



PERSONAL

mt

HOUSE OF COMMONS

LONDON, SW1

Secretary's Tel. No.: 01 219 4065

16th July 1983

Dear Margaret,

Thank you for that delightful party last week.

As we discussed you referred to my speech in the capital punishment debate & expressed interest in reading it so I am sending a copy with this.

You also hoped that we might all get together in one place or other and of course we would like very much to do that so. I am in touch with Dennis

in the hope of finding
a date.

In case it is not
until after your holiday
may I wish you now a very
happy one. Love from
us both.

Yours ever

Phyllis

The Home Secretary is wrong, as are those who support amendment (e), to suggest that, by reintroducing the death penalty for acts of terrorism, we would reduce terrorism or the number of innocent lives that are lost. Exactly the reverse would be the case. Those hon. Members who might be attracted to amendment (e), not least because it has been given official approval by the Home Secretary, must weigh carefully whether such an act is likely to lead to more rather than less violence and more rather than fewer deaths. I suggest that more innocent lives would be lost. For those reasons and many others I ask hon. Members not to be beguiled by the Home Secretary's erroneous arguments.

There are powerful arguments against following the Home Secretary's suggestion. There are also strong arguments against the reintroduction of capital punishment for any of the other categories. The debate is a side show. What we are discussing is irrelevant to the real problems. The real issues are unemployment and the serious rise in serious crime. We should be addressing ourselves to those issues. We delude ourselves if we believe that by passing any of the amendments or the motion we shall solve any of the real problems or make any significant contribution to the reduction, which we all want, in serious crime. In any event, the return of capital punishment is another Victorian practice that is favoured by the Prime Minister that the country can well do without.

5.34 pm

Sir Ian Percival (Southport): For once, I can agree with the hon. Member for Knowsley, North (Mr. Kilroy-Silk), when he said that these issues should not be decided on emotional grounds. I ~~agree~~ agree with him and with my right hon. Friend the Member for Old Bexley and Sidcup (Mr. Heath) that we are discussing only one part of the much wider subject of crime and punishment and that it is one which sometimes obscures the other issues. However, that does not in any way detract from the fact that on its own this is a subject of immense importance to the House and the country.

I also agree with my right hon. Friend the Member for Old Bexley and Sidcup that decisions on this issue are entirely a matter for individual judgment. But from there I part company with him and the hon. Member for Knowsley, North. My judgment is that the ultimate penalty should be part of the armoury of weapons with which the state should be equipped to protect its citizens from the risk of being murdered. In that judgment there is none of the morbid preoccupation of which the right hon. Member for Sparkbrook (Mr. Hattersley) spoke, and which seemed to characterise so much of what he said—and so much of what the right hon. Member for Glasgow, Hillhead (Mr. Jenkins) said. Nor is there the least element of a thirst for blood or revenge in my decision. I have formed the view which I shall now try to express by having listened in the House over the years to hours and hours of what I have always thought to be some of the best debates we have, in which hon. Members speak independently from their heads and their hearts.

I have reached my conclusions on two practical grounds. First, I believe that the ultimate penalty is a deterrent. I entirely accept that there is no way in which to prove that absolutely but, heavens above, there is nothing new about that. Many things are proved in court to the complete satisfaction of either the judge or the jury on much less than absolute cast-iron evidence. One does

not normally get it. We have to approach the point in a practical way. No punishment deters everyone. Prison does not deter everyone. It ought to deter many people whom it does not deter, but I have not the least doubt that it does deter many people. Of course, the ultimate penalty does not deter, for instance, those who take the risk of killing quite deliberately. There are quite a lot of them. Nor does it deter the person who kills in a moment of passion. But I do believe that there must have been a substantial number of people who were deterred from killing, the thought having gone through their minds, by fear of the penalty.

The police gave us cogent evidence on this. In the early days during the debates about abolition, they said that the sophisticated up-market gangs who went for the big stuff would dismiss any of the gang who put a pistol in his pocket, because they knew the risks and how quickly a gun can be used even though its use was not intended, and how easily the entire gang could become liable to the death penalty. The police told us that if we removed that sanction such gangs would carry guns. They have been proved right. What we were told, what has happened and the logic of the argument impresses me. There is no way in which to measure deterrence but I am convinced, having listened to the arguments for many years that the death penalty was and would be a substantial deterrent. In my view, those who are at risk of being killed, and those whose duty it is to protect them, are entitled to demand of the state that it includes that deterrent in its armoury.

When I explain my second reason, I dare say that some people will accuse me of talking about retribution and revenge, but I am not. There are some killings that are so evil and deliberate that the only appropriate punishment—if we still think in terms of punishment, and I do—and the only form of expiation of sins—if we still think in those old-fashioned terms, and I do—is the exacting of the life of the person who took life.

Of course, I recognise the difficulties and the arguments put forward equally sincerely by others. I have considered those arguments over the years as carefully as I can. The possibility of mistakes is the most serious and places a heavy burden on those who have to administer the law when there is the ultimate penalty to ensure that there is no mistake. I recognise too the difficulty of identifying in which cases the penalty should be used, but here I differ in my conclusion from my right hon. and learned Friend the Home Secretary. I shall vote for all of the categories not because I want to see the death penalty in all of them but because I think we have first to decide the question in principle, and then get down to the identification of cases to which it is to be applicable. Once the principle has been decided, that second stage is of enormous importance.

I also recognise that questions must arise about the form of execution and its humanity or inhumanity. However, I think that the opponents of capital punishment too often overlook something. We are talking about taking life, but which is worse—leaving the State to take life in a humane way or to take somebody's life over 30 years, locked up in a cell with no liberty and disintegrating?

I see a sneer from a Member opposite but I ask hon. Members just to think about this. In these debates we have heard how, after 10 years in prison, a human being begins to cease to be a human being, disintegrates and becomes a cabbage. Those who say that execution is inhumane must

[*Sir Ian Percival*]

not draw the line there, but in espousing the alternative, locking somebody up for their natural life, must accept the inhumanity of that too.

Mrs. Jill Knight (Birmingham, Edgaston): While my right hon. and learned Friend is on this point, will he give us the benefit of his advice on, and knowledge of, a suggestion recently made that murderers who are particularly evil frequently take the lives of their fellow citizens while in prison and also those of warders and prison officers?

Sir Ian Percival: If my hon. Friend will forgive me, I will not develop that but it is something that has become more common since the repeal of capital punishment. Somebody in prison for the whole of his life has nothing to lose. However, I shall leave that point for others to develop, as I wish to be brief.

Execution in the case of terrorism is perhaps the most difficult part of the problem. Why is it different? First, it is because the acts in question are so often about as evil as one could possibly imagine. What could be more evil than blowing up a group of bandmen in the park, or in fact worse still, of course, going to the door of a house and shooting the father in front of his children and wife as so often happens? The nature of the acts of terrorism are usually among the most evil that one can imagine, but that is not the end of the special seriousness of these acts. The motive for which they are carried out is to terrify people out of what they want to do or into doing what they do not want to do. It is the most direct intervention with the liberty of the subject by the most violent and evil conduct. If we are to have this penalty for anybody, why should we ever think of not having it for those who commit such evil crimes for such atrocious motives?

Rev. William McCrea (Mid-Ulster): I have come from looking at three charred bodies and the body of another of my constituents. Those four were brutally murdered today by the IRA. Does the right hon. and learned Gentleman agree that there are many hon. Members in this debate who seem to be more concerned about the guilty than about the innocent, and that the House owes it to the nation and to the widows and orphans of the innocent that the murderer is put down and the innocent allowed to live?

Sir Ian Percival: The hon. Gentleman has confirmed by a specific instance what I was saying about the evil nature of so many of these acts. However, I am sure that he will forgive me if I complete my speech in my own way.

Two reasons are given to show why one should not apply the death penalty to those who commit acts of terrorism. One is that we shall make martyrs, but this is the most upside-down argument I have ever heard. If some people are so evil that they will make martyrs of the people who have committed such evil, so be it. I do not believe that any significant number of right-thinking people will glorify such people.

The other and most serious reason given against executing terrorists, and the right hon. Member for Hillhead seemed to be getting close to it, is that we dare not do it because it would create more violence and there would be reprisals. I beg of the House one thing. If the House should reject capital punishment for terrorists, let

it be made clear beyond any doubt whatever that it was not fear of reprisals that stopped us from doing it, for if it were to be thought that we were not doing it because we feared the consequences terrorism would indeed have scored an effective and important victory.

5.47 pm

Mr. Jack Ashley (Stoke-on-Trent, South): I was sorry to hear the intervention of the hon. Member for Mid-Ulster, (Rev. William McCrea), which seemed to suggest that those who support capital punishment believe that the opponents have no sympathy for the victim and are concerned only with the murderer. Nothing could be further from the truth. Those who are opposed to capital punishment—I am one of them—feel as deeply and as passionately as anybody else about the victims. There just happens to be a difference of view about what can be done about it.

We should be tough with violent crime. I am the only hon. Member who has introduced a Bill—this was some time ago—advocating that society should have the right of appeal against lenient sentences so that heavier sentences could be imposed on criminals. The Bill was defeated, but my proposal was that society should be able to appeal for heavier sentences, just as the criminal can appeal for lighter ones.

The right hon. and learned Member for Southport (Sir I. Percival) based his argument on two practical considerations, and I wish similarly to base my case for not restoring capital punishment on two practical considerations. I ask those hon. Members who are in doubt about voting tonight to bear in mind the experience of my constituent, Mr. John Preece who was convicted of the murder of a woman in Scotland. He was released eight years afterwards when it was discovered that the evidence on which he was convicted was bogus.

John Preece was convicted, not on some vague identification or some uncertain circumstantial evidence, but on the calm, cool, scientific evidence of a Home Office forensic scientist. Could anything be more impeccable than that? That was what the jury thought and convicted him of murder. Later, Dr. Clift, the forensic scientist, was discredited, both as a scientist and as a witness, by the Scottish Court of Appeal. His evidence was totally discredited.

If John Preece could be convicted on such evidence, which appeared to be foolproof, is it not much more certain that other people could be wrongly convicted? If there had been capital punishment when John Preece was convicted, he would almost certainly be a rotting corpse in a prison graveyard now, rather than walking the streets of Stoke-on-Trent.

That is just one example. There have been many more wrongful convictions. The House of Commons should not take it upon itself to impose such a risk, and such a shocking injustice, on innocent people, but that is what we shall do if we vote for the reintroduction of capital punishment.

Furthermore, I do not believe that capital punishment is a deterrent either to those who murder in hot blood or to those who murder in cold blood. By definition, those who murder in hot blood are not responsible for their actions and very few civilised societies accept that they should go to the gallows. Those who murder in cold blood regard death as an occupational hazard. In some cases they