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Capital Punishment

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CAPITAL PUNISHMENT

In discussing capital punishment in this State it is frequently assumed that North Dakota has abolished that punishment in all cases. As the lawyers know, however, this is not true, for the statute (Sec. 11110a1) says: "Provided, that if a person shall be convicted of murder in the first degree while under such life sentence he may be punished by death."

Should it not be borne in mind, then, that this proviso was put into the law for a purpose? What was that purpose, if it was not protection to the men in charge of the state penitentiary? And if that was the purpose, then we have a right to assume that the members of the legislature believed that the proviso would act as a deterrent to the commission of such crimes within the walls of the penitentiary. Hence, if capital punishment is deemed a deterrent under those circumstances, would it not be a deterrent under ordinary circumstances; in fact, would it not be more of a deterrent to the commission of a first crime than a deterrent to the commission of a second, third or fourth?

The point was well presented at the annual meeting that so long as the individual is deemed, under the law, to have the right to take life as a matter of self-defense, there is no just ground for denying society the right to take life for the same reason. In other words, it was argued that the taking of life in cases of first degree murder was not by way of punishment, but by way of protecting society against other crimes of a similar nature, by the same individual or by others.

There is another consideration, however, and this point was not so thoroughly argued at the annual meeting. It is this: If the members of the legislature considered it necessary to protect, by the overhanging threat of capital punishment, the officials and employees of our penitentiary, who are always well armed, and, supposedly, always on guard, should not society exercise the same care in protecting the ordinary citizen, who is prevented from carrying weapons by law, and who is scarcely ever on guard?