHMENT IN KANSAS

The reimposition of the death penalty in the State of Kansas will require increased expenditures for state and county government for the trial and incarceration of the capital defendant.

The average capital trial will require four to five weeks of court time. Pretrial motions and hearings generally take five days. Jury selection, under current law is excusing jurors with scruples against the death penalty, can be predicted to last approximately a week and require a jury panel of 100 to 120 individuals. The guilty phase of the trial can be expected to last a week and a half to two weeks and the penalty phase upwards to a week.

A guilty plea will also require the impaneling of a jury for sentencing and can be expected to last two weeks.

A study commissioned by the New York State Legislature revealed that the entire process of trial and appeal in a capital case cost an average of \$1.8 million.

Once a conviction is obtained, it can be expected that the appeal process will take an average of nine years. The State of Illinois has had a death penalty since June of 1977 and although there are 63 individuals on Death Row in Illinois none have yet been executed.

During the last three calendar years, there have been 41 first-degree murder charges filed in Sedgwick County District Court, representing 47 defendants. The cost to defend each of those defendants

in a capital trial could be as high as \$50,000. Cost of the first appeal to the Kansas Supreme Court would require an average expenditure of \$10,000 for the defendant alone. Defense costs in Sedgwick County alone for capital murder cases could total \$800,000 annually.

It will require one District Court Judge doing nothing but capital motions and trials each and every court day to handle the case load in Sedgwick County.

Kansas will also be faced with creating a Death Row in its prison system. The need to separate Death Row inmates from other prisoners and the extra security such inmates require, will cause additional expenditures by the Department of Corrections. It has been estimated that a Death Row inmate costs the state three times as much to house as a normal inmate. Indeed, a prisoner could be maintained for the rest of his life as cheaply as confining him for ten years on Death Row.

Executions themselves are expensive. The first aborted execution of J. D. Autry in Texas cost the state a reported \$100,000.

The death penalty will reduce the number of convictions for first-degree murder. Kansas has no binding plea agreement and, therefore, the only way the State can guarantee a defendant will not receive the death penalty will be to reduce that charge to second-degree murder.



1176 Warren, Topeka, Kansas
66604

3/20/85
Attachment #6

Testimony to the Federal and State Affairs Committee
in opposition to House Bill 2135

March 20, 1985

by William J. Lucero, Criminal Justice Task Force Coordinator
Unitarian Universalist Service Committee Unit of Kansas

Mr. Chairman and Members of the Committee,

By now you should be convinced about the absurdity of the argument of death sentencing as a deterrent to murder. You may recall that I distributed a letter to each of you earlier during the sessions which cited numerous studies both by proponents and opponents - all coming to the same conclusion: no evidence exists that there is any deterrent value to the death penalty. I've brought with me numerous scientific studies and figures from the FBI Crime Index if any of you wish to pursue the matter further. In fact I've even brought you all a copy of the rank order of states' murder rates for the last nine years - notice which states are clustered toward the bottom each year - those without legal executions. Notice too that the states consistently near the top - Texas, Louisiana, and Florida are executing prisoners at as fast a rate as they can.

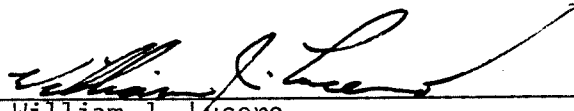
No, deterrence isn't occurring, contrary to what proponents want you to believe - so why are we here talking about this so rationally? Let's face the real motive, Senators - the murderers have drawn blood and now we, the citizenry, want to do the same! That is why this proposed death sentencing bill is such a joke. Remember how Socrates comforted his followers the night before he had to drink his hemlock? He told them, "don't worry for me - I'll feel no pain - only you will have to suffer".

Suffering - that's something that the family and friends of the victim have to experience - suffering. We've heard family members testify to this committee many times of how much suffering they've had to bear. I've certainly related my personal experience - for you new members of the committee's benefit, you should know my father was murdered 12½ years ago. But none of us have ever told you about the years of mental anguish if not torture we've gone through trying to resolve our feelings. Ask Mavis Almquist what she felt the day she learned her husband was gunned down eight years ago in Wichita. Ask my very good friend Sheila Bauman how well she slept the night she learned that her husband was senselessly executed at point blank range in a liquor store robbery six years ago here in Topeka. My friend David Banks' older brother who was David's role model was stabbed to death - ask him what kind of baggage he's had to carry. Or my friend Steve Carr - ask him what it's like to have your best friend assassinated by a sniper.

A close friend or family member doesn't bounce right back and say, "oh, that's all right - I'm sure you didn't really mean to do it - and despite your errant judgement, I still believe you're full of social redeeming value". No! You lie awake at night and have difficulty concentrating during the day - questioning all you ever learned about forgiveness and goodness in people. And revenge is always in your mind.

Revenge! Isn't that why we are really here today? To seek revenge? Well Senators, we've found a funny way to administer vengeance. By this bill you're considering, we are actually proposing to torture a family - I'm talking victim's family - for nine to eleven years through the trial, appeal, and stay processes - that's how long it takes. And then we're going to end the murderer's life with a little painless injection. Get serious! What will that accomplish? I learned shots don't hurt when I was six years old. Remember we're talking vengeance here. Let's think back to the old medieval days - like maybe the rack or the whip; remember how they cut off some limbs, broke some bones. Those fantasies were some of my more mild ones when I was first confronted with Dad's death. Wanting his murderer's blood or hearing her scream: These thoughts became an obsession. The anger fueled more anger - let her suffer like I have! Am I getting too carried away? I've been told not to talk like this in public legislative committees - it doesn't sound too nice - but then, putting people to death shouldn't sound nice.

But there is only just one problem - it won't bring him back. It won't bring anybody back. No matter what you do to the murderer, it won't make the hurt go away! Life has its pains that all of us have to bear. You can't remove that pain no matter what kind of a sentencing bill you pass. All of the people I mentioned - Mavis, David, Sheila, Steve and myself - all of us had to search in depth - and we've found strength only in ourselves and people around us - people who help us remember that life can't successfully continue based on hatred. Vengeance brings none of us joy. Only our continued love for one another gets us through. Each of us is opposed to this bill. We would ask you not only to consider the facts when you vote but also consider your commitment that you brought with you to serve human kind. Thank you for your attention.



William J. Lucero
Criminal Justice Task Force Coordinator
Unitarian Universalist Service Committee Unit of Kansas

RANK ORDER AND MURDER RATES PER 100,000 INHABITANTS
OF THE 50 STATES ACCORDING TO THE FBI CRIME INDEX REPORTS

* - Abolition states

Rank	1975	Rate	1976	Rate	1977	Rate
1.	Alabama	16.0	Alabama	15.1	Nevada	15.8
2.	So. Carolina	14.7	Georgia	13.9	Louisiana	15.5
3.	Georgia	14.4	Louisiana	13.2	Mississippi	14.3
4.	Mississippi	13.9	Mississippi	12.5	Alabama	14.2
5.	Florida	13.5	Texas	12.2	Texas	13.3
6.	Texas	13.4	So. Carolina	11.6	S. Carolina	11.9
7.	*New Mexico	13.3	Nevada	11.5	Georgia	11.7
8.	Nevada	13.0	*Alaska	11.3	California	11.5
9.	Louisiana	12.6	No. Carolina	11.1	*Alaska	10.8
10.	No. Carolina	12.4	*Michigan	11.1	New York	10.7
11.	*Alaska	12.2	Tennessee	11.0	No. Carolina	10.6
12.	*Michigan	11.9	New York	10.9	Florida	10.2
13.	Virginia	11.5	Florida	10.7	Kentucky	10.1
14.	Tennessee	11.4	Kentucky	10.6	Tennessee	10.1
15.	New York	11.0	Illinois	10.3	Illinois	9.9
16.	*Maryland	10.7	California	10.3	Missouri	9.6
17.	Missouri	10.6	Arkansas	10.1	Arizona	9.5
18.	Illinois	10.6	*New Mexico	9.7	*Michigan	9.3
19.	California	10.4	Virginia	9.5	Virginia	9.0
20.	Wyoming	10.2	Missouri	9.3	Arkansas	8.8
21.	Kentucky	10.2	*Maryland	8.5	*New Mexico	8.8
22.	Arkansas	10.1	Arizona	7.8	Oklahoma	8.6
23.	Oklahoma	9.4	Ohio	7.4	*Maryland	8.0
24.	Arizona	8.6	Indiana	7.1	Ohio	7.8
25.	Indiana	8.5	Wyoming	6.9	Indiana	7.4
26.	Ohio	8.1	Colorado	6.8	*Hawaii	7.2
27.	*Hawaii	7.7	*W. Virginia	6.7	*Kansas	6.6
28.	Colorado	7.4	Oklahoma	6.4	Colorado	6.3
29.	*W. Virginia	7.4	Delaware	6.2	Delaware	6.0
30.	Delaware	7.3	*Hawaii	6.2	*W. Virginia	6.0
31.	*New Jersey	6.8	Pennsylvania	6.1	Pennsylvania	5.6
32.	Pennsylvania	6.8	Vermont	5.5	*New Jersey	5.6
33.	*Oregon	6.2	Idaho	5.3	Idaho	5.5
34.	Washington	5.7	*New Jersey	5.2	Montana	5.4
35.	*Kansas	5.4	Montana	5.0	Wyoming	5.4
36.	Idaho	5.2	Utah	4.5	*Oregon	4.9
37.	Montana	5.2	*Kansas	4.5	Washington	4.3
38.	Nebraska	4.2	Washington	4.3	Connecticut	4.2
39.	*Massachusetts	4.3	*Oregon	4.2	Nebraska	3.9
40.	Connecticut	3.9	New Hampshire	3.3	Rhode Island	3.6
41.	*So. Dakota	3.7	*Massachusetts	3.3	Utah	3.5
42.	*Minnesota	3.3	Connecticut	3.1	New Hampshire	3.2
43.	*Wisconsin	3.3	*Wisconsin	3.0	*Massachusetts	3.1
44.	Rhode Island	3.0	Nebraska	2.9	*Wisconsin	2.8
45.	New Hampshire	2.9	*Maine	2.7	*Minnesota	2.7
46.	*Maine	2.8	Rhode Island	2.4	*Maine	2.4
47.	Utah	2.7	*Minnesota	2.3	*Iowa	2.3
48.	*Iowa	2.5	*Iowa	2.3	*So. Dakota	2.0
49.	Vermont	2.1	*So. Dakota	1.7	Vermont	1.4
50.	*No. Dakota	0.8	*No. Dakota	1.4	*No. Dakota	0.9



RANK ORDER AND MURDER RATES PER 100,000 INHABITANTS
OF THE 50 STATES ACCORDING TO THE FBI CRIME INDEX REPORTS

* - Abolition states

Rank	1978	Rate	1979	Rate	1980	Rate
1.	Louisiana	15.8	Nevada	17.5	Nevada	20.0
2.	Nevada	15.5	Georgia	17.1	Texas	16.9
3.	Georgia	14.4	Louisiana	16.9	Louisiana	15.7
4.	Texas	14.2	Texas	16.7	Mississippi	14.5
5.	Alabama	13.3	*Alaska	13.3	Florida	14.5
6.	*Alaska	12.9	Alabama	13.2	California	14.5
7.	Mississippi	12.6	California	13.0	Georgia	13.8
8.	California	11.7	Mississippi	12.6	Alabama	13.2
9.	So. Carolina	11.5	So. Carolina	12.6	New Mexico	13.1
10.	Florida	11.0	New Mexico	12.4	New York	12.7
11.	No. Carolina	10.8	Florida	12.2	So. Carolina	11.4
12.	*Michigan	10.6	New York	11.9	Missouri	11.1
13.	Missouri	10.4	Missouri	11.2	Tennessee	10.8
14.	New York	10.3	Illinois	10.7	Illinois	10.6
15.	*New Mexico	10.2	No. Carolina	10.7	No. Carolina	10.6
16.	Illinois	9.9	Maryland	9.8	Arizona	10.3
17.	Tennessee	9.4	Tennessee	9.8	*Michigan	10.2
18.	Arizona	9.4	Oklahoma	9.7	Oklahoma	10.0
19.	Arkansas	9.1	Kentucky	9.5	*Alaska	9.7
20.	Kentucky	9.0	Wyoming	9.1	Maryland	9.5
21.	Virginia	8.8	Arkansas	9.1	Arkansas	9.2
22.	Oklahoma	8.5	*Michigan	9.1	Indiana	8.9
23.	Maryland	8.2	Arizona	8.9	Kentucky	8.8
24.	Colorado	7.3	Virginia	8.6	*Hawaii	8.7
25.	Wyoming	7.1	Indiana	8.3	Virginia	8.6
26.	Ohio	6.9	Ohio	8.1	Ohio	8.1
27.	*W. Virginia	6.8	*Hawaii	7.2	*W. Virginia	7.1
28.	Delaware	6.7	*W. Virginia	6.8	*Kansas	6.9
29.	*Hawaii	6.7	*New Jersey	6.6	Delaware	6.9
30.	Indiana	6.2	Pennsylvania	6.2	Colorado	6.9
31.	Pennsylvania	6.2	Colorado	5.8	*New Jersey	6.9
32.	*Kansas	5.7	Delaware	5.7	Pennsylvania	6.8
33.	Idaho	5.4	*Kansas	5.5	Wyoming	6.2
34.	*New Jersey	5.4	Idaho	5.4	Washington	5.5
35.	Oregon	5.0	Utah	4.8	Oregon	5.1
36.	Montana	4.8	Washington	4.8	Connecticut	4.7
37.	Washington	4.6	Oregon	4.2	*Rhode Island	4.4
38.	Connecticut	4.2	Connecticut	4.2	Nebraska	4.4
39.	Rhode Island	4.0	Montana	4.2	Massachusetts	4.1
40.	Utah	3.7	Nebraska	4.1	Montana	4.0
41.	*Massachusetts	3.7	Massachusetts	3.7	Utah	3.8
42.	Vermont	3.3	*Wisconsin	3.4	Idaho	3.1
43.	Nebraska	3.0	*Rhode Island	3.2	*Wisconsin	2.9
44.	*Maine	2.7	*Maine	2.8	*Maine	2.8
45.	*Iowa	2.6	New Hampshire	2.4	*Minnesota	2.6
46.	*Wisconsin	2.5	*Minnesota	2.3	New Hampshire	2.5
47.	*Minnesota	2.0	*Iowa	2.2	*Iowa	2.2
48.	*So. Dakota	1.9	So. Dakota	2.0	Vermont	2.2
49.	New Hampshire	1.4	*No. Dakota	1.5	*No. Dakota	1.2
50.	*No. Dakota	1.2	Vermont	1.4	So. Dakota	0.7

RANK ORDER AND MURDER RATES PER 100,000 INHABITANTS
OF THE 50 STATES ACCORDING TO THE FBI CRIME INDEX REPORTS

* - Abolition states

Rank	1981	Rate	1982	Rate	1983	Rate
1.	Nevada	17.5	*Alaska	18.5	Texas	14.2
2.	Georgia	17.2	Texas	16.1	Louisiana	14.2
3.	Texas	16.6	Louisiana	16.0	*Alaska	13.8
4.	Louisiana	15.6	Mississippi	14.0	Nevada	12.8
5.	Florida	15.0	Nevada	13.6	Florida	11.2
6.	*Alaska	14.6	Florida	13.5	Mississippi	11.2
7.	California	13.0	Georgia	12.6	New York	11.1
8.	Mississippi	12.6	New Mexico	11.6	California	10.5
9.	New York	12.3	New York	11.4	*Michigan	10.0
10.	Alabama	11.9	California	11.2	So. Carolina	9.8
11.	New Mexico	11.4	So. Carolina	10.9	Kentucky	9.8
12.	Illinois	10.5	Oklahoma	10.8	Illinois	9.7
13.	Missouri	10.4	Alabama	10.6	Alabama	9.2
14.	So. Carolina	10.4	Maryland	10.1	New Mexico	8.9
15.	Maryland	9.9	Tennessee	9.7	Tennessee	8.8
16.	Tennessee	9.7	Kentucky	9.7	Maryland	8.5
17.	*Michigan	9.4	Missouri	9.7	Georgia	8.4
18.	Arkansas	9.1	Wyoming	9.2	Missouri	8.1
19.	No. Carolina	9.1	*Michigan	9.1	No. Carolina	8.1
20.	Oklahoma	9.0	No. Carolina	9.1	Arkansas	7.6
21.	Virginia	8.6	Illinois	8.8	Oklahoma	7.6
22.	Kentucky	8.4	Arizona	8.3	Arizona	7.2
23.	Arizona	8.1	Arkansas	8.2	Virginia	7.0
24.	Colorado	8.1	Virginia	7.4	Colorado	6.4
25.	Ohio	7.4	Indiana	6.5	Wyoming	5.8
26.	*New Jersey	7.3	New Jersey	6.5	*Kansas	5.6
27.	Indiana	7.1	Ohio	6.3	Ohio	5.6
28.	Delaware	6.7	Colorado	6.0	*Hawaii	5.6
29.	*Kansas	6.3	*Kansas	5.7	New Jersey	5.3
30.	Pennsylvania	6.1	Pennsylvania	5.7	Indiana	5.2
31.	*W. Virginia	6.0	Delaware	5.3	Washington	4.9
32.	Wyoming	5.5	*W. Virginia	5.2	Pennsylvania	4.9
33.	Connecticut	5.4	Connecticut	5.2	*W. Virginia	4.9
34.	Washington	5.1	*Oregon	5.1	Delaware	4.1
35.	*Hawaii	4.8	Washington	4.4	Connecticut	4.1
36.	Idaho	4.5	Montana	3.9	*Oregon	4.1
37.	*Oregon	4.4	*Massachusetts	3.8	Montana	3.7
38.	Vermont	4.3	*Rhode Island	3.7	Vermont	3.6
39.	*Rhode Island	4.2	Utah	3.4	Idaho	3.5
40.	*Massachusetts	3.6	*Hawaii	3.1	*Massachusetts	3.5
41.	Montana	3.4	*Wisconsin	3.1	Utah	3.5
42.	*Wisconsin	3.4	So. Dakota	2.7	*Wisconsin	2.8
43.	Utah	3.3	Idaho	2.5	*Rhode Island	2.7
44.	*Maine	3.2	Vermont	2.3	Nebraska	2.6
45.	Nebraska	3.1	*Iowa	2.3	*Iowa	2.3
46.	New Hampshire	2.9	*Minnesota	2.3	So. Dakota	2.1
47.	*Iowa	2.6	New Hampshire	2.2	*Maine	2.1
48.	*No. Dakota	2.3	*Maine	2.1	*No. Dakota	2.1
49.	*Minnesota	2.1	Nebraska	2.0	New Hampshire	2.0
50.	So. Dakota	1.8	*No. Dakota	0.7	*Minnesota	1.7

3/20/85
Attachment #7

The Failure of the Death Penalty

As a Deterrent of Crime

---William R. Arnold, Criminologist
Kansas Citizens for Justice
(Kansas Council on Crime and
Delinquency)

- I. The public does not want the death penalty for any other reason than because they believe it deters. The 1973 Harris poll taken when about two-thirds of the people said they wanted the death penalty to be available also asked:
- A. If a sentence in prison were as effective a deterrent, would you favor the death penalty? 48% said no, while 3% said yes.
 - B. Do you favor the death penalty as revenge (eye for an eye, etc.)? 49% said no, while 40% said yes.
 - C. Do you favor the death penalty because the criminal is "an animal and deserves to die"? 51% said no, 41% said yes.
- The people believed the death penalty deterred crime, so voting for the death penalty if it does not deter crime is not voting the will of the people.

- II. The death penalty does not deter people from committing crimes made capital, nor does it deter crime in general.
- A. The safety of the public is no greater when the death penalty is available.
 1. Older, simpler studies from 1920 through 1968 compared contiguous states having and not having the death penalty available showed there were no systematic differences in their homicide rates.
 2. Similarly, older studies comparing the changes in homicide rates in contiguous states over time showed no variations in accord with the availability of the death penalty.
 3. Only three studies have been done well to determine whether the publicity about executions affected homicide rates. In two of the studies, the homicide rate staed constant, while in the third it went up.
 4. Three studies in 1975 and 1976 supported the deterrent effect of the death penalty. All were time series studies in which the results depended on the declining use of the death penalty and the rising homicide rates in the 1960's. The longer term data in these studies, themsleves, do not support the deterrence doctrine; two of these studies used simple national figures which ignored any differences between states with and without the death penlty; Forst's 1977 article demonstrates that methodological problems are elminated and other control variables are added (especially the rise in non-capital crime), even the data from the 1960's do not support the deterrence doctrine.
 5. Studies in the most recent years are the most sophisticated, taking into account all the variables we have learned contribute to homicide rates. These have demonstrated that:
 1. The certainty of the application of the death penalty has no effect on its deterrence capacity.
 2. The speed of executions after sentencing has no effect on the deterrence of the death penalty.
 3. Which years are used has no effect on the outcome of the research; no deterrent effect can be shown in any period in this century, and we have no adequate data for earlier periods.
 4. Varying the measures of both punishment and "murder" has no effect on the results.
 5. That, with all other variables controlled, there is actually a positive (but not significant) correlation between executions

and homicide rates. This explains why, even though the killer who is killed can not kill again, eliminating these people leaves the homicide rate, at best, the same as before.

B. Making murder a capital offense has no effect on the homicides of police and prison personnel. For example, even without any variables controlled, one study showed that from 1919-1954, the number of police officers killed in states with capital punishment was 1.326 per 10,000 officers; in states without the death penalty, the comparable rate was slightly lower, 1.312. Simple assaults on prison staff are, however, significantly higher in states without the death penalty.



Amnesty International

316 South 7th Street, Salina, KS 67401

3/20/85
Attachment #8

March 20, 1985

To: Senate Federal and State Affairs Committee
From: Donna M. Schneweis, CSJ, RN--State Death Penalty Abolition Coordinator
Re: H 2135

Mr. Chair and Members of the Committee, I thank you for this opportunity. I am here today representing Amnesty International USA. As you recall, AIUSA is part of a worldwide human rights movement. Amnesty is independent of any particular political, philosophical, economic, or religious group. Our mandate for action is threefold: work for the release of prisoners of conscience (persons imprisoned for the nonviolent expression of their beliefs), work for fair and prompt trials for all political prisoners, and work to abolish torture and the death penalty in all cases.

We work to promote respect for basic human rights articulated in the United Nations Universal Declaration of Human Rights. Two articles of the Declaration pertinent to the death penalty debate are Articles 3 and 5. Article 3 states "Everyone has the right to life, liberty and security of person." Article 5 is "No one shall be subjected to torture or to cruel, inhuman punishment."

In opposing the death penalty, AI is not saying society should not protect itself from violent persons. However, such punishment should not violate fundamental human rights.

AI condemns the use of so-called "drug therapy" in the Soviet Union and electric shock in Afghanistan and South Africa as methods of 'punishment' for social transgressions. There is no essential difference between the injection given to force violent convulsions and those given to cause death, no essential difference between the electrode applied to cause excruciating pain and those applied to cause death. There is no justification for either. The death penalty is as much a violation of human rights as the torture we denounce in other countries.

There are transnational implications to the debate over capital punishment. All of our NATO allies, except Turkey, have abolished the use of the death penalty. When we kill our own citizens, we join the company of countries such as the Soviet Union, South Africa, the People's Republic of China, and Cuba, countries which use the death penalty with frequency. With every execution, the United States loses more credibility as a voice for human rights in our world.

Our country was founded on a basis of respect for inalienable human rights. These are fundamental, basic human rights each person has simply by reason of their birth. Every person has an inalienable right to life. Under NO circumstance should the state violate that right or the right to freedom from cruel, inhuman punishment. No one should be sentenced to die.

I urge you to vote against H 2135.
Thank you.

Attachment 8

DECLARATION OF STOCKHOLM

11 December 1977

The Stockholm Conference on the Abolition of the Death Penalty, composed of more than 200 delegates and participants from Africa, Asia, Europe, the Middle East, North and South America and the Caribbean region,

RECALLS THAT:

- The death penalty is the ultimate cruel, inhuman and degrading punishment and violates the right to life.

CONSIDERS THAT:

- The death penalty is frequently used as an instrument of repression against opposition, racial, ethnic, religious and underprivileged groups,
- Execution is an act of violence, and violence tends to provoke violence,
- The imposition and infliction of the death penalty is brutalizing to all who are involved in the process.
- The death penalty has never been shown to have a special deterrent effect,
- The death penalty is increasingly taking the form of unexplained disappearances, extra-judicial executions and political murders,
- Execution is irrevocable and can be inflicted on the innocent.

AFFIRMS THAT:

- It is the duty of the state to protect the life of all persons within its jurisdiction without exception,
- Executions for the purposes of political coercion, whether by government agencies or others, are equally unacceptable,
- Abolition of the death penalty is imperative for the achievement of declared international standards.


DECLARES:

- Its total and unconditional opposition to the death penalty,
- Its condemnation of all executions, in whatever form, committed or condoned by governments,
- Its commitment to work for the universal abolition of the death penalty.

CALLS UPON:

- Non-governmental organisations, both national and international, to work collectively and individually to provide public information materials directed towards the abolition of the death penalty,
- All governments to bring about the immediate and total abolition of the death penalty,
- The United Nations unambiguously to declare that the death penalty is contrary to international law.

THE DEATH PENALTY
CRUEL &
INHUMAN
PUNISH-
MENT

AMNESTY INTERNATIONAL USA 

- **Poison is injected into the arm of a woman convicted of murder.**
- **A drug dealer is machine-gunned on national television.**
- **A draft resister is hanged.**
- **10,000 people gather at a rally for the public sentencing of 11 men convicted of theft, rape, and murder; they are then taken away for immediate execution.**
- **An 18-year-old is hanged six days after his crime.**
- **Crowds stone an adulterer to death.**
- **A firing squad shoots an armed robber.**
- **2,000 volts of electricity surge through the body of a man convicted of murder who spent nine years on death row.**

These events happened recently in China, Iran, Iraq, Liberia, Nigeria, Thailand, and the United States. In each case the government executed people according to the law, but no matter how it is carried out or what the legal process, the death penalty is always cruel, inhuman, and degrading punishment. The death penalty is an assault on human dignity and a violation of human rights. The United Nations states in the Universal Declaration of Human Rights that every individual has a right to life and under no circumstances shall anyone be subject to torture or cruel, inhuman, or degrading punishment. Human rights, by definition, apply to all people, even those whose acts are condemned by society.

THE DEATH PENALTY SHOULD BE ABOLISHED

Amnesty International works for the abolition of the death penalty as part of its continuing efforts to protect human rights around the world. A recipient of the Nobel Peace Prize in 1977, Amnesty International seeks the release of all prisoners of conscience, fair and prompt trials for all political prisoners, and an end to torture and executions.

In more than 20 years' experience documenting human rights abuses, Amnesty International has seen that the death penalty does nothing to make society safer. A people's security is threatened when government shows its abhorrence of violence by perpetrating violence.

In recent years many countries have recognized this and abolished the death penalty. In 1976 Canada outlawed capital punishment. France did the same in 1981. Fourteen years after abolishing the death penalty, Great Britain considered

“I regard the death penalty as a savage and immoral institution that undermines the moral and legal foundations of a society. I reject the notion that the death penalty has any essential deterrent effect on potential offenders. I am convinced that the contrary is true—that savagery begets only savagery.”

Andrei Sakharov

bringing it back in 1983. The British public had grown increasingly tense in response to an increase in terrorist attacks. In July 1983, however, the British Parliament voted against its reintroduction, deciding that the death penalty would provide no solution and possibly aggravate the problem.

At least 1,699 people in 39 countries were executed in 1983. Because this figure includes only executions publicly announced, the actual number is much higher. The four governments responsible for 80 percent of the known deaths are China, Iran, Iraq, and South Africa.

The only Western industrial nation with capital punishment is the United States. No one was executed in this country between 1967 and 1977, when public opposition and legal challenges to the death penalty suggested that perhaps no American would ever again be strapped into an electric chair. In 1976 the Supreme Court ruled on the constitutionality of the death penalty laws. Since then, executions have been carried out with increasing frequency. Today several people each month are legally killed. In 1983 more than 1,600 people were executed worldwide; nearly that many wait for their end on America's death row.

THE DEATH PENALTY DOES NOT DETER VIOLENT CRIME

People who favor the death penalty often believe it helps reduce violent crime. This would be true only if the person who considers homicide makes a rational decision with the expectation of arrest, conviction, death sentence, and finally execution. In fact, this is not true. Most people who murder do not see beyond their action; they kill quickly in moments of great fear or emotional stress and under the influence of drugs or alcohol. When the crime is premeditated, the individual rarely believes he or she will be apprehended or executed.

In the past 25 years dozens of researchers have analyzed crime statistics for evidence that capital punishment affects the crime rate. After reviewing these studies in 1976,

the United States Supreme Court found no conclusive evidence that the death penalty deters violent crime. The United Nations came to a similar conclusion.

The studies show that murder rates in death-penalty states, such as Illinois or New Hampshire, differ little from others with similar population densities, such as Michigan or Vermont, respectively. In some cases, states and countries that have abolished the death penalty show a decrease in homicides. In 1975, the year before Canada abolished the death penalty, its homicide rate was 3.09 per 100,000. In 1983 the rate was down to 2.74. Police officers and prison guards are not murdered more frequently in states without the death penalty than in states where it exists. A 1975 study found that police killings were actually fewer in states without capital punishment.

The use of the death penalty may in some cases increase the crime rate. In New York between 1903 and 1963 individual executions were followed by a slight rise in the state's homicide rate. The punishment of death offers potential murderers attention and even fame not experienced by those who are sentenced to life imprisonment. More significant is the possibility that legal executions may stimulate violent crime by exemplifying society's approval of killing.

THE DEATH PENALTY IS IRREVERSIBLE

The death penalty is the only absolutely irreversible punishment. An innocent person who has been mistakenly executed can never be brought back to life. As the number of executions increases, so does the probability of error. Since 1900 in the United States an average of one convicted murderer per year was later found innocent. The actual number who have been unjustly executed can never be known.

Freddie Pitts and Wilbert Lee were lucky, but not before they had spent 12 years in jail, most of them under sentence of death, for the murder of two white gas station attendants in Florida. The two black men were accused of committing the murders, but later the key witness against them withdrew her testimony and another man confessed to the crime. In 1975 the two innocent men were released. They would have been dead already if their appeals had not by chance run out during a temporary, court-imposed moratorium on executions.

Timothy Evans was not as lucky. The British people's shock at discovering that this innocent man had been executed was a major reason for the abolition of capital punishment in Great Britain.

Execution of innocent people is not the only occasion

for error in a capital case. The court must make absolute decisions about circumstances that may not be so clear-cut: defendants' personal participation in a murder, their sanity, whether they were provoked into committing the murder, or whether they pose a further threat to society. The finality of the death penalty is also significant when a new court decision invalidates previous death sentences. In 1977, the United States Supreme Court ruled that the death penalty is excessively harsh punishment for the crime of rape. This verdict came too late for the 455 men executed for that crime since 1930.

THE DEATH PENALTY IS A LOTTERY

With roughly 20,000 homicides each year in the United States, about 4,000 people are convicted of murder and about 250 are sentenced to death. Nearly half of these sentences are set aside in the appeals process. The public often assumes that the small portion of criminals who are on death row are there because they have committed the most horrible crimes. Although this is sometimes true, usually their crimes cannot be distinguished from those of hundreds of thousands of others whose lives have been spared. In some cases two people equally involved in the same murder are given entirely different punishments: one is sent to prison, the other to the electric chair.

The system of death sentencing is like a lottery determined by countless random factors, such as the attitudes of police and prosecutors, the skill of court-appointed defense counsel, and the prejudices of judges and juries. Some judges and some states hand out the death sentence more frequently than others. For example, Florida has more than 200 people on death row; Washington has fewer than five. A defense lawyer can lose his client's life simply by neglecting to make a legal objection at just the right moment.

Whether a person convicted of murder will live or die is not merely a question of chance. Throughout the world

“As one whose husband and mother-in-law have both died the victims of murder assassination, I stand firmly and unequivocally opposed to the death penalty for those convicted of capital offenses. An evil deed is not redeemed by an evil deed of retaliation. Justice is never advanced in the taking of a human life. Morality is never upheld by legalized murder.”

Coretta Scott King

capital punishment is usually applied in a discriminatory way against minorities and the poor. This is also true in the United States where since 1972, 62 percent of the people on death row have been unskilled, service, or domestic workers and 60 percent were unemployed at the time of their crimes. A study of the Texas judicial system found that three out of four convicted murderers with court-appointed lawyers were sentenced to death, as opposed to one out of three with private attorneys. If a defendant is going to stay away from the electric chair, he must have money for the best legal defense, investigation, and expert witnesses.

In the United States blacks and other minorities face a much greater likelihood of execution than whites similarly charged. Since 1930, 90 percent (405) of the men executed for rape were black. The victim's race is also a factor in determining the offender's punishment. In Texas blacks who kill whites are 87 times more likely to receive the death sentence than those with black victims. In Florida, among those who murder whites, blacks are five times more likely than whites to end up on death row. The death penalty will continue to pose a greater threat to non-white offenders as long as racism exists in American society.

THE DEATH PENALTY IS NO WAY TO SHOW THAT KILLING IS WRONG

Supporters of the death penalty believe that execution is a just punishment for homicide. Those who kill must certainly be punished severely in order to express society's condemnation of murder. Is killing, however, the right way to affirm the sanctity of human life? Religious leaders throughout the world say no. Major Jewish

organizations, Protestant denominations, and the United States Catholic Bishops Conference are among those who oppose the death penalty.

If capital punishment is appropriate because it takes a life for a life, why doesn't the government also burn the arsonist's home and rape the rapist? Because justice does not mean punishment that imitates the crime.

Some people believe the death penalty is the best way to acknowledge the suffering of the victim's family and friends. In reality, executions often draw public attention away from the victims and focus it on the person killed by the state.

Not everyone personally affected by a murder supports capital punishment. One woman whose child was killed says that no amount of killing will restore her child's life or ease her pain. She adds:

In the first flush of horror and fury some families feel that vengeance will be some compensation for

Arrests and Sentences for Criminal Homicide by Race of Victim and Offender

Florida, Georgia, and Texas
1976-1978

Race of Offender/Victim	Arrested for Criminal Homicide	Under Sentence of Death	
	Number	Number	Percent
Black/Black	1,099	16	1½
White/White	1,013	125	12½
Black/White	92	82	89
White/Black	38	2	5¼
Totals	2,242	225	

Source: Center for Applied Social Research, Northeastern University, Boston.

their loss, and surely we must sympathize with this reaction. But after a month, a year, if there has been an execution, will they not come to the stark, painful, bitter realization that they are carrying another corpse along with that of their loved one? This is not "a life for a life." It is another death, the more brutal and shocking for being officially imposed.

THE DEATH PENALTY COSTS MORE THAN LIFE IMPRISONMENT

Capital punishment is not an inexpensive way to deal with the problem of violent crime. A 1982 study in New York concluded that the average murder trial and the first stage of appeals cost taxpayers \$1.8 million—more than twice as much as it costs to keep a person in prison for life. These lengthy trial and appeal procedures are necessary to convict the actual criminal and to avoid the unacceptable mistake of executing an innocent person. Added to this are the expenses of maintaining maximum security on death row and carrying out the execution. More difficult to calculate is the cost of diverting an already overburdened criminal justice system to a preoccupation with the relative handful of capital murder cases. This problem will only worsen as the number of executions continues to escalate.

“The death penalty is no more effective a deterrent than life imprisonment.... While police and law enforcement officials are the strongest advocates of capital punishment, the evidence is overwhelming that police are no safer in communities that retain the sanction than in those that have abolished it. It also is evident that the burden of capital punishment falls upon the poor, the ignorant, and the underprivileged members of society.”

United States Supreme Court Justice Thurgood Marshall

THE DEATH PENALTY IS A SYMBOL NOT A SOLUTION

Perhaps the most harmful cost of the death penalty results from the false assumption that it helps to fight crime. Although the death penalty has no effect on reducing the crime rate, many politicians advocate executions to show they are taking steps to make America safer. This empty gesture distracts society's attention from the difficult challenge of finding effective solutions to the very real problem of violence.

Often people who favor the death penalty don't have the facts. They would like to believe this punishment is justified by reason, when in fact it results only from helplessness and rage.

The death penalty teaches that killing is sometimes acceptable, while denying the fundamental humanity of all people—including those who commit atrocious acts. With each execution the United States further numbs itself to the tragedy of state-sanctioned killing and undermines its ability to address the human rights violations of other countries.

Governments around the world execute their citizens in different ways for different reasons, but no government should execute human beings. The United States was founded on a respect for those fundamental rights each individual deserves for no other reason than because he or she is a human being. Everyone has the right to life, and under no circumstances should anyone be subject to cruel, inhuman, and degrading punishment. No one should be sentenced to die.

Join Amnesty International USA and help abolish the death penalty.

- I want to join Amnesty International USA. Please send me more information.
- I want to help abolish the death penalty. Please send me more information.
- I want to contribute _____ to Amnesty International USA's work.

Contributions to Amnesty International USA are tax deductible.

Name _____

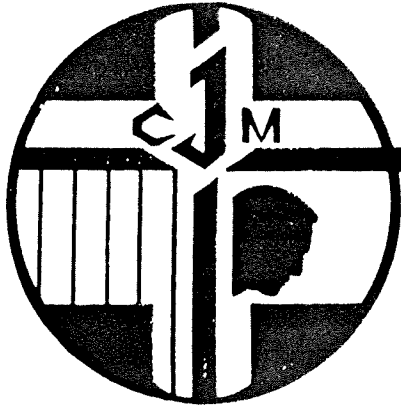
Address _____

City _____ State _____

Zip Code _____ A030

mail to: **AMNESTY INTERNATIONAL USA** 
304 West 58th Street, New York, New York 10019

3/20/85
Attachment #9



Criminal Justice Ministry

229 South 8th Street
Kansas City, Kansas 66101
(913) 621-1504

Sister Dolores Brinkel, S.C.L.
DIRECTOR

TO: SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
FROM: Criminal Justice Ministry--Catholic Charities of the Archdiocese of
Kansas City in Kansas
DATE: March 20, 1985
RE: HB2135 (Death Penalty)

My office represents to you the policy of Catholic Charities, the Archdiocese of Kansas City in Kansas. In 1984 members of Catholic Charities "judged the death penalty to be immoral and called for its abolition."

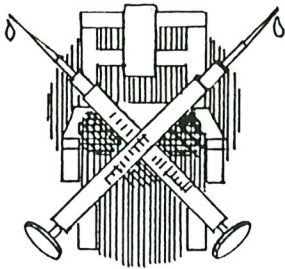
The word "judged" means they thoughtfully decided and concluded from evidence that the death penalty was immoral. This decision was not triggered by feelings of fear or revenge.

The death penalty violates our basic belief that each person is created in dignity. I was pleased this Committee favorably reported SB343 to limit abortion. I presume your basic respect for human life emanates from the same basic Judeo-Christian principles as mine. That God is the creator and sustainer of all human life--unborn, handicapped or criminal.

Furthermore the death penalty is incompatible with the basic Gospel focus on repentance, reconciliation and Christian hope. Do we believe in conversion? We must give everyone opportunity for redemption even murderers who did not do that for their victims. Pope John Paul II gave this opportunity to Mehmet Ali Agca, his assailant, rather than seek revenge in violent death. I personally have worked with three paroled murderers. As I witnessed their conversion, I changed my view on the death penalty. They work for community betterment today. Criminals are not beyond redemption.

Jesus was once asked for his support of the death penalty. His reply--"Let one who is without sin cast the first stone." Please vote against the death penalty.

3/20/85
Attachment #10



Coalition to Keep Kansas Free of the Death Penalty

229 South 8th Street
Kansas City, Kansas 66101
(913) 621-1504

TO: SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: Coalition to Keep Kansas Free of the Death Penalty
Sister Dolores Brinkel, Coordinator

DATE: March 20, 1985

RE: HB2135 (Death Penalty)

The Coalition to Keep Kansas Free of the Death Penalty continues its seven year fight to prevent passage of a death penalty bill in Kansas. For the state to kill as punishment is morally unacceptable and a form of cruel and unusual punishment, in contradiction to our religious, ethical, and constitutional traditions. Over twenty groups representing church, professional, and community concerns are determined that Kansas have law by order and not from fear.

Coalition members passionately wish relief from violent crime but we believe that further violence is counter-productive, destructive, and cruel. Is it not cruel for a "medical orderly" to dig 40 minutes in a man's veins to insert a lethal needle? That was Stephen Peter Morin, killed a week ago in Huntsville, Texas.

Would such a killing help Glen Moore and Rich Schroeder of Colby? As much as I might wish, executions don't restore life. We recognize that survivors and friends of these victims have intense and legitimate needs. Most of these are overlooked by the criminal justice process. Victims' loved ones need to know that what has happened to them is tragic, unfair, and wrong. They need people who will listen patiently, accept them and their feelings for what they are. They need opportunities to grieve. They need compensation for the damages and burdens caused by the offense. They need the right to information about the case and the right to participate in it. They need to be provided necessary services. Above all, they need to come to the point where their tragic loss--which can never be forgotten--no longer dominates their lives. Are THESE NEEDS MET EFFECTIVELY BY KILLING SOME-ONE ELSE? Recent studies have shown that some of those brutalized most by executions are the families of victims.

The Coalition believes that bringing the death penalty to Kansas will not reduce homicides. Crime statistics in death penalty states argue strongly that killing murderers does not deter crime. The high execution states have the highest murder rates--Texas and Louisiana (14%), Florida (11%) are responsible for 62% of the recent executions. Without a death penalty, Kansas has a 5.6% murder rate. In fact one gunman in Kansas City agreed to surrender after the police informed him the state no longer had capital punishment.

Obviously death penalty proponents want vengeance. But according to Dr. Karl Menninger, "Vengeance is very expensive." We ask Kansas Legislators to cut excess spending. To pay \$1.8 million to prosecute a single capital murder case is excessive.

The Coalition also believes that the death penalty is morally wrong. Only God give life, only God can take life. We also observe that the death penalty continues to be applied in a discriminatory way. Death rows continue to hold a disproportionate number of the poor, the black, the mentally handicapped, and the disturbed. James Agan scheduled for a Florida execution March 19, had a long history of mental illness and institutionalization. The death penalty is still applied capriciously. Item: Charles Brooks, Jr., was executed in 1982 even though his crime partner had received a very light sentence. Yet no one knew which of the two had actually fired the fatal shot. The death sentence is irrevocable. Innocent people have been executed. Willie Sell, after 21 years imprisonment at Kansas State Penitentiary, was found innocent of his parents' murder and released to live in Kansas City where he died at age 91. Kansas juries can err. No legal system, guided as it is by human judgment, can eliminate the possibility of errors.

Instead of paying millions of dollars for capital court cases, we ask for a substantial commitment to preventing murder by the prevention of person and substance abuse. We envision a more hopeful and effective response to violent crime with sentences to life imprisonment, with hope of parole, except for violent psychopaths.

The Coalition believes that the death penalty is different from any other form of punishment. It involves the end of life itself and cannot be reversed. Furthermore it costs too much. It generates violence. It distracts us from healing the victim and our communities.

TESTIMONY: KANSAS CATHOLIC CONFERENCE
SENATE FEDERAL AND STATE AFFAIRS

RE: HOUSE BILL 2135

March 20, 1985

Mr. Chairman/Members of the Senate Federal and State Affairs Committee, my name is Bob Runnels. I am Executive Director of the Kansas Catholic Conference. Kansas is a good state, made up of good people, with good representatives in the State House and Senate.

Thank you for the opportunity to speak against the reinstatement of the death penalty in the State of Kansas. Although this committee is deliberating on House Bill 2135, this testimony is not only in opposition to this measure, but to any legislative proposal seeking to legalize the death penalty.

The Kansas Catholic Conference is an association of the four Catholic Dioceses of Kansas. The Catholic Bishops of Kansas, on whose behalf I speak, have spoken often in the past in conjunction with other religious leaders of our nation, in opposition to execution as a punishment for crime.

The Catholic Bishops of our nation have concluded that capital punishment is not necessary to any legitimate goal of the state and that its use threatens to undermine belief in the inherent worth of human life. The value of a human life is not contingent on the moral rectitude of the individual person. The death penalty is inconsistent with respect for human life. God gave life and only God, in His wisdom, can end life.

The use of capital punishment will harden and debase our life together. It institutionalizes revenge and retribution. It gives official sanction to a climate of violence. Research suggests that the death penalty aggravates the level of violence in society instead of diminishing it.

We respectfully submit that this committee reject House Bill 2135 and any other bill which would reintroduce in Kansas the punishment of criminals by execution.

COALITION OF TOPEKA CLERGY AGAINST THE DEATH PENALTY
PRESS CONFERENCE STATEMENT
March 20, 1985 - 9:30 a.m.

On January 31, Representative Graeber and 45 others introduced a bill in the Kansas House to reinstate the death penalty. It would provide for the option of a death sentence in cases of premeditated murder and murder committed in the commission of kidnapping/rape/sodomy. The method of execution would be lethal injection.

The bill was the subject of hearings on February 5 and 6 by the House Federal and State Affairs committee. They voted 11-10 on February 7 to pass the bill. The entire House debated the bill and passed it on a 78-46 vote about one week later.

Today the House bill comes before the Senate Federal and State Affairs committee. The coalition of Topeka Clergy Against the Death Penalty was formed two weeks ago to help offset the extreme pressure of other groups who are promoting the reinstatement of the death penalty in Kansas.

Seven years ago a similar coalition of religious leaders formed for the same purpose. Our basic beliefs on this issue have not changed. We believe that the support we have been able to generate in only two weeks is an indication that now as then, the religious leaders of Topeka are deeply concerned about this issue.

Because we have felt the need to speak from our Judeo-Christian heritage against the retaliatory spirit of the death penalty, we have come together across denominational lines to lend visible support to the Senators who will oppose the death penalty, either in the committee or on the floor of the Senate. Also, we wholeheartedly support Governor John Carlin's stand opposing the death penalty.

It is our hope that because of our witness to the scriptural affirmation of God's reconciling Love, and the Hope of redemption in all people, the members of the Senate Federal and State Affairs committee will perceive both the immorality and the folly of reinstating the death penalty in Kansas.

As members of the Topeka Clergy Against the Death Penalty, we urge our Senators to hear what our faith compels us to say.....

(SEE ATTACHED SHEET)

Our Faith Compels Us
To Speak Against the Death Penalty

As leaders of communities of faith in Topeka, Kansas, we speak God's Word as given to us in the scriptures, and from our diverse religious traditions.

We speak against the use of our energies to seek vengeance or retribution, and call for the use of our spiritual efforts in promoting God's Grace, reconciliation and hope in the lives of all people.

WE BELIEVE the Death Penalty is not a part of God's original or intentional Will.

WE BELIEVE retaliation in the Hebrew scripture (Old Testament) was not so much a requirement as a limitation on vengeance, and that Hebrew scripture teaches us retaliation is never God's highest intent.

WE BELIEVE the nature of the New Testament urges us to love those who would harm us, and pray for those who would persecute us, and teaches us of the possibility of redemption in all humans.

WE BELIEVE capital punishment is incompatible with the basic teaching of the New Testament - love, reconciliation and redemption.

WE WOULD SUPPORT efforts that would pay greater attention to the victims of crime, and a greater resolve of their needs.

WE WOULD SUPPORT efforts that seek to make room for restitution and compensation, leaving opportunity for redemption and healing.

WE WOULD SUPPORT efforts that would contribute to the character redevelopment of long term inmates.

WE WOULD SUPPORT efforts that would turn our preoccupation with questions of individual guilt and punishment to wider visions and education that would help us examine the causes and meaning of violence.

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Donald E Roberts Church of the Brethren
Walt Miller Trinity Presbyterian
Jessie Ambair Central Congregational UCC
Larry Kelly Lowman U.M.C.
Maurine Thomas First Congregational
William M. Youngblood St. Andrew's Presbyterian
James E. Daryl Highland Park United Methodist
Rita Dolores Binkell Catholic
Max Hale 1st Congregational (U.C.C.)
Joan M. Col St. Matthew's Catholic Church
Raymond W. Kenton South Hills Memorial Church
Theodore A. Lockhart NABCP
Gerald Estinger Central Congregational U.C.C.
James P. Strickmann Our Saviors Lutheran

Mary Kay Dickel Truesen
Eldon Epp

Manhattan Mennonite Fellowship
Salina Mennonite Church

Summi Kay

Sister Therese Barget sc Topeka

Liz Zech

Metropolitan Community Church of Topeka

Renzini Fredrickson

University United Methodist

Rev. Kelly B. Bender, Ph.D.,

Countryside United Meth. Church

Stephen Eggers

St. Benedict's Church
Atchison, Kansas

Tom Giler

St Benedict's Church

Darlene Green Strarus

Grace Episcopal Cathedral

Father Joseph E. Chontas +

Christ the King Catholic Church - Topeka

Rev. Phil Isaac

Fairview Mennonite

Rev. Ron Egg

Southern Hills Mennonite

Yes, you can use my name as a member of the Coalition and I will be present at the "Prayer Service."

Yes, you can use my name as a member, however I will not be able to participate in the "Prayer Service." Enclosed is the signed "Faith Statement."

Other (Please Explain)

*Rev. Bill Gannaway
Westminster Presbyterian Church*

RETURN BY MARCH 15

Yes, you can use my name as a member of the Coalition and I will be present at the "Prayer Service." *I'll try to make it.*

Yes, you can use my name as a member, however I will not be able to participate in the "Prayer Service." Enclosed is the signed "Faith Statement."

Other (Please Explain)

Ray Stork

RETURN BY MARCH 15

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Other (Please Explain)

Walt Miller

RETURN BY MARCH 15

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Other (Please Explain)

I have an out of town regional meeting or I would be there -

(Just got this the 14th!)

Jan Blackley

RETURN BY MARCH 15

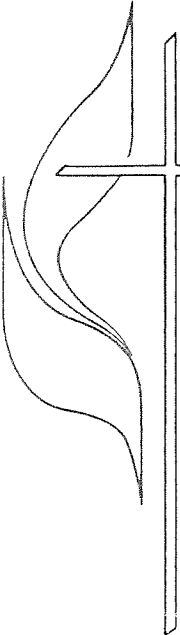
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Other (Please Explain)

*Rosie Epp & Raymond Reimer, pastors
Southern Hills Mennonite Church.*

RETURN BY MARCH 15



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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Please complete the bottom form and mail back to the above address.

In All Things Let Us Work Toward
God's Peace in Our Lives
Shalom,

Don Roberts *L Keller*
Don Roberts and Larry Keller

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Jim Larky

RETURN BY MARCH 15

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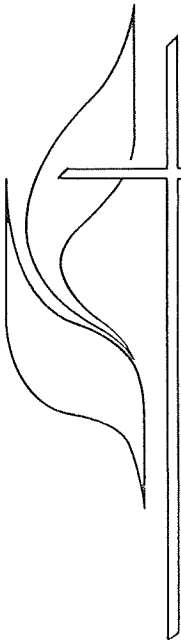
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Dean Tomlinson
Connie Tomlinson



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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In All Things Let Us Work Toward
God's Peace in Our Lives
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Don Roberts *L Keller*
Don Roberts and Larry Keller

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- Other (Please Explain)

Kelley B. Bender

RETURN BY MARCH 15



CENTRAL CONGREGATIONAL CHURCH
UNITED CHURCH OF CHRIST

1248 BUCHANAN STREET
TOPEKA, KANSAS 66604
235-2376

March 11 4

Dear Larry:

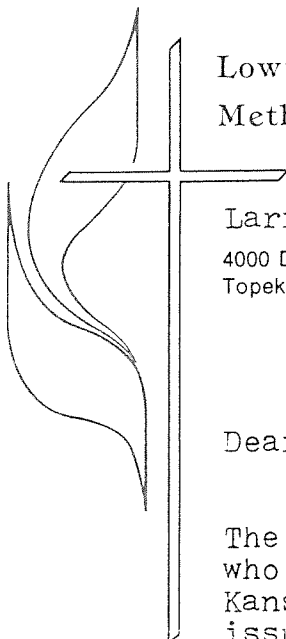
Thanks for organizing this!

I will attend the prayer service at 10 next
Wed.; however, I can't stay as I have another
meeting at 10:30/

Let me know what else I can do at other times.
I will get off letters today to Salisbury & Hoferer.

! 03W

Leslie



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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God's Peace in Our Lives
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Don Roberts and Larry Keller

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- Other (Please Explain)

Jessie Arbani

RETURN BY MARCH 15

Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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Don Roberts and Larry Keller

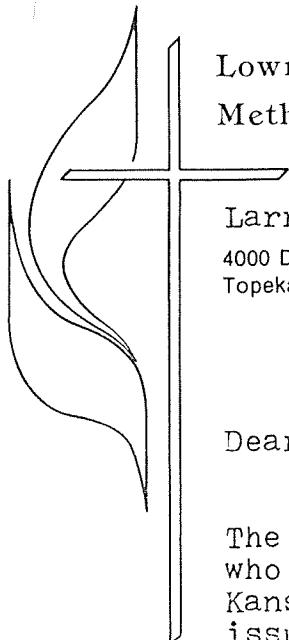
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Other (Please Explain)

William J. Lucas Unitarian Universalist Service Committee

RETURN BY MARCH 15



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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God's Peace in Our Lives
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Don Roberts and Larry Keller

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_____ Other (Please Explain)

Lyle Predmore
Clinical Chaplain
State Reception & Diagnostic Center

RETURN BY MARCH 15 *PO 1558*
Topeka 105 66601

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To Speak Against the Death Penalty

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Jan Blakley

Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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In All Things Let Us Work Toward
God's Peace in Our Lives
Shalom,

Don Roberts *L Keller*
Don Roberts and Larry Keller

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- _____ Other (Please Explain) *Paul S. Deery*

RETURN BY MARCH 15

XXXXXXXX

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Other (Please Explain)

XXXXXXXX

Yes, I will attend the State Senate hearing on the death penalty immediately following the "Prayer Service" on the South Capitol steps.

RETURN BY MARCH 15



Christ the King Church

(Established - 1977)

5972 West 25th Street • Topeka, Kansas 66614

Phone: 273-0710

Thursday, March 14, 1985

Dear Don and Larry,

Enclosed, you will find my signed "Faith Statement" in opposition to the death penalty, as well as permission to use my name as a member of the Coalition of "Topeka Clergy Against the Death Penalty". You can also count on my presence at the "Prayer Service" at 10:00 A.M., on WEDNESDAY, MARCH 20, 1985, on the SOUTH CAPITOL STEPS.

I am in total agreement with you and all the other members of the Coalition, and I appreciate the sentiments that you have expressed so well in your cover letter. I am very grateful to you and to all the others with you who had the courage and conviction to stand up for your beliefs by forming this Coalition. Now, it is time for us who have received your letter and the invitation that you have offered to us, to also stand up with you literally in professing what is the belief of all of us, because of our common biblical roots in faith.

I just wanted to take this opportunity to express my gratitude to you, to tell you that I am with you 100%, and to thank you for the prophetic witness stance that you have taken, thereby inspiring others of us and providing us the opportunity to also stand upon our common faith convictions and also to risk being prophetic in a world that finds it so difficult to hear and listen to the voices of prophets!!!

Fraternally yours in Christ,

Joseph E. Chontos

(The Reverend) Joseph Chontos
Associate Pastor
Christ the King Catholic Church
Topeka, Kansas

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To Speak Against the Death Penalty

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Joseph E. Chontos +

(The Reverend) Joseph E. Chontos
Associate Pastor
Christ the King Roman Catholic Church
Topeka, Kansas



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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In All Things Let Us Work Toward
God's Peace in Our Lives
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Don Roberts *L Keller*
Don Roberts and Larry Keller

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MAX HALE

RETURN BY MARCH 15

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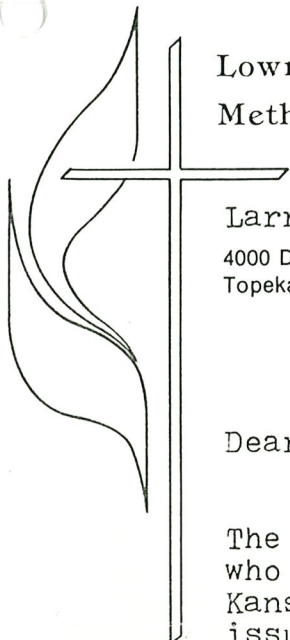
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Rev. Susan R. Mitchell
Swanna Wesley United Methodist Church
7220 Asbury Dr.
Topeka, KS 66614



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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In All Things Let Us Work Toward
God's Peace in Our Lives
Shalom,

Don Roberts *L Keller*
Don Roberts and Larry Keller

-
- Yes, you can use my name as a member of the Coalition and I will be present at the "Prayer Service."
 - Yes, you can use my name as a member, however I ^{probably} will not be able to participate in the "Prayer Service." Enclosed is the signed "Faith Statement."
 - _____ Other (Please Explain)

RETURN BY MARCH 15

Our Faith Compels Us
To Speak Against the Death Penalty

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We speak against the use of our energies to seek vengeance or retribution, and call for the use of our spiritual efforts in promoting God's Grace, reconciliation and hope in the lives of all people.

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Robert A. Langston, Jr.

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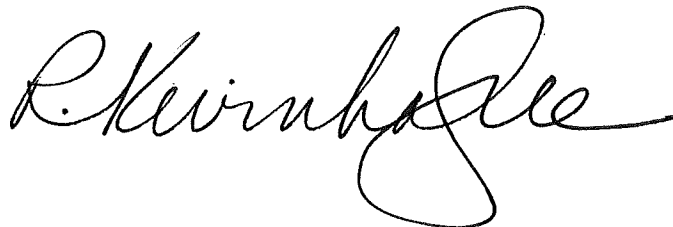
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A handwritten signature in cursive script, appearing to read "R. Kevin Hoyle". The signature is written in black ink and is positioned in the lower right quadrant of the page.

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C. Michael Kumer

Yes, you can use my name as a member of the Coalition and I will be present at the "Prayer Service."

✓

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Other (Please Explain)

R. Kevin LaGree

RETURN BY MARCH 15

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*Juan Dyke
Ks. East -
United Methodist Church*



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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God's Peace in Our Lives
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Don Roberts and Larry Keller

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Heiman Page
Episcopal St. Phillips Church

RETURN BY MARCH 15

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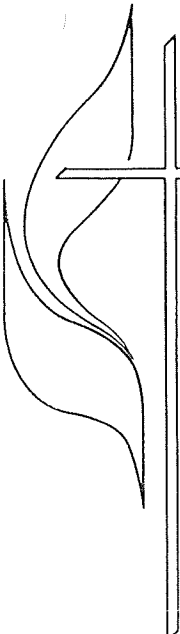
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Herman Page



Lowman United
Methodist Church

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*Sorry - I will
be out of town!*

JBH.

RETURN BY MARCH 15

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Jay B. Jensen
Associate Pastor
Highland Park United Methodist Church

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James R. Stigall
7009 S.E. Berryton Rd
Berryton, Kansas
66409



Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

March 11, 1985

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God's Peace in Our Lives
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Don Roberts *L Keller*
Don Roberts and Larry Keller

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Sorry, I'm going to be in K.C. all week.

Other (Please Explain)

RETURN BY MARCH 15

MAR 14 1985

Lowman United
Methodist Church

Larry Keller
4000 Drury Lane
Topeka, Kansas 66604

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Elvin D. Frantz



Attachment #13

Most Pure Heart of Mary Church

3601 West Seventeenth Street • Topeka, Kansas 66604 • 913/272-5590

March 21, 1985

Senator Edward F. Reilly, Jr.
Chairman
Senate Federal & State Committee
Room 255 E, State Capital
Topeka, Kansas 66612

RE: Death Penalty (House Bill 2135)

Dear Senator Reilly:

Barb and I are Co-Chairpersons of the Social Concerns Committee of Most Pure Heart of Mary Parish Council. I am writing to express some personal comments which reflect some of my thoughts on the death penalty.

I am concerned we, as a society, will choose the easy answer but not the real answer to a difficult problem.

Whether it be an unborn child, a newly born defective child, a handicapped or severely damaged person, a criminal, an aged person or a diseased person it appears the society is beginning to look to death as an easy answer. This can take the form of withholding life support or destruction of the life process.

There are many things different about the subjects and their situation but the common thread is society's choice to kill the subject rather than search for more sophisticated solutions to the problem presented. This, I believe, is a dangerous and de-civilizing trend. I hope Kansas is wise enough and strong enough to stand apart from that trend.

As you know, I was in the field of corrections for 11 years and for part of that time I supported the death penalty. I know the reasonings for the death penalty such as; a public safety device; a means of inflicting retribitional pain; a way to publically uphold the standard of justice; a humane way (as opposed to permanent caging) or removing unresolvable and recalcitrant source of danger; the forfeiture of the right to live, and the economical way of disposing of a social problem.

Each reasoning has its merits. None accounts for the influences on the individual which helped form her/his actions; the progress of scientific knowledge which may rehabilitate; the possibility of change in the individual; the society's and victim's need for control and power over the individual; the benefit to society from public mercy and forgiveness as well as public punishment; the possibility of unfound innocence;

the society's need to avoid removing the symptom which will lead to research and remedy; on the society's need to hold high the standard that life is sacred in everyone.

I was shocked and interested to hear prisoners say they killed because in the situation it was justified and they would kill again. I heard this from several prisoners over the years. I am more shocked and afraid that this logic in individuals may be confirmed in them and made to appear right by the public legal action of the state.

It is my belief that Kansas' adoption of the death penalty may help to de-civilize Kansas and justify the logic of the killer.

Further, the death penalty may provide the way for the sick and desperate, to exercise their own desire for suicide by killing other in hopes of being killed. It also removes the incentive to stop killing once started and increases the danger to witnesses.

Let us not choose merely the easy answer. Let us work to find the solution which will resolve rather than hide the problem in our society.

Please vote against the death penalty.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bernard Dunn", with a long horizontal flourish extending to the left.

Bernard Dunn

Co-Chairperson, Social
Concerns Committee of Most
Pure Heart of Mary Parish
Council

U.S. Bishops

Statement on Capital Punishment

Capital punishment, under present circumstances, does not seem justified as a form of retribution, crime deterrence or reform, the U.S. bishops declared in a statement issued during their Nov. 10-13 meeting in Washington, D.C. The bishops acknowledged, however, that "many citizens may believe that capital punishment should be maintained as an integral part of our society's response to the evils of crime"; this position is not incompatible with Catholic tradition. "It is morally unsatisfactory and socially destructive for criminals to go unpunished, but the forms and limits of punishment must be determined by moral objectives which go beyond the mere inflicting of injury on the guilty," the bishops said. They

ORIGINS, November 27, 1980

added, "In the conditions of contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty." And, they said, abolition of the death penalty "would promote values that are important to us as citizens and as Christians." The text of the bishops' message follows.

In 1974, out of a commitment to the value and dignity of human life, the U.S. Catholic Conference, by a substantial majority, voted to declare its opposition to capital punishment. As a former president of the National Conference of Catholic Bishops pointed out in 1977, the issue of capital punishment involves both "profound legal and political questions" as well as "important moral and religious issues."¹ And so we find that this issue continues to provoke public controversy and to raise moral questions that trouble many. This is particularly true in the aftermath of widely publicized executions in Utah and Florida and as a result of public realization that there are now more than 500 persons awaiting execution in various prisons in our country.

The resumption of capital punishment after a long moratorium, which began in 1967, is the result of a series of decisions by the U.S. Supreme Court. In the first of these decisions, *Furman vs. Georgia* (1972), the court held that the death penalty as then administered did constitute cruel and unusual punishment and so was contrary to the Eighth Amendment to the Constitution. Subsequently, in 1976, the court upheld death sentences imposed under state statutes which had been revised by state legislatures in the hope of meeting the court's requirement that the death penalty not be imposed arbitrarily.

These cases and the ensuing revision of state and federal statutes gave rise to extended public debate regarding the necessity and advisability of retaining the death penalty. We should note that much of this debate was carried on in a time of intense public concern about crime and violence. For instance, in 1976 alone more than 18,000 people were murdered in the United States.

Criticism of the inadequacies of the criminal justice system has been widespread, even while spectacular crimes have spread fear and alarm, particularly in urban areas. All these factors make it particularly necessary that Christians form their views on this difficult matter in a prayerful and reflective way and that they show a respect and concern for the rights of all.

We should acknowledge that in the public debate about capital punishment we are dealing with values of the highest importance: respect for the sanctity of human life, the protection of human life, the preservation of order in society and the achievement of justice through law. In confronting the problem of

serious and violent crime in our society, we want to protect the lives and the sense of security both of those members of society who may become the victims of crime and of those in the police and in the law-enforcement system who run greater risks. In doing this, however, we must bear in mind that crime is both a manifestation of the great mysteries of evil and human freedom and an aspect of the very complex reality that is contemporary society. We should not expect simple or easy solutions to what is a profound evil, and even less should we rely on capital punishment to provide such a solution. Rather, we must look to the claims of justice as these are understood in the current debate and to the example and teaching of Jesus, whom we acknowledge as the justice of God.

I. Purposes of Punishment

Allowing for the fact that Catholic teaching has accepted the principle that the state has the right to take the life of a person guilty of an extremely serious crime, and that the state may take appropriate measures to protect itself and its citizens from grave harm, nevertheless, the question for judgment and decision today is whether capital punishment is justifiable under present circumstances. Punishment, since it involves the deliberate infliction of evil on another, is always in need of justification. This has normally taken the form of indicating some good which is to be obtained through punishment or an evil which is to be warded off.

The three justifications traditionally advanced for punishment in general are retribution, deterrence, and reform. Reform or rehabilitation of the criminal cannot serve as a justification for capital punishment, which necessarily deprives the criminal of the opportunity to develop a new way of life that conforms to the norms of society and that contributes to the common good. It may be granted that the imminence of capital punishment may induce repentance in the criminal, but we should certainly not think that this threat is somehow necessary for God's grace to touch and to transform human hearts.

The deterrence of actual or potential criminals from future deeds of violence by the threat of death is also advanced as a justifying objective of punishment. While it is certain that capital punishment prevents the individual from committing further crimes, it is far from certain that it actually prevents others from doing so. Empirical studies in this area have not given conclusive evidence that would justify the imposition of the death penalty on a few individuals as a means of preventing others from committing crimes. There are strong reasons to doubt that many crimes of violence are undertaken in a spirit of rational calculation which would be influenced by a remote threat of death. The small number of death sentences

During their November meeting, the U.S. bishops approved a budget of \$14.5 million for 1981. The budget represents a cut for the bishops' national conferences and is an effort to cope with inflation. It entails staff and program cuts within the U.S. Catholic Conference and the National Conference of Catholic Bishops. The largest cuts are within the USCC education and social development and world peace departments.

Budget considerations are coupled at the present time with the desire of the bishops to clearly define the mission and goals for the national bishops' conferences. During the November meeting, the bishops voted down proposed criteria for setting the priorities of the conferences for 1982 and beyond. Also defeated was an effort to reapprove a 1970 statement of goals for the USCC and to extend it to the NCCB. Many bishops said the proposals were premature in light of the extraordinary meeting the bishops have scheduled for 1982 to discuss the mission of their episcopal conference. The bishops are considering the kind of staff members needed within their national conferences, the relationship of the conferences to the dioceses, and other matters related to the precise role of these offices.

in relation to the number of murders also makes it seem highly unlikely that the threat will be carried out and so undercuts the effectiveness of the deterrent.

The protection of society and its members from violence, to which the deterrent effect of punishment is supposed to contribute, is a value of central and abiding importance; and we urge the need for prudent firmness in ensuring the safety of innocent citizens. It is important to remember that the preservation of order in times of civil disturbance does not depend on the institution of capital punishment, the imposition of which rightly requires a lengthy and complex process in our legal system. Moreover, both in its nature as legal penalty and in its practical consequences, capital punishment is different from the taking of life in legitimate self-defense or in defense of society.

The third justifying purpose for punishment is retribution or the restoration of the order of justice which has been violated by the action of the criminal. We grant that the need for retribution does indeed justify punishment. For the practice of punishment both presupposes a previous transgression against the law and involves the involuntary deprivation of certain goods. But we maintain that this need does not require nor does it justify taking the life of the criminal, even in cases of murder.

We must not remain unmindful of the example of Jesus who urges upon us a teaching of forbearance in the face of evil (Mt. 5:38-42) and forgiveness of injuries (Mt. 18:21-35). It is morally unsatisfactory and socially destructive for criminals to go unpunished, but the forms and limits of punishment must be determined by moral objectives which go beyond the mere inflicting of injury on the guilty. Thus we would regard it as barbarous and inhumane for a criminal who had tortured or maimed a victim to be tortured or maimed in return. Such a punishment might satisfy certain vindictive desires that we or the victim might feel, but the satisfaction of such desires is not and cannot be an objective of a humane and Christian approach to punishment.

We believe that the forms of punishment must be determined with a view to the protection of society and its members and to the reformation of the criminal and his reintegration into society (which may not be possible in certain cases). This position accords with the general norm for punishment proposed by St. Thomas Aquinas when he wrote: "In this life, however, penalties are not sought for their own sake, because this is not the era of retribution; rather, they are meant to be corrective by being conducive either to the reform of the sinner or to the good of society, which becomes more peaceful through the punishment of sinners."²

We believe that in the conditions of

contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty. Furthermore, we believe that there are serious considerations which should prompt Christians and all Americans to support the abolition of capital punishment. Some of these reasons have to do with evils that are present in the practice of capital punishment itself, while others involve important values that would be promoted by abolition of this practice.

II. Christian Values in the Abolition of Capital Punishment

We maintain that abolition of the death penalty would promote values that are important to us as citizens and as Christians.

"There are strong reasons to doubt that many crimes of violence are undertaken in a spirit of rational calculation that would be influenced by a remote threat of death."

First, abolition sends a message that we can break the cycle of violence, that we need not take life for life, that we can envisage more humane and more hopeful and effective responses to the growth of violent crime. It is a manifestation of our freedom as moral persons striving for a just society. It is also a challenge to us as a people to find ways of dealing with criminals that manifest intelligence and compassion rather than power and vengeance. We should feel such confidence in our civic order that we use no more force against those who violate it than is actually required.

Second, abolition of capital punishment is also a manifestation of our belief in the unique worth and dignity of each person from the moment of conception, a creature made in the image and likeness of God. It is particularly important in the context of our times that this belief be affirmed with regard to those who have failed or whose lives have been distorted by suffering or hatred, even in the case of those who by their actions have failed to respect the dignity and rights of others. It is the recognition of the dignity of all human beings that has impelled the church to minister to the needs of the outcast and the rejected and that should make us unwilling to treat the lives of even those who have taken human life as expendable or as a means to some further end.

A new Plan for Priestly Formation was approved by a voice vote of the U.S. bishops during their meeting in Washington, D.C. The book-length material in the plan must now be approved by Vatican authorities.

The document addresses a great many questions related to seminary formation. Seminary structures, admission of candidates for the priesthood, formation for celibacy, personal and spiritual development of seminarians, pastoral formation and field education, preparation for social justice ministry, the ecumenical dimension of seminary formation, academic programs and other matters are all discussed.

A key element of the new plan, according to Coadjutor Bishop Michael Murphy of Erie, Pa., chairman of the bishops' Committee on Priestly Formation, is its effort to balance the seminarian's spiritual development with academic and pastoral training. The bishop said he feels the document's treatment of older candidates for the priesthood is also significant. These candidates "bring a richness to the seminary but they also bring challenges and needs" that differ from those of younger men, he said.

The new document does not include a separate section for the training of religious order priests. An effort is made in the document to break down the differences between the training of diocesan priests and those in religious orders.

Father Ron Anderson, executive director



◁ of the bishops' office for priestly formation, also cited the positive tone of the document's discussion of celibacy as an important feature.

Forty-one bishops abstained from voting for the document on capital punishment which appears on these pages. The document was approved by a vote of 145-31.

In presenting the document to the bishops, Bishop Edward Head of Buffalo, N.Y., chairman of the bishops' committee which drafted the proposed statement, stressed the committee's intent to avoid setting doctrine and not to reject Catholic teaching that the state has the right to take the life of a criminal. The committee only wished to ask "whether capital punishment should be imposed in the United States under present circumstances," he said.

Bishop Joseph Madera, coadjutor bishop of Fresno, Calif., spoke on the issue of capital punishment during discussion of the document. He said that in 1971 his brother-in-law was among three prison guards killed when two men sentenced to death broke out of the San Quentin penitentiary. The incident left eight children orphans and ▷

Third, abolition of the death penalty is further testimony to our conviction, a conviction which we share with the Judaic and Islamic traditions, that God is indeed the Lord of life. It is a testimony which removes a certain ambiguity which might otherwise affect the witness that we wish to give to the sanctity of human life in all its stages. We do not wish to equate the situation of criminals convicted of capital offenses with the condition of the innocent unborn or of the defenseless aged or infirm, but we do believe that the defense of life is strengthened by eliminating exercise of a judicial authorization to take human life.

Fourth, we believe that abolition of the death penalty is most consonant with the example of Jesus, who both taught and practiced the forgiveness of injustice and who came "to give his life as a ransom for many" (Mk. 10:45). In this regard we may point to the reluctance which those early Christians who accepted capital punishment as a legitimate practice in civil society felt about the participation of Christians in such an institution³ and to the unwillingness of the church to accept into the ranks of its ministers those who had been involved in the infliction of capital punishment.⁴ There is and has been a certain sense that even in those cases where serious justifications can be offered for the necessity of taking life, those who are identified in a special way with Christ should refrain from taking life. We believe that this should be taken as an indication of the deeper desires of the church as it responds to the story of God's redemptive and forgiving love as manifest in the life of his Son.

III. Difficulties Inherent In Capital Punishment

With respect to the difficulties inherent in capital punishment, we note first that infliction of the death penalty extinguishes possibilities for reform and rehabilitation for the person executed as well as the opportunity for the criminal to make some creative compensation for the evil he has done. It also cuts off the possibility of a new beginning and of moral growth in a human life which has been seriously deformed.

Second, the imposition of capital punishment involves the possibility of mistake. In this respect, it is not different from other legal processes; and it must be granted our legal system shows considerable care for the rights of defendants in capital cases. But the possibility of mistake cannot be eliminated from the system. Because death terminates the possibilities of conversion and growth and support that we can share with each other, we regard a mistaken infliction of the death penalty with a special horror, even while we retain our trust in God's loving mercy.

Third, the legal imposition of capital punishment in our society involves long and

unavoidable delays. This is in large part a consequence of the safeguards and the opportunities for appeal which the law provides for defendants; but it also creates a long period of anxiety and uncertainty both about the possibility of life and about the necessity of reorienting one's life. Delay also diminishes the effectiveness of capital punishment as a deterrent, for it makes the death penalty uncertain and remote. Death Row can be the scene of conversion and spiritual growth, but it also produces aimlessness, fear and despair.

Fourth, we believe that the actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to perform or to witness the execution. Great writers such as Shakespeare and Dostoevski in the past and Camus and Orwell in our own time have given us vivid pictures of the terrors of execution not merely for the victim but also for bystanders.⁵

"The care and the support that we give to the victims of crime should be both compassionate and practical. The public response to crime should include the relief of financial distress caused by crime and the provision of medical and psychological treatment to the extent that these are required and helpful."

Fifth, in the present situation of dispute over the justifiability of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion. On the other hand, if a substantial proportion of the more than 500 persons now under sentence of death are executed, a great public outcry can safely be predicted. In neither case is the American public likely to develop a sense that the work of justice is being done with fairness and rationality.

Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner. This belief can be affirmed with certain qualifications. There is a certain presumption that if specific evidence of bias or discrimination in sentencing can be provided for particular cases, then higher courts will not uphold sentences of death in these cases. But we must also reckon with a legal system which, while it does provide counsel for indigent defendants, permits those who are well off to obtain the resources and the talent to present their case in as convincing a light as possible.

The legal system and the criminal justice system both work in a society which bears in its psychological, social and economic patterns the mark of racism. These marks remain long after the demolition of segregation as a legal institution. The end result of all this is a situation in which those condemned to die are nearly always poor and are disproportionately black.⁶ Thus 47 percent of the inmates on Death Row are black, whereas only 11 percent of the American population is black.

Abolition of the death penalty will not eliminate racism and its effects, an evil which we are called on to combat in many different ways. But it is a reasonable judgment that racist attitudes and the social consequences of racism have some influence in determining who is sentenced to die in our society. This we do not regard as acceptable.

IV. Conclusions

We do not propose the abolition of capital punishment as a simple solution to the problems of crime and violence. As we observed earlier, we do not believe that any simple and comprehensive solution is possible. We affirm that there is a special need to offer sympathy and support for the victims of violent crime and their families. Our society should not flinch from contemplating the suffering that violent crimes brings to so many when it destroys lives, shatters families and crushes the hope of the innocent.

Recognition of this suffering should not lead to demands for vengeance but to a firm resolution that help be given to the victims of crime and that justice be done fairly and swiftly. The care and the support that we give to the victims of crime should be both compassionate and practical. The public response to crime should include the relief of financial distress caused by crime and the provision of medical and psychological treatment to the extent that these are required and helpful. It is the special responsibility of the church to provide a community of faith and trust in which God's grace can heal the personal and spiritual wounds caused by crime and in which we can all grow by sharing one another's burdens and sorrows.

We insist that important changes are necessary in the correctional system in order to make it truly conducive to the reform and rehabilitation of convicted criminals and their reintegration into society.⁷ We also grant that special precautions should be taken to ensure the safety of those who guard convicts who are too dangerous to return to society.

We call on governments to cooperate in vigorous measures against terrorists who threaten the safety of the general public and who take the lives of the innocent. We acknowledge that there is a pressing need to deal with those social conditions of poverty and injustice which often provide the breeding

grounds for serious crime. We urge particularly the importance of restricting the easy availability of guns and other weapons of violence. We oppose the glamorizing of violence in entertainment, and we deplore the effect of this on children. We affirm the need for education to promote respect for the human dignity of all people.

All of these things should form part of a comprehensive community response to the very real and pressing problems presented by the prevalence of crime and violence in many parts of our society.

We recognize that many citizens may believe that capital punishment should be maintained as an integral part of our society's response to the evils of crime, nor is this position incompatible with Catholic tradition. We acknowledge the depth and sincerity of their concern, we urge them to review the considerations we have offered which show both the evils associated with capital punishment and the harmony of the abolition of capital punishment with the values of the Gospel. We urge them to bear in mind that public decisions in this area affect the lives, the hopes and the fears of men and women who share both the misery and the grandeur of human life with us and who, like us, are among those sinners whom the Son of Man came to save.

We urge our brothers and sisters in Christ to remember the teaching of Jesus, who called us to be reconciled with those who have injured us (Mt. 5:43-45) and to pray for forgiveness for our sins "as we forgive those who have sinned against us" (Mt. 6:12). We call on you to contemplate the crucified Christ who set us the supreme example of forgiveness and of the triumph of compassionate love. □

Footnotes

¹ "Statement on Capital Punishment," Archbishop Joseph L. Bernardin, president. National Conference of Catholic Bishops, Jan. 26, 1977. Cf. "Community and Crime," Statement of the Committee on Social Development and World Peace, U.S. Catholic Conference, Feb. 15, 1978, p. 8.

² Thomas Aquinas, *Summa Theologiae*, II-II, 68, 1; tr. Marcus Lefebvre, O.P. (London: Blackfriars, 1975).

³ Tertullian, *De Idololatria*, c. 17.

⁴ Code of Canon Law, Canon 984.

⁵ William Shakespeare, *Measure for Measure*, Act III, Scene 1; Fedor Dostoevski, *The Idiot*; George Orwell, *A Hanging*; Albert Camus, *Reflections on the Guillotine*.

⁶ Cf. Charles Black Jr., *Capital Punishment* (New York: Norton, 1974), pp. 84-91.

⁷ Cf. "The Reform of Correctional Institutions in the 1970s," Statement of the U.S. Catholic Conference, November 1973.

◁
caused immeasurable problems for the families. Noting arguments that compassion should be the Christian response, the bishop said: "That's fine, but what about those families." He said the families left behind prayed for the assailants of the prison guards. But he said the families still are suffering from what happened.

Many individual Catholic bishops and groups of bishops have spoken out on the issue of capital punishment in the past. Readers may wish to consult the Origins' indexes for references to these documents and related materials. Such index headings as these may prove helpful: capital punishment; crime; death penalty; prisons.

NAACP

FOUNDED 1909

NATIONAL ASSOCIATION
FOR THE ADVANCEMENT
OF COLORED PEOPLE

P.O. BOX 416
LEAVENWORTH, KANSAS 66048

Attachment #14

March 20, 1985

TO: Federal And State Affairs Committee,
Senate, Kansas State Legislature, 1985
FROM: Lobbyist, KS Conference of Branches, NAACP

The Honorable Edward F. Reilly, Jr. and Honorable members of this august committee, I am T. A. Lockhart representing the Kansas conference, National Association for the Advancement of Colored People. The Conference is composed of approximately 20 branches throughout the State; is not partisan nor racially discriminatory.

I speak in opposition to the bill at hand - HB 2135. The NAACP has historically opposed death punishment because of the resulting affect on Negroes. Statistics gathered have shown that Blacks and certain other ethnic group persons have been so sentenced when others have been able to escape this outcome. You have no doubt heard this approach on many occasions as well as have heard such statistics. The end product being that the system works more in favor of those with money to pay for a first-class defense. This is not an indictment of the profession providing service to the indigent, but a fact of life.

The NAACP has never taken a position that punishment should not be an outcome of a criminal act. But that such punishment should be based on factors that have equity in application - judgement by peers, particularly. The judicial system has not been noted to assure that this occurs. The Bill speaks around this issue in New Sec. 5 - lines 0102 thru 0111. In other words the make-up of a jury has always given the Negro concern. It would appear from an interpretation of this section that only one unalterably opposed to the "sentence of death ...may be challenged for cause...".

Plea bargaining has not been incorporated into this bill. The Black community recognizes that this approach resolves a higher percentage

of cases involving white defendants, whereas jury trials resolve a higher percentage of cases involving minorities - including blacks. Although plea bargaining ensures conviction, it usually guarantees a lighter sentence while a jury trial usually results in more severe sentencing because of multiples in biases.

I call your attention to a report developed by Members of the Advisory Committee on Prison Overcrowding. A report completed and made to the Secretary Of Correction dated January 1984. In Recommendation #13 they state:

A study should be done to identify the reasons for the disproportionate number of minorities in the Kansas prison system and to recommend changes to the Department of Corrections and the 1985 legislature.

In their editorializing on the recommendation it is stated:

The Committee found it alarming that Kansas incarcerates blacks at a rate nine times that of whites. National studies suggest that minorities are more likely to be arrested, charged, convicted, and imprisoned, and that they are less likely to be released than whites when the offense and prior felony record of the offender is the same. As a state, we cannot be aware of this information and fail to investigate the reason for it.

In addition to this report I call your attention to some specific statistics compiled by Midwest Corrections Reform Program, Inc. as of August 1983. In their subject paragraph - "OVERVIEW" I quote in part, "...And while the Kansas incarceration rate for whites is relatively low (74 prisoners per 100,000 residents), its black incarceration rate is an astounding 658 per 100,000--which means the state incarcerates blacks at a rate 9 times that of whites."

Based on the information I have just cited, one could wonder how many Negroes would be left in the "Lifer" category in the State. Also, having heard testimony from the Warden of KSP to the fact of approximately 183 lifers incarcerated and seeing statistics that Blacks comprise 35% of the male and 43% of the female inmate population of our correctional institutions, one could further wonder what the comparable statistics would be if the "death penalty" is re-enacted. Keep in mind that the population proportions in Kansas are about 5.4% blacks and 2.9% other minorities. Do you not wonder why the NAACP is concerned.

Particularly when as the January 1984 report to SOC showed the Kansas Corrections system has approximately 41% minority inmates in the prison population. Further, based on their projection and analysis of sentencing this figure no doubt has increased.

There is concern for the law enforcement community. I was a member of that community for 17 years, having worked at the U. S. Penitentiary, Leavenworth. I selected that profession, and I do mean profession because of the need for a professional approach to the selections. As I was about to say, I knew fully what the potentials were. I reacted to the human rather than to the convict. This statement is not an indictment of those in law enforcement, but statistics, I believe, will show a disparity between the number of law enforcement killings and law enforcement officers killed in line of duty.

Considering other information available, such as a report on CBS recently, that presently there are approximately 1461 persons on "death row" in the fifty states with one-third being in only 3 states - Florida, Texas and Georgia. It is ironic that incarceration rates show Georgia at 488.1 blacks, Texas at 750.8 blacks per 100,000 population while Kansas stands at 658.1 blacks per 100,000 population. We must consider the past or present arrangement with the U. S. Military to "snuff the life from military persons" on contract or whatever arrangement.

Equity in the system is considered a myth in the Black and other poor communities in the State. Notwithstanding the program to provide indigent services, with or without the appeal process, the biased, now apparent, can not be ruled out.

Therefore, for these reasons and reasons given by other opponents, the NAACP asks that you vote unfavorably on this Bill.

END

3/20/85
Attachment 15

LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

March 20, 1985

STATEMENT TO THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS IN OPPOSITION TO
HB 2135.

Mr. Chairman and Members of the Committee:

I am Ann Heberger Speaking for the League of Women Voters of Kansas in opposition of HB 2135 and to the death penalty as a matter of State policy.

The League completed a Study of Sentencing Procedures in Kansas in December 1982. One question that was asked was whether the death penalty should become law or not. The question was based on whether the death penalty would deter others from committing murder; whether it is possible to administer fairly; and consideration of the cost of administering a criminal justice system that includes a death penalty. After serious consideration, League members overwhelmingly said no.

DETERRENCE: We found that there are no statistics available that claim that a death penalty law or actual executions are a deterrent to others. A more important question is whether an execution is useful or useless. Since the death penalty has no affect one way or the other on deterrence, it is, in our opinion, a useless penalty. This in no way means that we are not compassionate toward victims' families. We just believe that the penalty accomplishes nothing.

DISPARITY IN SENTENCING: The League believes that no matter how carefully written, a death penalty statute will be arbitrary, capricious and continue to discriminate against the poor and minorities. Examples of disparity or inconsistency are shown in the following Missouri cases:

1. A young woman was sexually assaulted, beaten with a pipe, her throat was stepped on, and the defendant dumped her body in a ditch to await death. The jury handed down a sentence of life in prison;
2. A woman was kidnapped, stabbed to death, and buried in a cornfield. The prosecution waived the death penalty even though the defendant had been convicted of a previous capitol murder;
3. Two adults and one seven year old child were shot to death in a drug dispute. The jury handed down a sentence of three consecutive life terms.
4. An ex-girlfriend was beaten to death by a man who thought she had given him a venereal disease. The man was sentenced to death.

The Report of the Advisory Committee on Prison Overcrowding, January 1984, says that the Committee found it alarming that Kansas incarcerated black people at a rate nine times that of whites (based on population). National studies suggest

that minorities are more likely to be arrested, charged, convicted and imprisoned, and that they are less likely to be released than whites when the offense and prior felony record of the offender is the same. If the facts are true, and that statement would include a death penalty, it appears to us that more minority persons would receive the sentence of death in proportion to the population.

Again, we believe that no matter what crimes the Legislative body say deserve the death penalty, there is as much inconsistency in sentencing now as there was before 1972 when the U.S. Supreme Court struck down the death penalty for that very reason.

THE COST; Although at one time capital punishment was cheap, that is no longer true especially since the 1976 decisions on capital punishment. Court expenses and wear and tear on our courts and prisons are considerably more expensive when including a system of capital punishment than a criminal justice system without capital punishment.

When North Carolina's legislature was considering a new death penalty statute, an expert was called in to analyze the financial factors in the proposed legislation. He said that besides the high cost of the total legal process, prison costs would also increase. After a sentence of death, a person must be kept in a special facility. It seems very important to keep a resident of death row from committing suicide or dying of disease in order that society may have the privilege of killing him or her at the appointed time. This is costly considering the average time spent awaiting execution. The process also cuts down on the limited space available for those prisoners who are most likely to be harmed or harm others, most of whom have not been convicted of murder. The expert concluded that life sentences were much less costly to the taxpayer.

An Iowa study done in 1976 determined that it cost somewhere around \$240,000 to keep the average first degree murderer in prison for life, and that at least nine out of ten, sentenced to death, will serve out a life sentence. In each case the State would not only support the person for life, but would pay for all the extra costs of usually successful efforts to avoid execution. The study also points out that it is easy to imagine total extra costs running as high as \$50,000 per case more than the cost of an original life sentence in a non-death penalty state. Other studies also show that for all of the expense, very few are actually executed.

Kansas juries recommended the death penalty in only a small percentage of conviction for first degree murder. Since the first legal hanging in Kansas, in February, 1863, a total of 24 persons were executed under state law as of December 1965.

The League believes that a criminal justice system with capital punishment cannot solve the disparity of sentencing, and that it is too costly to the State for the purposes of revenge for a few, and an image of being tough on crime.

We urge you to oppose HB 2135 as well as the death penalty as an alternative to life in prison.

Thank you for the opportunity to speak before you today.

3/20/85
Attachment #16

Speech by:
John Miller
Route 2 Box 34-1A
Atchison, Ks. 65002
(913)-367-4129

THE DEATH PENALTY IS INEFFECTIVE AND UNJUST

Two thousand volts of electricity rip through a man's body, from head to foot, for thirty seconds straight, causing him to jolt with all of his might against the well-anchored straps. After about a minute of nerve-ripping agony, another 2000 volts soar down through the man's helpless, paralyzed body. Smoke can now be readily seen coming from his mouth and leg. The eyes are beginning to bulge and one can smell the musk odor of burning human flesh. After yet another minute of seemingly endless agony, another 2000 volts annihilate every living cell in the man's body. The eyes burst and the brain is broiling. After approximately ten minutes of silent torture, the man is finally pronounced dead.

This scenario is not a fictional excerpt from an Edgar Allen Poe or Stephen King novel, but is an account of an actual execution in the electric chair, as described by John G. Healey, Kurt Anderson, and Harold Hilman, editor-in-chief of the RESUSCITATION, a medical journal. This method of execution is the most widely used in the U.S. today. There are other types of executions, such as death by hanging, firing squad, the gas chamber, and by lethal injection. Although, according to John G. Healey, as he describes the medical effects of these other

executions, they are just as cruel and unusual as death by electrocution.

It is imperative that we focus our attention upon the death Penalty, because, ever since the U.S. Supreme Court reinstated the death Penalty in 1976, there were only three executions from 1977-1980, but then they began to increase dramatically with one in 1981, two in 1982, five in 1983, 21 in 1984, and a Projected 60 executions in 1985, as there has already been five executions in January of this year. Since the death Penalty is becoming more and more a part of our criminal justice system, we must analyze it to see if indeed it is EFFECTIVE and if indeed it is JUST.

In order to do this, I will first present the arguments for the death Penalty and then give responses to each of those arguments.

There are two arguments put forth for the death Penalty. The first one is that the death Penalty has a deterrent effect upon criminals, or would-be criminals. The second is that the death Penalty is the only just retribution for one who commits murder.

So deterrence and retribution are the two basic arguments for the death Penalty. Now let's take a look at some responses to these arguments.

First off, the death Penalty DOES NOT DETER. Numerous studies from Canada, England, and other countries have verified this. Here in the U.S., the National Academy of Sciences concluded in a comprehensive study in 1978 that the death

Penalty "does not Prove its worth as a deterrent."

We can also conclude that the death Penalty doesn't deter by comparing the homicide rate in states that have the death Penalty to the homicide rate in states that don't have it. In Michigan, where the death Penalty has been abolished since 1847, there is an identical homicide rate with its adjacent states, Ohio and Indiana, which enforce the death Penalty. The same is true in many other states across the U.S.

Studies and analyses show that the death Penalty does not deter. According to Anthony Amsterdam, Professor of Law at New York University, the reason that the death Penalty does not deter is because, although the death Penalty is severe Punishment, it is neither SWIFT nor CERTAIN Punishment. It takes, on the average, nine years of litigation to obtain a death Penalty sentence, and less than one out of every five hundred murderers are caught, tried, and executed. Although the death Penalty may be severe, it is not swift nor certain, and without these two key factors to deterrence, the death Penalty does not deter and is NOT EFFECTIVE.

Now let's take a look at whether or not the death Penalty is justified by retribution. The first reason why the death Penalty cannot be justified is Purely logical, and that is that the death Penalty is hypocritical. How can legal authorities disbelieving in murder claim the right to murder another individual? Two wrongs do not make a right! This Proverb is often taught to us by our Parents when we were young, but often forgotten by many adults when it comes to applying it to the

criminal justice system.

My second argument against the death Penalty is that it is cruel and unusual Punishment (a type of Punishment from which we are Protected in the U.S. Constitution). In 1972, in FURMAN vs. GEORGIA, the U.S. Supreme Court abolished the death Penalty because it was found to be cruel and unusual Punishment since it was administered arbitrarily and disProPortionately. However, they reinstated it in 1976, after they believed they had inserted the necessary safeGuards in the statutes to Prevent disProPortionality. However, today, two of the nine Supreme Court Justices still believe that it is applied disProPortionately and is therefore cruel and unusual Punishment. A majority of the other Justices disagree because they think that it is not applied arbitrarily or disProPortionately anymore. So, if we could Prove that the death Penalty is still administered disProPortionately, then the U.S. Supreme Court would agree that it IS cruel and unusual Punishment and therefore unconstitutional.

This leads me into my third argument against the death Penalty: specifically, that it still discriminates against the Poor and minorities. First, it obviously continues to discriminate against the Poor who cannot afford good lawyers. Scharlette Holdman, Director of the Clearinghouse on Criminal Justice, Points out that good, dedicated lawyers can Prevent anyone from getting the death Penalty by saying, "Every Person sentenced to die comes from a case fraught with errors. If you're adequately represented you don't get death. It's that

simple."

The death Penalty also continues to discriminate against minorities. A great number of conclusive studies have demonstrated this. For example, in Florida, a Post-FURMAN study, conducted by Dr. Michael Radelet, Asst. Prof. of Sociology, Criminal Justice, and Psychiatry at the University of Florida, illustrates that blacks who kill whites are FORTY TIMES more likely to receive the death Penalty than those who kill other blacks. The study concludes that "the race of the victim is the NUMBER ONE Predictor of who gets the death Penalty." While only 12 Percent of our Population consists of blacks, since 1930, 54 Percent of those executed in the U.S. have been black.

So the death Penalty does indeed continue to discriminate upon the basis of financial and racial status, and, therefore, continues to be applied disproportionately upon these poor and minorities. The safeguards installed by the Supreme Court in 1976 have simply failed because, as the Massachusetts Supreme Justice Court stated in 1980, "arbitrariness and discrimination are inherent" and irremovable within a death Penalty system. But even more importantly, because disproportionality remains, the death Penalty remains to be cruel and unusual punishment and, therefore, unconstitutional.

My fourth and final argument against the death Penalty is that, once carried out, it is irreversible. This means that if evidence is later found to show that a person is innocent, after we have already killed him, it's too late. It's irrevocable.

The Government, whose Primary Purpose is to Protect the innocent, has just killed an innocent human being. Although many feel that the chances of this happening are extremely remote, there are two documented cases where an innocent man has been killed by the state; and these cases are not old, they are from January of this year. One case is twenty-eight year old Roosevelt Green who was executed in Georgia. The judge of the case admitted that Green's Participation in the homicidal act was "relatively minor," and one of the actual accomplices in the murder admitted that Green "wasn't even Present during the shooting." The other case is forty-eight year old Doyle Skillern who was killed in Texas also in January of this year. Court records show that Skillern wasn't even in the car where the murder occurred. The actual murderer is now UP for Parole, while Skillern, who was nowhere near the scene, is dead. I'm not claiming that these two People are totally innocent, but isn't there enough reasonable doubt to Prohibit the sentencing of these two individuals to an irreversible Punishment, death? As the French statesman Marquis de Lafayette wrote, "I shall ask for the abolition of the Punishment of death until the infallibility of human Judgment is Presented to me."

There are two arguments for the death Penalty: deterrence and retribution. However, the death Penalty does not deter as numerous studies and analyses have verified. Also, retribution cannot justify the death Penalty because: one, the death Penalty is hypocritical - two wrongs never make a right; secondly, because the death Penalty is cruel and unusual

Punishment, since; thirdly, it continues to inherently discriminate against poor and minorities; and, finally, the fourth reason retribution cannot be justified is because the death Penalty system can kill innocent individuals and is prone to the fallibility of human judgment.

As the death Penalty is being used more and more in the criminal justice system, and as it is gaining wider acceptance in the United States, now with eighty-four percent of Americans for the death Penalty, I urge you to join the effort to reverse this trend of accepting the ineffective and unjust death Penalty. We must not allow our desire for revenge to interfere with our sense of justice.

3/20/85
Attachment #17

THANK YOU, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE...

MY NAME IS RON MILES AND I AM THE DIRECTOR OF THE STATE BOARD OF INDIGENTS' DEFENSE SERVICES, THE AGENCY RESPONSIBLE FOR FUNDING OF DEFENSE SERVICES TO INDIGENT DEFENDANTS. I AM HERE TODAY NEITHER AS AN OPPONENT OR PROPONENT OF HOUSE BILL No. 2135 BUT MERELY IN MY OFFICIAL CAPACITY AS DIRECTOR FOR THE BOARD IN POINTING OUT ONE OR TWO CONCERNS YOU MAY HAVE WITH THE EFFECT OF THE BILL.

THE BILL WAS AMENDED IN THE HOUSE COMMITTEE OF THE WHOLE TO REQUIRE THE BOARD TO REVIEW AND PAY CLAIMS FROM ATTORNEYS APPOINTED TO REPRESENT DEFENDANTS CHARGED IN DEATH PENALTY CASES. SINCE 1982 THE BOARD AND NOT THE SUPREME COURT, AS THE BILL ORIGINALLY PROVIDED, IS THE AGENCY RESPONSIBLE FOR MONITORING THE COSTS ASSOCIATED WITH FELONY DEFENSE CASES. SO THE AMENDMENT WAS A LOGICAL ONE BUT IT NOW PUTS THE BOARD IN THE POSITION OF ATTEMPTING TO HOLD THE LINE ON EXPENDITURES UNDER A BILL THAT IS ANYTHING BUT CHEAP.

RECENT ESTIMATES OF DEFENSE COSTS IN CAPITAL CASES FOR THE STATE AS A WHOLE ARE NEARLY \$4 MILLION. THESE ARE JUST DEFENSE COSTS, AT BOTH THE TRIAL AND APPELLATE LEVELS. BECAUSE WE ARE CONCERNED WITH THE QUALITY OF REPRESENTATION AND NOT SIMPLY THE COSTS INVOLVED WITH THESE CASES, I HAVE A RECOMMENDATION WHICH WILL SATISFY BOTH ENDS, AND , IN FACT, IS MORE IN LINE WITH ABA STANDARDS ON THE SUBJECT OF DEATH PENALTY DEFENSE.

THE BILL AS IT IS CURRENTLY WORDED ALLOWS THE DEFENDANT TO CHOOSE HIS OR HER OWN ATTORNEY. THIS PROVISION DOES NOT NECESSARILY GUARANTEE COMPETENT OR EFFECTIVE ASSISTANCE OF COUNSEL, AND IS AS I HAVE INDICATED A VERY EXPENSIVE PROPOSITION. I AM SUGGESTING THAT THE BILL BE AMENDED TO ALLOW THE COURT TO APPOINT THE CHIEF PUBLIC DEFENDER IN THOSE DISTRICTS THAT ARE CURRENTLY SERVICED BY A PUBLIC DEFENDER OFFICE.

OUR PUBLIC DEFENDERS ARE AMONG THE MOST EXPERIENCED CRIMINAL DEFENSE LAWYERS IN THE DISTRICT, SINCE THEY HANDLE NOTHING BUT FELONY CASES-- AS MANY AS 170 PER YEAR PER ATTORNEY. SINCE THEY ARE SALARIED EMPLOYEES OF THE STATE THEY WOULD NOT BE SUBMITTING A BILL FOR THEIR SERVICES IN THESE CASES AND WHILE THERE WILL BE A PERSONNEL IMPACT IT WILL BE FAR LESS THAN THE \$50,000 PER CASE WE WILL FIND IN NON-PUBLIC DEFENDER DISTRICTS.

THIS AMENDMENT WILL, ON THE ONE HAND, ENSURE A HIGHER QUALITY OF REPRESENTATION AND, ON THE OTHER HAND, REDUCE THE FISCAL IMPACT OF THE BILL SIGNIFICANTLY.

PROPOSED AMENDMENTS

House Bill 2135

Sec. 26.

0639 (d) If it is determined that a defendant charged with a crime
0640 for which a sentence of death may be imposed is not able to
0641 employ counsel, as provided in K.S.A. 22-4504 and amendments
0642 thereto, the defendant shall be given an opportunity to designate
0643 counsel of the defendant's own choosing to be appointed by the
0644 court to represent the defendant, which counsel shall be a
0645 person licensed to practice law in this state and a resident of the
0646 judicial district in which the case is pending or of a judicial
0647 district which is contiguous thereto. If the defendant does not
0648 designate such counsel within a reasonable time, not to exceed
0649 two weeks after given the opportunity to do so, the court shall
0650 appoint counsel to represent the defendant in the manner pro-
0651 vided by subsection (c). In those judicial districts having a
public defender office, the chief public defender for that dis-
0651 trict shall be appointed in all cases for which the sentence of
0652 death may be imposed. The court ~~or magistrate~~ may disapprove
0653 counsel designated by the defendant, but such disapproval shall
0654 be for good cause only and the reasons therefor shall be entered
0655 in the record. If the court disapproves counsel designated by the
0656 defendant, the defendant shall be given an additional opportu-
nity to designate counsel under this subsection.

Sec. 27.

0697 (b) When a defendant has been convicted in the district
0698 court and a sentence of death has been imposed, the judge shall
0699 inform the defendant that the supreme court shall review the
0700 sentence and that the defendant is entitled to appeal the con-
0701 viction at the time of the review, as provided in section 10. The
0702 court shall further inform the defendant that if the defendant is

Sec. 27, Cont.

0703 financially unable to pay the costs of review and appeal, the
0704 defendant is entitled to designate counsel of the defendant's
0705 choosing to be appointed by the court to represent the defend-
0706 ant on the review and appeal and to be supplied with a tran-
0707 script of the trial record. If the court determines, as provided in
0708 K.S.A. 22-4504 and amendments thereto, that the defendant is
0709 not financially able to employ counsel, the court shall give the
0710 defendant an opportunity to designate counsel of the defend-
0711 ant's own choosing to be appointed by the court to represent the
0712 defendant. Such counsel shall be a person licensed to practice
0713 law in this state and a resident of the judicial district in which
0714 the trial was held or of a judicial district which is contiguous
0715 thereto. If the defendant does not designate such counsel within
0716 a reasonable time, not to exceed two weeks after given the
0717 opportunity to do so, the court shall appoint counsel to repre-
0718 sent the defendant in the manner provided in subsection (a).

In those judicial districts having a public defender office, the
chief public defender for that district shall be appointed in all
cases for which the sentence of death has been imposed. The
0718 court may disapprove counsel designated by the defendant, but
0719 its disapproval shall be for good cause only and the reasons
0720 therefor shall be entered in the record. If the court disapproves
0721 counsel designated by the defendant, the defendant shall be
0722 entitled to designate other counsel under this subsection.
0723