The Death Penalty's Value

Almost two years have passed since the Supreme Court handed down its confusing decision on the constitutionality of capital punishment. Six years have passed since a moratorium was declared on the death penalty, pending the Supreme Court ruling. From available statistics, it is now possible to draw some conclusions about the effectiveness of the death penalty as a deterrent.

Writing in Human Events, M. Stanton Evans concludes that capital punishment does serve as a deterrent. In 1935, a total of 10,587 Americans were murdered; by 1940, homicides had dropped to 8,329. The number of homicides continued to fall in succeeding years; 7,418 persons were murdered in 1955. A slight increase in homicides took place through the end of the decade. In 1960, a total of 8,464 persons were murdered — fewer than in 1935. During that period, of course, the population was increasing rapidly.

By the early 1960s, capital punishment was becoming unpopular, especially among Liberals who argued that it "brutalizes" society. It was said that no civilized society should countenance legalized murder; compassion demands that even the worst of murderers be given a chance at rehabilitation. In the 1930s, some 1,600 convicted murderers were executed; in 1960, only 51 murderers were executed. Liberal sentiment gained ground, and, in 1967, the last legal execution took place.

As the number of executions declined, the number of homicides skyrocketed. From the 8,464 homicides in 1960, the number of homicides increased to 22,000 in 1965. In 1971, a total of 16,183 persons were murdered, and the FBI estimates that 18,520 persons were homicide victims in 1972. The inescapable conclusion is that society may be keeping more murderers alive these days, but at a cost of an additional 10,000 homicides a year.

The growing number of homicides is beginning to reverse Liberal dogma against the death penalty. Public opinion polls show that support for capital punishment is hardening; five years ago, 36 per cent of respondents to a Louis Harris poll supported the death penalty. A similar poll last year showed that the number of supporters of capital punishment had increased to 59 per cent, with 10 per cent in the "not sure" column. Only 21 per cent, or less than one-third, opposed the death penalty, down from 38 per cent in 1960. More Americans are beginning to accept the theory that society has a right to protect itself and its members against murderers who have no respect for human life.

It is likely that Congress will act to reinstate the death penalty for some selected crimes — treason; a second conviction for spying; causing death during a kidnapping, a skyjacking, or a bombing of government property; and assassinating high-level government officials. Such legislation also should specify the death penalty for conviction on charges of murdering any law enforcement officer, or of murdering any prison guard or official. Prison guards and officials hardly enjoy much security as long as the only penalty a convict may face for murdering them is a second life term, or a third.

Any society that considers itself civilized needs to recognize that some crimes are so terrible that they require extreme penalties, including capital punishment. Surely the most wanton cold-blooded murder calls for the forfeiture of the murderer's own life. Edwin A. Roberts states the case well in his National Observer column: "Rather than brutalizing the public, capital punishment can satisfy the innocent that their lives are held by society to be of the highest value and that the ultimate penalty for the worst of felons is a proper and civilized reflection of that appraisal. " The innocent deserve that much at least, and they will receive it in a society that values the life of the victim more than the life of his murderer. If the death penalty deters only one murder, it has proved its worth.
ALL THE YOUNG YEARS of my life I was against capital punishment. Passionately, and with all my heart, as I opposed Richard Nixon (the first Richard Nixon), Joseph McCarthy and the Pentagon.

But years have passed, times have changed. McCarthy died in Ignominy, Nixon broods on Elba, and I believe in capital punishment. More than believe in it, I long for it with an eagerness that, in truth, frightens me a little. But I am not ashamed.

My upbringing, my early religious training and my expensive education all converged on one central tenet, which became one of the few values I have been able to wear proudly and intact from my ponytail and saddle-shoes teens through the radical chieftain of my twenties, all the way to that moment in my life when I began to sympathize with Helen Trent—and that is the value of human life.

Virtually every decision I have made that required a value judgment, from whether or not to support the war in Vietnam to abortion, to whether or not to get a divorce, was ultimately based on, or strongly influenced by, the reverence I have for human life. Moreover, respect for human life is, and should be, at the heart of every social contract, and every major religion.

IT IS BECAUSE of this reverence, which civilized society has always— if hypocritically—acknowledged, that the taking of human life outside the formal carnage of war has always been taboo, along with incest and cannibalism.

And, in consequence, the unwarranted taking of a life was, in the past, repaid with the most awful and solemn penalty society was capable of meting out. A murderer paid for his savage act with his own life, and the ledgers of cosmic justice moved a hair closer to balance.

Forget about deterrence. (Although Prof. John Q. Wilson, author of Thinking About Crime, shrewdly points out that even when legal, the death penalty has been so infrequently carried out in this century that its deterrence capability simply cannot be determined.)

Execution— preferably in public—should be a solemn ritual of great seriousness, a ritual that powerfully inculcates in all its citizens that the state so values human life that it must mark its violation with the most awful penalty available.

Those who assert that capital punishment is wrong because the state should not itself take on the guilt of murder completely miss the point. For by failing to take the life of those who murder their fellow men, the state becomes a passive accessory after the fact.

The state says, in effect, that murder is no more serious an offense than embezzlement or shoplifting. When children grow up in a state that often releases even the most sadistic murderer after a relatively short prison sentence, or, in the extreme, no sentence at all, how can these children...
fail to get the message: that neither their
either their society gives great weight
to human life—or its destruction?

MY DESIRE FOR capital punishment
became particularly obsessive recent­
ly when within a two-week period the
public was treated to interviews with
young mugger-murderers. This chilling
young man described the sang-froid with
which he killed innocent people, and when
asked if he felt guilty responded (smiling)
that, no, after a murder he usually
laughed, finding slaughter both droll
and mundane.

The fact that this man is still free, let
alone alive, to tell his tale unpunished is
an invitation to millions of young, poor or dis-
affected men to do the same.

Then there was a news story of a 15-
year-old boy who had just been arrested
for the brutal murder of a harmless 86-
year-old woman, committed for all of $4.3.
The police officers who questioned him
were agog at the boy's lack of remorse.
"He wasn't one bit sorry. He just sat there
eating a tuna fish sandwich. From time to
time, he laughed." Oh, yes—because of
the boy's age, his name could not be report­
ted, for could he be sent to jail.

ARE WE REALLY to believe that letting
these two killers go free shows a
reverence for human life? That seems so
insane.

Indeed, it is the innocent victims of
these amoral creatures whose lives deser­
ted, but did not receive, reverence. And by
committing the inhuman act of wanton
murder, the aggressors forfeit their right
to be valued as highly as those who did not
kill. And I don't give a damn if inside every
murderer there's a Birdman of Alcatraz
dying to get out.

A final word about revenge. Those who
lobby against the death penalty desire
revenge as its justification. Under other
circumstances, perhaps they would
deride jealousy, envy, gluttony and pride.
But these are all real and honest feelings
that most people act on and give in to at
some point in their lives. For the same
reason that we sometimes eat too much
when we're no longer hungry, we hope
to taste revenge against one who has killed
someone we love, because it tastes good.

Nellie Lee, until recently speech
writer for New York's Human Resources
Administrator James R. Doughin, now
is similarly employed for a major indus­
trial corporation.

*New York Times Service*
Stopping Terrorism

Early in August, five members of the super-fanatical Japanese Red Army burst into a building in Kuala Lumpur, Malaysia, housing the American and Swedish embassies; captured an American consul, a Swedish diplomat and 51 other hostages; forced the Japanese government to fly five of their imprisoned comrades from Tokyo to Malaysia lest the hostages be massacred even as Premier Miki met with President Ford in Washington, and, finally, with four Japanese and Malaysian officials in tow as substitute hostages, commandeered an airplane to Tripoli, Libya.

While this outrage was being perpetrated, there was only a low-level protest within this nation and elsewhere in the world, if we read the signs correctly. Persons not directly bound up with the lives of the hostages may have felt an overwhelming sense of deja vu since there have been so many acts of international terrorism in recent years. But they, like the hostages, were affected because every success of one of these outlaw bands diminishes the freedom of travel and the security of civilized persons just a little bit more.

One of the most chilling things about the "Red Army" and similar outfits is that such a tiny group can cause so much trouble to people of many nationalities. The Japanese group, for example, is thought to have only approximately 35 members abroad; yet, it has now directed six commando operations in 39 months against targets in Israel, Kuwait, Singapore, Amsterdam and the Hague in Holland, and now Malaysia. The smallness of the organization apparently makes it all the more difficult for authorities to ferret individual terrorists out.

Another cause for concern is the linkage that diverse terrorist groups have established with one another. Experts have identified connections between the Japanese Red Army, the Baader-Meinhof gang in West Germany, the Tupamaros in Uruguay and other "liberationist" groups that suggest the presence of a network. Guerrillas in several "cancer" have reportedly gone to the Middle East for instruction from radical Palestinians.

Despite the occasional guerrilla victory, progress has been made in the worldwide war against terrorism. Skyjacking has declined significantly, in part because of improved security and in part because of decisions of nations once popular with terrorists, such as Algeria, Cuba, Iraq, Kuwait and South Yemen, to remove the welcome mat for skyjackers. A first was achieved recently when Syria, an Arab state, executed Arabs who were described as terrorists.
But two reasons exist for the continuation of terrorism as a major problem for civilized people. Simplified, the reasons might be stated as follows: (1) Libya, and (2) the Soviet Union. Libya provides terrorists their haven, and the Soviets their supplies. Without either one of these friends, it would be much harder for terrorists to endanger the lives of innocent international travelers and diplomats and threaten to disrupt civilization's good works.

Only Libya—the Libya of professional revolutionist Moammar Khadafy—would agree to take the Kuala Lumpur terrorists. India demonstrated exactly the right attitude toward the terrorists by denying them even the right to use Indian air space en route to Tripoli. If Libya had refused them harbor, the terrorists would have had no place to go and their malevolent plot would have failed. The international community ought to ostracize Libya, diplomatically and economically, until it stops giving aid and comfort to anarchists.

As for the Soviet Union, solid evidence exists that the Soviets are giving vital training and supply to terrorists working within the Western world. Members of the Baader-Meinhof gang have confessed to being secretly financed by Moscow. The Soviets have supplied arms to the Irish Republican Army in Northern Ireland through third parties in Czechoslovakia. The Soviets have armed Red terrorists in Portugal. And of course, the Soviets have long been active in supporting the Palestinian commandos whose activities have hurt the chances of obtaining peace in the Middle East.

Although it would be harder to deal with the Russian connection than with the Libyans, a way does exist to bring pressure on the Soviet Union to reduce its backing of groups dedicated to destructive aims. The United States is the one country that can do this. The Brezhnev regime professes to want détente—easing of tensions—with the U.S. and the West. It wants to make massive purchases of grain in North America in order to bail out, once again, its incredibly inefficient agricultural system. It wants trade concessions, computers—a whole shopping list of goodies from capitalist markets. But it is paradoxical that the Soviets bankroll outlaws dedicated to overthrowing the very system that the Soviets wish to profit from. The Ford administration ought to strike a hard bargain for the continuation of détente. And part of it ought to be: You want to buy our products? Fine. Then let's have your cooperation in stopping terrorism.
Slayer 'Did It With Honor'

By Eugene L. Meyer

"I feel that what I did, I did with honor, and with the intention of making my country a more humane place," said James A. Tuller, former Commerce Department official and anti-Communist activist. Tuller was interviewed by the author on the fifth floor of the Arlington jail, where he sits with sons, Bryce, 22, and Jonathan, 21. The three have been held without trial since early 1972, when they were captured by the FBI and charged with conspiracy to commit armed robbery.

Tuller, 52, his two sons assassinated this past summer, said he regarded the victims as "my country, and therefore I took an apology for what we had in mind." He knew, in the spirit of a human family of bank manager Harry J. Candee. "And behind," he chuckled, "it was fortunate that a criminal," as courageous men dutifully played out their roles as he saw it, which was to resist. And we saw our job as something like that. We did not think of ourselves as a great leader or anything like that. But we were fighting for something that we felt was right.

In the late 1960s, Tuller became involved with "a new kind of revolutionary philosophy," calling for "direct action" by a young, educated "urban garde." He felt the idea of a loyal organization in the country was "a possibility." Tuller stressed, "I did at no time belong to the Communist Party, and I had no desire or intention of giving my services to anything foreign. I don't think bombing or assassination is where it's at. It just can't be done."

The group "did all kinds of training, with weapons, with ideology, with reading. By early 1972, we had a group prepared to take some action. The group was kept small, Tuller said, so it wouldn't be intruded.

The group "would be very security-conscious and extremely tough," he said, "with two or three cars, following news leads in the media, able to get to any part of the country, where we would talk with local people and find indigenous leaders." Tuller said.

Operating under assumed names, he said, they "wanted to reach into local situations and get people to take some kind of direct action (not as their own government, not as their own political force). We wanted to act as catalysts."

"I wouldn't want you to think that I looked upon myself as a great leader or anything like that. I was just something that I felt. This was my contribution." The group "did all kinds of training, with weapons, with ideology, with reading. By early 1972, we had a group prepared to take some action. The group was kept small, Tuller said, so it wouldn't be intruded.

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Charles Tuller, apparently shot to death by Tuller's son Bryce during a struggle at almost 3 a.m. on Friday in a Madison, N.J., neighborhood, had been involved in a small business before becoming involved in the civil rights movement of the early 1970s. He became, he said, a "friend of the Newark, N.J., Congress of Racial Equality (CORE), a welfare worker in North County, N.J., and an employee of Newark's Banana and Industrial Coordinating Council, which brought jobs for blacks. In 1967, he became a trouble-shooter for the Justice Department's Community Relations Service. From there, he went to the Equal Employment Opportunities Commission (EEOC) and his Commerce Department's Office of Minority Business Enterprise (OME) as a $2,000-a-year official.

"Over these years, I began to realize there were basic things wrong, but we were raising symptoms and not deeper roots."
Slayer-Hijacker:
I Did It With Honor

"We couldn't force violence on anyone. You can't arrange a person smiling armed force. ... I didn't feel that this was our role at all. "Our physical conditioning and familiarizing ourselves with the use of arms and weapons." Tuller said, "was a defensive move."

This defensive strategy turned offensive when Tuller realized we lacked the funds to carry out his plan.

In October, 1972, Tuller resigned his job at Commerce and told friends he was going to Canada. It was a cover story. He had decided to rob a bank to finance his group. "I'd never robbed a bank before, We were amateurs," Tuller said.

The Tullers felt they were prepared, "part by design, part by living," to succeed. Bryce had worked for the phone company, "just because it was his job," and then joined the Army where he learned about firearms.

"It may seem strange," Charles Tuller said, "but we were a very patriotic group, in the sense of being 100 per cent American. Bryce really wanted to go into the service, at the same time we were opposed to all that was happening in Vietnam. That sounds crazy, but that's the way it was." Jonathan Tuller also had experience working as a lineman for the Virginia Electric and Power Co.

At the bank, Charles Tuller recalled, "Each man had a specific job to do. Bryce and Jon were to cut the telephone wire into the back room (no noise phone repairmen uniform) and get the money to accompany them in the back room where the terminal box was.

"Then, when they got there, they were going to get his keys to lock the back door. I was to go in the bank as a casual customer." The senior Tuller was armed with a 9-millimeter Luger pistol, the others with Browning automatics.

The fourth man, William W. Graham, a friend of the younger Tullers, was to cover the back door until it was locked.

"I was supposed to wait until the other men came out of the back room and then go ahead with the robbery, the elder Tuller said of the events planned to occur mid-morning on Oct. 25, 1972.

"We didn't see what happened in the back room," Tuller said. "As I was told about it later, (Candee) was sort of reacting to it like it was a joke. You can't rob my bank, and I'm not going to give you the keys. And it led to a scuffle (during which) Bryce's gun went off."

Meanwhile, officer Gonzalez had entered the bank on his rounds. After the shot went off in the back room, Tuller said, "All of a sudden, he made a dash. There were two glass doors that swung open, and then to the W was a solid metal door (leading to the back room. He ran back and fired twice into the metal door.

"A fraction of a second after that, I whirled around--I had to push some people out of the way who were between him and I--and I fired and hit him in the back ... and he fell through the two glass doors. And at the same time, or a fraction of a second later, Jim opened the solid metal door and (Gonzalez) was lying there with his gun still in his hand, and I guess Jon thought he still might be alive. Then Jon fired several times.

The four would-be revolutionaries then fled, leaving behind two dead and another injured bank employee. And they had nothing to show for it except Bryce's wounded hands, hit in the crossfire.

"When we first got out of the (Washington) area, you know, we were pretty shook up," Tuller said. "My first thought was getting attention for Bryce's hands Somewhere along the line, it occurred to me that I knew a surgeon in Houston."

They arrived in Houston two days later, on a Friday, and the surgeon was out of town for the weekend. "We debated what we were going to do," Tuller said. "We decided almost on the spur of the moment, Bryce said. "Why don't we try to get a plane and get to Cuba, and maybe we can get my hands taken care of down there, and get out from under the heat for awhile. That's all there was to it."

During the hijacking of a Boeing 727, an airline ticket agent was killed allegedly by Tuller, according to one account. Since Tuller and his sons have yet to be tried for that killing and the hijacking, he declined to discuss them.

"We stated when we first came into Cuba that all we wanted was treatment for Bryce's wounds, a short rehabilitation period, and then we wanted to come back to the States. We were Americans. This was where our problem was. And my contention all along was that we did not go to Cuba to hide behind somebody else's revolution."

The Tullers refused all
They lived on small stipends provided by the government, which also paid for their hotel and meals, Tuller said. They also split with Graham, the fourth member of their group who remains in Cuba, working and going to school. Tuller is contemptuous of him. “Graham was a coward,” at the bank and all through the thing,” Tuller said. “He left his post. He was in shock. He was just a very scared young man. He couldn’t function. He’s not a good American. He’s hiding in Cuba, taking advantage of the Cuban revolution to preserve himself.”

Tuller said he and his sons “had some idealistic views about Cuba” that were shattered by personal observation. What they saw, Tuller said, was a Cuba dominated by Russians and by a caste system in which most of the population is “locked in place” with very little opportunity “to become part of the decision-making mechanisms.”

Suddenly last June, Tuller said, “We were told if we wanted to leave Cuba we could.”

They were given $1,000, according to one report, (Tuller said “a couple of hundred apiece”...), and bought plane tickets to Nassau via Kingston, Jamaica. In Nassau, they passed through U.S. customs without detection and boarded a Miami-bound flight.

Tuller said they intended to pick up where they had left off in their planned political mission, but that “the first thing we knew we had to do was get money, and we knew there was only one way to get it.”

They took a Greyhound bus to Richmond, bought some shotguns, rented a van and headed for the Washington area, where they held up a MacLean Super Giant for about $7,000, Tuller said.

Then, they went to Fayetteville, N.C., where Bryce had been stationed in the service. They tried to rob a K-Mart. While Jonathan waited outside and Charles Tuller sat in the parked van a few blocks away, Bryce went in alone and was overpowered by store employees.

Tuller said Jon thought he heard a shot inside, and when several police cars arrived, he rejoined his father. “I assumed Bryce was either wounded or killed,” Tuller said. “We had a plan that if we ever got split up, three days later, we would meet at the Washington Monument,” Tuller said.

Three days later, Bryce did not show up. “We just decided we were not going to leave Bryce behind,” Tuller said. “That’s the kind of family we are.” On July 7, they turned themselves in to the FBI.

“All I can say is we were three of four people who tried, and the fact that we went, seemingly very successfully, I don’t think at all detracts from the idea that people have got to dedicate themselves in some meaningful way to stopping this suicide we’re involved with....”

“It’s horrendous. The President of the United States today can’t even drive around without having his car smashed into, people shooting at him. It’s crazy. It’s sad.”
Death-Penalty Battle Looms
Bill Revising Criminal Code Stirs Controversy

By John P. McMillan
Washington Post Staff Writer

The Ford administration is asking Congress to expand the use of the death penalty in the course of revising and reforming the code of federal criminal law.

Opponents of capital punishment are urging Congress to soften the death penalty or at least not extend it.

Preparing for a Senate debate late this winter, anti-death-penalty forces are confounding that no extension of capital punishment should be attempted as part of enacting the new and complex 798-page code proposed in S. 1, the Criminal Justice Reform Act of 1975.

The bill, still controversial after a decade of work by criminal-law experts, is slated for favorable action soon by the Senate Judiciary subcommittee on Criminal Law, whose chairman and ranking Republican, John L. McClellan (D., Ark.), and Roman L. Hruska (R., Neb.), will lead the fight for full committee approval.

So lengthy and controversial is the bill that committee members have tentatively agreed to wait four weeks before attempting to tackle it. At least six full committee sessions are scheduled before Janurary.

Despite the lumbering pace of the bill and the almost total lack of action in the House, many observers expect Congress to regroup at least a compensating bill before the '76 elections.

A major question is when experts many of the bill's proponents insist is especially the creation of a well organized and effectively deterrent body of criminal law will be jeopardized if Congress gets sidetracked in controversy about the death penalty and similar as usually and new forms of punishment for federal crime.

Other criminal-law specialists agree with the Justice Department that any rational criminal code, should set forth not only the basic list of serious federal crimes, but also the full range of punishments, and that Congress must directly confront the issue of which crimes should be capital and which should not.

Debate on the issue, thus far, has been more intense in the House, where members have often clashed over the death penalty issue.

In the Senate, the debate has been more muted, though the Senate Judiciary Committee has twice narrowly voted to include the death penalty in the new code.

The guidelines include a list of aggravating factors, such as a woman's disregard for life or a "heinous" method of carrying out the crime, that would automatically produce a death sentence if the jury found the defendant was guilty of murder, treason, espionage, sabotage or murder.

One key question on the death penalty issue is whether Congress will allow the death penalty to be imposed for less serious crimes such as murder, treason, rape and delivering defense information to aid a foreign government, the specialists agree.

Thirty-four states have responded with new death laws purporting to eliminate the unconstitutionality of death penalty enforcement that scorned chiefly from widely applied leniency provisions.

Congress enacted a death provision for air piracy two years ago making murder in the commission of skyjacking the only federal capital crime the Justice Department will seriously define as unconstitutional.

Abolitionists such as Yale law professor Charles L. Black Jr. argue that no new law can possibly cope with what Black calls "the inevitability of capricious purpose and unfair application of the extreme penalty."

Black, along with the NAACP Legal Defense Fund, representing most of the 361 persons currently on death row in 27 states, argues that the current judicial system is still through with opportunities for prosecutors, police, juries and state governors to be partial at the expense of the poor and minorities.

The laws have text-two approaches. Some states have listed specific crimes for which execution is automatic upon conviction, purporting to eliminate any chance for obvious choices between those who live and who die.

With the skyjacking law as a model, the subcommittee majority agrees with the Justice Department that the mandatory approach would satisfy constitutional tests but that by totally eliminating factors for mercy it "cannot, however, withstand the test of humanity."

The bill would extend the death penalty again to treason, espionage, sabotage and murder, one change, bag favored by reformers and adopted in some states, calls for a separate hearing on the penalty after the defendant has been convicted. This would eliminate the hazard that new laws -- and has materialized in some federal trial that a jury might condemn to death a defendant who for strategic reasons chose to stand mute but thereby forfeited any chance to plead for mercy.

The guidelines include a list six aggravating factors, such as a woman's disregard for life or a "heinous" method of carrying out the crime, that would automatically produce a death sentence if the jury found the defendant was guilty of murder, treason, espionage, sabotage or murder.

A key question on the death penalty issue is whether McClellan and Hruska, who are anxious to complete work on the monumental code revision before the close of their long Senate careers, will be willing in foreign extension of capital punishment for purposes of postgraduate the issue until Congress can tackle it a separate legislation -- as one of a number of tradeoffs designed to accomplish their larger goal.
Crimes and Victims

THE DISMAYING STORY of Sally Ann Morris is one of the most tragic in this city and a reproach to the way that we live here. She was the victim of a robbery last June, when a man held her at gunpoint in her own home. She was shot in the back, and although she survived, she was severely injured and has since been in and out of hospitals, never completely recovering.

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The Washington Post

11/4/75

AN INDEPENDENT NEWSPAPER

THE DISMAYING STORY of Sally Ann Morris is one of the most tragic in this city and a reproach to the way that we live here. She was the victim of a robbery last June, when a man held her at gunpoint in her own home. She was shot in the back, and although she survived, she was severely injured and has since been in and out of hospitals, never completely recovering.

Mrs. Morris was shot in the back, and although she survived, she was severely injured and has since been in and out of hospitals, never completely recovering.

Here we have, in one unhappy case, the illustration of at least three serious and disturbing deficiencies in our social and economic conditions. First of all, the District of Columbia needs a more effective system of public welfare to prevent or mitigate the effects of crime. Secondly, there is a need for better protection of citizens against violent crime. And thirdly, there is a pressing need for improved housing conditions.

This second deficiency is demonstrated by the disappearance of the four suspects. Two of them were well known to the Metropolitan Police, who believe them to have been responsible for several armed robberies that had occurred in the city. The other two suspects were apparently driving a car for the robbers. The Ball Reform Act has properly emphasized restrictions upon the power of juries to hold suspects in prison. Suspects are entitled to a presumption of innocence, and in extreme cases they are entitled to freedom in which to prepare for trial. But it is hard to think of a better example of an injustice than that of the two men who were arrested for the robbery that took place in the shooting.

The Act has brought much improvement to the administration of justice in this city, but experience under it is beginning to raise questions as to whether the rights of the general public are being adequately protected.

Finally, there is always the fact that nobody with a few dollars can get a handgun—easy to conceal, simple to use, efficiently constructed for the single purpose of killing and maiming human beings. A recent letter to the editor of this newspaper angrily asserted that gun control laws were always ineffective and useless. Certainly state and local laws can't accomplish a great deal, in a society as mobile as this one. But the unrestricted sale of handguns is having the same kind of impact on American life as the traffic in drugs. A gun law certainly would not be totally effective. Neither are the heroin laws totally effective, but we haven't heard anyone offer that as a reason for legalizing heroin. A good gun law can make a real difference where it counts—in the homicide and robbery rates. If you don't believe it, compare the outrageously high rates in this country with those of any other advanced democracy. Incidentally, for young Americans—those in their late teens and early twenties—the homicide is now the second most common cause of death. This country pays a terrible price for this fascination with firearms. If President Ford and Congress can jointly screw up their courage to take on the violesteast handgun industry, they can reduce the risk to Americans from the heavily armed addicts, hustlers and professional stick-up men on our streets.

For Mrs. Morris, unfortunately, that help will come a little late.
New Justice, Old Issue

By Tom Wicker

There is little indication in the first reports on Judge John Paul Stevens, President Ford’s highly praised Supreme Court nominee, of his attitude toward capital punishment. But new demands in Britain for the restoration of the death penalty there are a reminder that this is one of the most difficult issues now before the court. Judge Stevens is expected to join.

The British outcry is the result of a wave of terrorist activity, presumed to be mostly the work of the Irish Republican Army. Mrs. Margaret Thatcher, the Conservative leader, favors capital punishment. After the murder this week of a prominent editor who was raising money to pay informers against the I.R.A., numerous other political leaders addressed their support for the death penalty as a weapon against terrorism.

This is not surprising. Terrorism in Britain has taken a nasty turn, with specific individuals like the motor, Hans McWhirter, being singled out for murder, while apparently random bombings of restaurants and other crowded places also are increasing.

This must seem particularly sensible and savage to many Britons, since the bombings and killings stem from the ancient trouble in Northern Ireland, and the I.R.A.—or whatever branch of it may be responsible for terrorism in Britain—is only one element in the complex situation.

Terrorism, moreover, might be the one crime most susceptible to the supposed deterrent effect of the death penalty. Every act of political terrorism, almost by definition, is a premeditated and deliberate step—however warped the minds of the planners.

If it were known in advance that persons found guilty of certain terrorist crimes faced a mandatory death penalty, even political fanatics might hesitate.

But that is by no means certain. Men and women who devote their lives to a cause are not necessarily “deterred” by anything, including threats of counterviolence. Terrorists in Spain recently responded to General Franco’s executions with more assassinations of policemen. From Algeria to Vietnam, the world has learned that fanatics, particularly that of persons who regard themselves as relentless patriots, can rarely be deterred, however ruthless the countermeasures.

Besides, in civilized systems of law, the death penalty can never be quite so “mandatory” as the statutes may make it seem. Convictions are sometime hard to get when execution is the certain result for the defendant; and there almost always remains some loophole, either for a lesser charge before or a commutation after a death sentence. This uncertainty could lessen whatever deterrent effect there might otherwise be—and, paradoxically, if an execution actually were carried out, that might only set off more murders and bombings, both as retaliation and as defiance.

Despite the plausible demands for the death penalty as a weapon against terrorism, therefore, it probably could be no more than that—and by no means a decisive weapon. Terrorism, in fact, can be eliminated only when its political cause is eliminated, which will not be easy in Northern Ireland.

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and it can be kept under acceptable control. If at all, only by the most unmitting police work or military action. Neither capital punishment nor anything else offers a shortcut.

Fortunately, the United States faces nothing like the terrorist problem in Britain, despite the starkened bombings of Puerto Rican extremists, and the occasional violence of the underground fringe of the radical movement. The death penalty here is usually cited as an attitude of violent crime—murder, rape and the like.

Such ones are clearly less “deterable” than political terrorism. They are more often acts of passion, acts done in a moment, for which seven punishments may well be warranted, but which could rarely have been prevented by the fear of such punishment.

Nevertheless, pressures for capital punishment also are rising in the United States. More than forty states have in one way or another acted to maintain the death penalty since the Supreme Court outlawed it in 1972, as it was then administered. Death sentences would be specifically provided in the proposed recodification of Federal criminal law. Solicitor General Bork has argued for the Department of Justice that execution is constitutional under the Eighth Amendment.

A case that could settle this issue is now before the Supreme Court, which may well have been waiting for a full complement of justices before reaching its decision. John Paul Stevens could conceivably be the deciding voice if so, he will face few more difficult questions in what probably will be a long tenure.
LONDON, Dec. 7 (UPI)—Authorities today refused the demands of four trapped Irish Republican Army gunmen for a plane and safe passage to Ireland in exchange for two hostages.

Police, who have descriptions of the gunmen, said they are "fairly certain" that Britain's most-wanted man, Michael Wilson, is one of them.

Wilson is wanted for questioning about several bomb explosions in London and the fatal shooting two weeks ago of A. Ross McWhirter, co-editor and compiler of the Guinness Book of Records.

The trapped gunmen are believed to have been responsible for the deaths of more than two dozen persons in the London area.

"The only chance is that they come out with their hands up," said Police Cmdr. William Fleming. "The negotiations will be conducted on our terms."

The "no deals" pledge set the stage for a possibly lengthy siege in the effort to capture all or part of the IRA gang that has killed 27 persons and wounded 540 in London-area bombings and shootings during the past 18 months.

Police occupied every floor of the besieged four-story downtown apartment block except the second, where the gunmen were holding a middle-aged couple.

Negotiations were going on via a special telephone lowered to the gunmen from the roof.

The four men were holed into the Dorset Square apartment of Mr. and Mrs. John Mathews Saturday night amid a hail of gunfire. They told Scotland Yard by telephone that they were members of the Provisional IRA and wanted a plane to fly them to Ireland.

"They are not going anywhere and are not getting any plane to Ireland," Deputy Assistant Police Commissioner Ernest Bond said. "I'm reasonably satisfied that these men are the cell we have been looking for, responsible for the outrages over the last 18 months."

Mathews, 54, and his wife, Stella, 53, were reported to be safe, but Bond described her as a "little nervous."

Hundreds of police cordoned off the Dorset Square neighborhood, near Regent's Park and Baker Street, and brought in marksmen, dog handlers and sophisticated listening equipment to eavesdrop on the apartment.

Searchlights were turned on the second-floor windows through the night, a tactic to keep the gunmen awake and begin the psychological breakdown process. The gunmen left the Mathews' telephone off the hook during the night but, when the police called in the morning, said they would "see about" releasing the hostages, while repeating the demand for a plane.

The siege was the result of a police operation that blanketed London's posh West End with uniformed and plainclothes patrols in an attempt to trap the IRA bombers where they have been striking most.

When two shots were fired Saturday night from a stolen car at Scott's Restaurant, where one person was killed and 11 were wounded in a bombing Oct. 28, police gave chase. One police car rammed the vehicle, forcing its occupants to flee on foot.

No one was hurt. One passerby, arrested as an IRA suspect when he ran away, later was released.

In Ireland, meanwhile, two men were killed by a 300-pound mine they were apparently planting on a lonely border road in British-ruled Northern Ireland, Reuter reported. The road is frequently traveled by British army patrols.

(In Belfast, two young Catholics were seriously wounded by a gunman while walking across a stretch of empty lots.)
INNSBRUCK, Austria — Although the Winter Olympics open tomorrow with the usual pageantry amid the splendor of the Tyrolean Alps, there will be a different aura to the symbolic torch-lighting.

Some 5,000 police and soldiers, armed with automatic rifles and German shepherds, will be protecting 1,039 athletes, keenly aware of the Munich Massacre in 1972 in which 11 Israeli Olympians were murdered. They are mindful, too, of the terrorist attack in Vienna two months ago in which one man was killed.

As well as the opening ceremonies, there are scheduled training runs in the alpine downhill, six ice hockey games, and first runs for single-seat luge. The Games on snow and ice will continue through Sunday, Feb. 15.

The STRICTEST security at this security-conscious Winter Olympics is for the West German team. No Israelis are competing and the only Arab entry is a lone girl skier from Lebanon. But the West Germans are considered potential targets for an urban guerrilla attack.

Each of the lobbies leading to team quarters in the Olympic Village is guarded by a policeman and a soldier sitting behind a sliding glass window at a switchboard, admitting only team members and their invited guests.

In the West German lobby there are at least two silent soldiers along with the policeman. Behind the guards’ office a small storeroom used by other teams to hold their soft-drink supply has been turned into a bunkhouse equipped with a tier of beds.

“The West Germans are the ones to worry about. There might be an attack by the Bader-Meinhof gang,” a guard at the nearby Russian entry said. “Here we have no fears and besides the Russians have brought along their own security.”

At the Munich airport, where most of competitors arrive, there is no sign of special precautions and at the Austrian border there is only a cursory passport check.

Security begins with the electrified fence around the Olympic Village, a compound of 10- and 14-story apartment buildings on the southwest outskirts of the city.

After producing a special pre-Olympic accreditation pass with photograph attached, everyone connected with the Games must be photographed for a second pass. At the reception

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Not All Fun and Games in Austria

Special to the Washington Star

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ABC will begin 40 hours of extensive television coverage with a two-hour preview tonight (WMAL-7, 9 p.m.).

As the start of the Games neared, there was talk behind the electrified fences of the extraordinary protection, there was a fuss yesterday between the bob sledders and lugeurs, and Canadians continued to insist they could bring off the Summer Olympics in Montreal without too much difficulty.

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OLYMPICS '76

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See OLYMPICS, D-4
The death penalty

A Baltimore jury has convicted a 20-year-old man in the murder of six occupants of a house into which he threw molotov cocktails last July. Anthony L. Blackwell was the defendant in this first verdict requiring a death penalty under the General Assembly's capital punishment law, mandating death for eight categories of crime.

The Maryland law, and similar statutes in 33 other states, was passed after the Supreme Court's 1972 decision in the Furman case. In that decision, the court split 5 to 4 in ruling that capital punishment was unconstitutional, in part because of arbitrary and capricious imposition. Chief Justice Burger, who dissented, pointed out that the majority opinions implied that states might reinstate capital punishment under specifically defined conditions — a procedure generally followed in the 34 states.

Now, the Supreme Court shortly is to rule in five cases in which six men were sentenced to die under laws passed since 1972. The court thus appears to be preparing to decide whether there is any constitutionally permissible formula by which legislatures may impose the death penalty.

Capital punishment is an issue both profoundly complex and emotional. The incredible difficulty in making swift and certain punishment proportionate to the crime, within a criminal justice system that is as fallible as all human institutions, is daunting. But dismaying, too, is facing the imperative that a society protect itself from those who refuse to abide its legitimate sanctions.

We have strayed from that strict dictum, from motives as compassionate as they may be wrong. Ernest van den Haag, in his compelling book, Punishing Criminals, cites what may be an essential fallacy in this drift: "No matter what can be said for abolition of the death penalty, it will be perceived symbolically as a loss of nerve; social authority no longer is willing to pass an irrevocable judgment on anyone. Murder is no longer thought grave enough to take the murderer's life (though it will interfere with his freedom), respect for life itself is diminished, as the price for taking it is. Life becomes cheaper as we become kinder to those who wantonly take it ... Many of us no longer believe in evil, only in error or accident. How can one execute a murderer if one believes that he became one only by error or accident and is not to blame? Yet if life is to be valued and secured, it must be known that anyone who takes the life of another forfeits his own."

The spectrum of arguments, pro and con, cannot be recapitulated in this space. The deterrent question is particularly difficult.

We would note one aspect of that. A contention of abolitionists is that a very high proportion of homicides are "crimes of passion" — unpremeditated kilings that usually involve acquaintances or a romantic twist — and thus, by definition, not susceptible of deterrence.

However, a recent Rand Institute study for the New York City police department found that crimes of passion have significantly decreased, perhaps by as much as 36 per cent, and that an increasing number are "deliberate" murders — slayings in which the victim and slayer were unknown to each other — which occurred during the commission of another crime, such as robbery, for example. This trend, the study said, has been reflected in the dramatic upsurge in homicides there (390 in 1960 to 1,645 in 1974).

Unavoidably there is a racial component in the death-penalty debate. Several years ago, a black Illinois state senator refused to support a state moratorium on capital punishment. "I realize that most of those who would face the death penalty are poor and black and friendless. I also realize that most of their victims are poor and black and friendless and dead," his observation is worth reflection.

On the level of discussion here, capital punishment is rather abstract. It fails to include the acute problems of translating law to action, as in the arbitrariness cited by the Supreme Court. These problems, however, may be distinguished from the legislative role in determining whether capital punishment will be imposed; the imperfections of administration are liable to judicial remedy.

"It would be brutal to oversimplify the issue. But we must wonder if there is not a risk today of an equally brutalizing factor — a brutality of indifference. Is it possible that an ill-considered compassion and an abnegation of the chilling responsibilities that must be assumed in a free society can themselves erode the sanctity of life which we profess? Isn't there a dreadful insensitivity in valuing the life of a murderer over that of his victim?"
World terrorism flares anew—nothing seems to stop it

Pay the ransom? Or resist—and cost lives? Either way, terror spreads. New atrocities are stirring strong demands for international action.

Once again, the world is shocked by the international plague of terrorism—and perplexed about how best to deal with the growing menace.

Acts of terrorist savagery came in swift succession in late February and early March—in Israel, Germany and Argentina.

The chain of chilling incidents emphasized the frustrating nature of the problem, which keeps intensifying as nations fail to agree on ways to solve it.

Only the U.S. and Israel take a rigid stand, refusing any kind of capitulation to terrorists. Their determination has had little effect. A heavy toll of Israeli and American lives has been taken. But nations that have bowed to terrorist demands, such as West Germany, find that giving in doesn't stop terrorism either—it tends to feed on its successes.

Climax in Tel Aviv. The latest grim sequence of terrorist action was climaxed in Israel on March 6. Palestinian Arab guerrillas, landing in rubber boats, stormed onto the Tel Aviv waterfront, seized a hotel and took hostages. Al Fatah extremists of the Palestine Liberation Organization claimed responsibility for the raid, saying it was to show that no Middle East settlement can be reached without participation of the PLO. Israeli sources said that the attackers also demanded the release of imprisoned comrades.

In West Berlin, terrorists won. Five imprisoned anarchists were released as the price of freedom for kidnapped political leader, Peter Lorenz. More such demands are feared.

In Tel Aviv, soldiers search wreckage of hotel where 18 persons, including eight civilians, were killed as Israelis fought an invading band of Palestinian Arab terrorists.

Mr. Lorenz was released unharmed. German security officials warned of more kidnappings ahead. They pointed out that top members of the terrorist gang—the "Second of June Movement"—were still in jail.

An American dies. In Argentina, it was an American who was kidnapped and slain by terrorists.

John Patrick Egan, U.S. consular agent in Cordoba, was found shot to death on February 28, two days after he was seized by leftist guerrillas in an abortive plot to force the release of imprisoned confederates.

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