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Hon. Richard J. Bartlett
Chairman, New York State
Commission on Revision of
Penal Law and Criminal Code
155 Leonard Street, Room 654
New York 13, New York

Dear Sir;

In amplification of my remarks before the Commission on November 19 I would like to refer the Commission to the definition in the case of People versus Lewis, 282 Appellate Division 267 wherein the Court said at Page 269 "the words 'in the heat of passion' do not necessarily require the manifestation of a violent rage. It is principally a state of mind in which there is an absence of design to cause death and an absence of a deliberate implementation of such a design".

My suggestion is that possibly a legislative approval of the definition as therein used together with a statutory clarification permitting the Courts to receive psychiatric evidence relative to this issue may accomplish ~~in~~ more readily understandable form, the same purpose sought in the proposed Section 130.20 Subdivision 2 of the Proposed Penal Law.

The opinion in People versus D'Andrea, 26 Misc. Second 95 I feel is pertinent.

In at least two murder prosecutions locally, the Courts have received psychiatric evidence relative to the question of intent resulting in actual convictions of Manslaughter. The question of insanity as such was not before the Court in either of these cases. I feel, however, that without some specific provision, the Courts generally would not feel compelled to accept such evidence.

I submit the foregoing, of course, realizing that you have already spent a great deal of time on this matter and study but with the hope that it may be of some little value in your final determination.

Yours truly,


LEON N. ARMER

LNA:pm