Capital Punishment

RHODE ISLAND STATE LIBRARY

Subject: Abolition of the Death Penalty in Rhode Island

Compiled October 11, 2000.

In January 1838, a report entitled, "Report of the Committee On the Abolishment of Capital Punishments" was made to the General Assembly Committee to Revise the Penal Code. The recommendation was to abolish capital punishment. On December 31, 1843, Amasa Sprague, who was the brother of the first RI Governor named William Sprague, and the father of the second Governor (later U.S. Representative and U.S. Senator) William Sprague, was murdered. In January 1844, the General Assembly had abolished capital punishment for all crimes except murder and arson. Amasa Sprague was one of the wealthiest and most powerful industrialists in the state. John, Nicholas and William Gordon were indicted for the murder in March, 1844. Nicholas Gordon had been involved in a dispute with Amasa Sprague over the renewal of Gordon's liquor license.

The Gordon's, who were Irish Catholics, received the support of the state labor movement, which consisted primarily of Irish and Italian immigrants. At the trial in 1844, Nicholas and William Gordon were found to have ironclad alibis, but considerable circumstantial evidence was presented against John Gordon. John Gordon was convicted of the murder in 1844 and was sentenced to death by hanging, to be carried out on February 14, 1845. The labor movement had seen the trial of the Gordons as part of the struggle with the commercially and politically powerful industrialists represented by the Sprague family. John Gordon's conviction was appealed to the House of Representatives, which denied it by a vote of 36 to 27. It was then appealed to Governor James Fenner, who reviewed the conviction but refused to intercede.

John Gordon was executed for the murder of Amasa Sprague on February 14, 1845. This was the last execution in Rhode Island. On January 23, 1852, after seven years of discussion and debate regarding the merits of Gordon's conviction and of capital punishment, the Senate Committee on Education issued a report on the history and merits of capital punishment. This report contains literary quotations on the death penalty and contemporary U.S. and European practices regarding capital punishment. On February 11, 1852, the RI General Assembly abolished capital punishment entirely. In 1872, the General Assembly enacted the penalty of death by hanging for murder committed while under sentence of life imprisonment.

In a special session held on June 26, 1973, the General Assembly enacted Public Law Chapter 280, which provided for the penalty of death by lethal gas for murders committed by persons while under confinement in the state correctional institutions. In 1979, the Rhode Island Supreme Court issued the opinion that the mandatory death sentence provisions of 1973 Chapter 280 (RI General Laws 11-23-2) violated the cruel and unusual punishment prohibitions of the 8th amendment to the U.S. Constitution (State v. Anthony, 398 A.2d 1157 and State v. Cline, 397 A.2d 1309). On May 9, 1984, the General Assembly enacted Public Law Chapter 221, which removed the mandatory death sentence language from RI General Law section 11-23-2. There have been many pieces of legislation introduced since 1984 to reinstate the death penalty for specific crimes, but nothing has been passed into law.

Tom Evans
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STATE LIBRARY

REPORT OF THE COMMITTEE

ON THE ABOLISHMENT OF

CAPITAL PUNISHMENTS.

TO THE HONORABLE THE GENERAL ASSEMBLY:

JANUARY SESSION, A. D. 1838.

THE subscribers, two of the Committee appointed to revise the Penal Code,

RESPECTFULLY REPRESENT,

That it will appear by the Report of said Committee, which accompanies the bill presented by them, that they were divided equally on the abolition of capital punishments, and that it was agreed to report a bill that should not provide for their infliction in any case, that the point might be brought directly before the Legislature. In the report afore refered to, the committee have given their reasons for many of the alterations which they propose, in the laws now in force, but it does not and could not rightfully contain a single word for or against the abolition of capital punishment. Hence, the subscribers, in this separate report, propose to lay before the Assembly some of the reasons why they think such punishments ought to be abolished in this State.

The severity of such punishments favors the escape of the guilty. There are many persons in our community who will not complain or prosecute for a crime punishable with death. No man willingly takes a part in a capital trial against the prisoner. Many men summoned as jurors in such cases refuse to appear, and some who do appear, resort to unwarantable expedients to create a bias in their minds for or against the prisoner, that they may be challenged for cause. When a jury is empanelled in such a case, how often is it, that having reference to the consequences of a verdict of guilty, they adopt a bare, naked possibility of innocence as the legal reasonable doubt of guilt, and so acquit the prisoner. But if a verdict of guilty be rendered, and judgment of death passed, it is the settled practice to postpone the day of execution until after one, if not two sessions of the Assembly, that the convict may petition for pardon or commutation of sentence. How readily such petitions are granted, the records of the Assembly will show. When the life of any individual rests solely on the votes of the members of this Assembly, they can tell with what reluctance they pronounce the irrevocable doom, and how readily and gladly they seize upon every circumstance which seems to justify them in showing mercy. He who proposes to commit a capital crime is as well aware of these circumstances as we are. They enter into his calculation of chances of escape. He takes every means to escape detection. If detected he leans on the mercy of a jury, and if convicted relies with almost perfect security on the exercise of the pardoning power in his favor. The severity of the punishment which the law has affixed to his crime, is outweighed in his mind by the greater chances of escape from that punishment which that very severity creates. It is not the severity, but the certainty of punishment which deters men from the commission of crime.

Such punishments are unequal. The crimes punishable with death by our law are murder, rape, robbery, arson, burglary and petit treason. Some of these remotely affect property, some endanger life, and some are the destruction of life. Yet the same punishment awaits them all. He who willfully and maliciously poisons a whole family or assassinates his father, and he who raises a window in a dwelling-house in the night and puts in a finger with intent to steal, though he steal nothing, are hung on the same gallows. They are also unequal as regards the criminals themselves. Can it be pretended that he to whom life has become a burden, who has outlived friends and connections, and even hope itself, suffers equally with him who is surrounded with every thing to make life desirable? Does he who looks on death as the end of his existence, or as the end of all suffering, and he who has learned from reason and revelation a future existence of rewards and punishments, suffer equally? But the inequality of such punishments is conclusively shown from the fact, that they are frequently remitted, from the peculiar circumstances that attend either the crime or the criminal, or both. Nothing but a sense of their injustice, in certain cases, can justify the granting of a pardon, or even commutation of punishment.

Such punishments are considered peculiarly appropriate for murder and petit treason. This we apprehend arises from a mistaken idea of the design of punishments. Society has no revenge to seek against its delinquent members. The State deals out no vengeance to those who offend against its laws. Penal laws always look to the future.

The State requires obedience to its laws by the sanction of punishments for the good of the whole. The end in view is the prevention of crime. The sole object of punishment is to deter others from offending against the laws. Admit that death is the appropriate and the only appropriate punishment for murder; that life should be taken for life, and the law of retaliation ought to be re-established. An eye for an eye, and a tooth for a tooth, would constitute our whole penal code.

Capital punishments ought to be abolished, because they are irremediable. By false witnesses, and by wrong conclusions from testimony that is true, the innocent have been oftentimes condemned; nor will this cease to be the case, so long as man possesses such limited, finite means of ascertaining truth. Until he can unerringly decide, he should inflict no punishment that is in its nature irremediable.

Murder, with which we include petit treason, is readily admitted to be the most heinous offence that can be committed. All savage as well as civilized nations have so considered it. It is placed at the head of all penal codes, because it inflicts an irreparable injury on man. The life of a man is taken. Society is deprived of his services. His wife, his children, his parents, are deprived of a companion, a guide, and a support. The image of the Almighty is defaced, and the scene of his probation closed, by a fellow-being. Capital punishment produces the same results, and inflicts the same irreparable injury. The services of the most depraved may be useful to society. The most abandoned profligate cannot alienate the affections of a wife—a mother's heart still owns the felon for a son—a child regards him with reverence as a father. He stands the image of his God; though debased and dishonored, the object of the mercy of the indulgent Father of all men.

But it will be said, in the one case the evil is maliciously inflicted, in the other necessarily for the safety of society. We deny that necessity. We ask, we demand that it be proved. He who claims the right thus to trample under foot the holy ties of nature—to set a bound to human life—to send unbidden his fellow-man to the presence of his Maker—to arraign the long-suffering of Heaven—and to impugn the justice of God, ought to be ready to show that he acts from necessity. Have capital punishments been demonstrated to be necessary? If it could be shown that they had eradicated crime, that would not prove them necessary. Other means might have produced the same result. It will not follow that imprisonment or some other punishment would not also have done it. This result not only would not prove the necessity of capital punishments, it would not even raise a probability of such a necessity. But such has not been the result. They have formed a part of the penal code of every nation under heaven, yet the golden age has existed only in the imagination of poets. Crimes have ever existed, and history bears witness that in those nations whose codes have been the most bloody, there, crimes have more increased and multiplied. They have been fully tried and found insufficient to produce the desired result. When once a milder system has been fairly and fully tried, and found equally insufficient, then may the advocates of capital punishments contend that they have proved such punishments to be probably necessary.

The strongest argument against the abolition of such punishment, and the one most frequently resorted to, is, that it is a great innovation in criminal jurisprudence. To this it might be answered, if those punishments have been in use ever since society has been formed, and have not been found sufficient to repress crime, it is time some other system was tried. What possible evil can result from trying the experiment in this State? It will always be in the power of the General Assembly to repeal it, and it ill becomes a Rhode-Island man to yield to an argument of innovation. Up to the settlement of this colony, civil government had ever claimed the right to regulate the religious faith of its citizens. Only a single voice had been raised against it, in the whole human family. That was the voice of the founder of this State. The cry of innovation was raised against him. Dreadful scenes of anarchy and confusion, irreligion and immorality, were conjured up as the inevitable consequences of religious liberty. Yet, being convinced that "a most flourishing civil state may stand and best be maintained with a full liberty in religious concernments," against the concurrent practice of the whole world, the experiment was commenced. Two hundred years have passed and the experiment has succeeded—gloriously succeeded.

We appeal now to the Legislature of Rhode-Island to try another experiment—one which is approved by the philosophy of a Franklin, the philanthropy of a Rush, and the research of a Livingston. By adopting it before any of her sister States, Rhode-Island will show that she still possesses that independence of feeling, sentiment, and action, which characterized her first settlers, and will regain that proud pre-eminence among them, which she only lost by their imitating her example.

W. R. STAPLES.
SAMUEL Y. ATWELL.

Last Execution in RI: John Gordon for the Murder of Amasa Sprague 1437-40

THE HISTORY

OF THE STATE OF

RHODE ISLAND

AND

PROVIDENCE PLANTATIONS

BIOGRAPHICAL

NEW YORK
THE AMERICAN HISTORICAL SOCIETY, INC.
1920

g by E. C. Williams & Bro. NY

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the Jackson party candidate withdrew. His political influence was great, and he did not hesitate to use all his power for the candidates he supported and against those he opposed. His death, March 28, 1836, was caused by inflamation following a surgical operation to remove a bone lodged in his throat. Mr. Sprague is described as "a stout-built man, perhaps five feet ten inches high, light complexion, dark eyes, dark brown hair and weighed nearly two hundred pounds, plain and easy in his manners, but firm in speech, had a very pleasant expression of countenance, but was hardly ever seen to smile; his mind seemed wholly occupied in his business. In dress he was very plain. A person not acquainted with him would suppose him to be an ordinary farmer. No loud or boisterous talk by him to attract attention, but in quiet pursuit of his business he passed along." When a young man he was considered the smartest wrestler in his town. The young men of that time would frequently meet for the purpose of wrestling, and William Sprague was generally the victor. He was never quarrelsome on such occasions. His character has been described: "William was considered an honest, upright, and fairdealing man. There was no sly, underhanded, doubled-dealing, or mean trait in his character. He was very prompt in all his engagements or appointments to meet a person at any particular time or place. His word was always good, and he was considered by all with whom he dealt to be the last man to utter a falsehood in business matters. He was always prompt in his payments. To those he employed as laborers or otherwise he would use no such words as 'call again.'" His will, dated January 20, 1834, mentions his brother Peter; daughter Almira Rice; grandchildren, George, Amey, Ann, Brockholt, and Rollin Mathewson; children of his daughter Susannah; sons, Benoni, William and Amasa. Children: 1. Almira, married Emanuel Rice. 2. Susannah, married Obadiah Mathewson, of Vermont, who was engaged in the commission business in Baltimore, Md., where he died April 7, 1822, aged twenty-nine. 3. Benoni, married, Jan. 7, 1829, Lovisa Childs. 4. Amasa, mentioned below. 5. William, mentioned below.

(VII) Amasa Sprague, son of William (4) and Annie (Potter) Sprague, was born at Cranston, R. I., April 10, 1798. He had a limited education in the public schools, and early in life began to work for his father and was associated in business with him as long as he lived. After the father's estate was settled, he and his brother William formed the firm of Amasa & William Sprague, for the manufacture of cotton goods and calico printing. Amasa, the senior partner, continued to superintend the business of the print works, and Emanuel Rice, his brother-in-law, superintended the cotton mills at Natick. The business prospered. In politics, Amasa Sprague was a great influence in town and State. He represented his town in the Legislature in 1832, 1840 and 1841. His characteristics have been described by a contemporary as follows: "In personal appearance, he was a robust man, five feet, nine or ten inches high, weighing perhaps one hundred and ninety pounds; light complexion with dark brown hair. When his mind was relieved from business he was lively, jovial, fond of a good joke, companionable, social to the highest degree; not fond of fine clothes, or making a dashing display; never seemed to care to mingle with those of a haughty demeanor; he always seemed to enjoy himself best in the society of the common people in the humble walks of life."

Amasa Sprague was murdered by an Irishman, John Gordon, December 31, 1843. He was returning from the print works when he was shot by Gordon in the arm, and then clubbed to death with a gun. Gordon's brother had been refused a license to sell intoxicating liquor, on the remonstrance of Mr. Sprague. The murderer was executed at Providence, after trial and conviction. Amasa Sprague married Fanny Morgan, of Groton, Conn., and they were the parents of the following children: 1. Mary Ann, who married (first) John E. Nichols; (second) Frank W. Latham. 2. Almira, who married Hon. Thomas A. Doyle, mayor of Providence. 3. Amasa, mentioned below. 4. William, mentioned below.

(VII) Governor William (5) Sprague, son of William (4) and Annie (Potter) Sprague, and brother of Amasa Sprague, above-mentioned, was born in Cranston, R. I., November 3, 1799. His education was limited to that furnished by the public schools of the day. He was, however, gifted with great mechanical genius, and when but a boy succeeded, after all other weavers in his father's employ had failed, in making cloth in the new Gilmore looms. He assisted in the building of the mill at Natick in 1821, and on the death of his father united with his brother under the old firm name of A. & W. Sprague. The business was pushed forward rapidly, and on July 6, 1848, the water privilege on Flat river in Coventry was purchased, a new dam built, and a stone mill erected with many new houses. In 1851 another mill was erected with two hundred and fifty looms, and more houses in what is now called Quidnick. In 1852 the firm added another small cotton mill to its holdings, between Centerville and River Point village, and there erected a new dam and a large cotton mill operating six hundred and twelve looms. On the western slope at the rear of the mills a large village of tenement houses was built for operatives and named Arctic. Mr. Sprague realized the necessity of good methods of transportation and assisted in procuring the charter of the Hartford, Providence & Fishkill Railroad Company, and his influence was successfully exerted to win the financial support of the city of Providence. He was able to have the line of the road pass near all the mills of his firm. While the railroad was building, the firm bought a water privilege on the Shetucket river between Willimantic and Norwich, Conn., and erected the largest cotton mill then existing in New England.

Early in life Mr. Sprague was an influence in politics. He was elected a representative to the General Assembly from Warwick, and took his seat, May 11, 1829; was reëlected in 1830 and in 1831. He had become a member of the Masonic order shortly after coming of age, but at the time of the anti-Masonic agitation withdrew from the fraternity and was one of its bitterest enemies. In the Assembly he succeeded after a stormy fight in having most of the Masonic charters of the State abrogated. He was elected speaker of the House in 1832, 1833, and 1834, and was defeated for

PUBLIC LAWS

OF THE

STATE OF RHODE ISLAND

AND

PROVIDENCE PLANTATIONS

PASSED AT THE

GENERAL ASSEMBLY

AT THE

Special September Session, A. D. 1972
JANUARY SESSION, A. D., 1973
Special June Session, A. D., 1973

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE

PROVIDENCE
THE OXFORD PRESS, INC.
1973

State of Rhode Island and Providence Plantations

PUBLIC LAWS

PASSED AT THE

Special June Session, 1973

CHAPTER 280.

H 5006
Approved
June 26, 1973.

AN ACT Relating to the Death Penalty.

It is enacted by the General Assembly as follows:

Section 1. Section 11-23-2 of the general laws in chapter 11-23 entitled "Homicide" is hereby amended to read as follows:

Murder: Penalty.

"11-23-2. PENALTIES FOR MURDER. — Every person guilty of murder in the first degree, ~~unless he shall then be under sentence of imprisonment for life,~~ **except as hereinafter provided**, shall be imprisoned for life. Every person guilty of murder in the second degree shall be imprisoned for not less than ten (10) years and may be imprisoned for life. Every person who shall commit murder while ~~under sentence of imprisonment for life~~ **committed to confinement to the adult correctional institutions or the state reformatory for women** shall be punished by death. The punishment of death shall be inflicted by the administration of a lethal gas.

Act effective, when

Sec. 2. This act shall take effect upon passage.

STATE v. William H. ANTHONY.
Supreme Court of Rhode Island.
121 R.I. 954; 398 A.2d 1157; 1979 R.I. LEXIS 2285
No. 78-30-C.A.
March 16, 1979.

Counsel

Dennis J. Roberts II, Atty. Gen., Nancy Marks Rahmes, John S. Foley, Sp. Asst. Attys. Gen., for plaintiff.

William F. Reilly, Public Defender, Barbara Hurst, Chief Appellate Atty., Providence, John A. MacFadyen III, Asst. Public Defender, for defendant.

Opinion

ORDER

This is an appeal in which a number of questions were certified to us pursuant to the provisions of G.L. 1956 (1969 Reenactment) § 12-22-10 . On February 19, 1979, we answered one of the questions by ruling that the mandatory death provisions of § 11-23-2 violate the eighth amendment's prohibition against "cruel and unusual punishments." Thereafter, we denied the defendant's motion that this case be immediately remanded to the Superior Court.

The defendant has now filed a motion asking that we reconsider this denial, and the Attorney General has joined in this request. Consequently, we shall treat the reconsideration motion, which is signed by both the defense counsel and the Attorney General, as a stipulation that the certification was premature.

Accordingly, it is hereby ordered that the case be remanded to the Superior Court for further proceedings, including the imposition of sentence upon the defendant.

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allowed to consider as a mitigating factor "any aspect of a defendant's character or record and any of the circumstances of the offense that the defendant proffers as a basis for a sentence less than death."

Thus, a review of the Supreme Court's pronouncements makes it clear that a death sentence imposed by a sentencer who is not statutorily authorized to consider mitigating circumstances is a nullity. The identical faults that existed in the statutes declared unconstitutional in *Woodson* and *Roberts* are present in § 11-23-2. There is no provision for the trial justice, in imposing sentence, to consider any mitigating factors whatsoever. It is obvious that the death-penalty portion of § 11-23-2 is the same type as has been stricken down by the Supreme Court, and thus it cannot stand.

The state, apparently anticipating the patent unconstitutionality of § 11-23-2, asks that we construe this legislation to meet the standards enunciated in the opinions of the Supreme Court that have considered the various facets of the death-penalty issue. Actually, we see nothing to construe. The General Assembly has said in clear and concise language that the death penalty will be imposed on any person who commits murder "while committed to confinement to the adult correctional institutions or the state reformatory for women* * *." The task which the state wishes us to perform is one that comes within the exclusive purview of the legislative branch of our state government. Parenthetically, it **{121 R.I. 304}** should be noted that on January 25, 1979, Representatives Zygmunt J. Friedemann and Andrew E. McConnell introduced a bill (79-H 5360) entitled "An Act Relating to Capital Punishment." The bill was referred to the House Committee on Judiciary. An explanation of the bill's contents prepared by the Legislative Council indicates: "This act would provide for the imposition of the death penalty in certain circumstances and establishes a procedure for the review of such sentencing."

In conclusion, in response to those pertinent questions certified to us in State v. William H. Anthony, we hold that the present death-penalty proviso of § 11-23-21 amounts to cruel and unusual punishment and thus violates the Eighth Amendment to the United States Constitution. We shall defer any responses to the other facets of the certification until some future time. The conclusion which we have reached causes us to vacate the sentence of death imposed upon Robert Cline and remand his case to the Superior Court with a direction to impose upon him forthwith the lifetime sentence called for by § 11-23-2. After the imposition of sentence, the papers will be remitted to this court so that other facets of his appeal can be considered.

Mr. Chief Justice Bevilacqua did not participate.

Footnotes

Footnotes

1 General Laws 1956 (1969 Reenactment) § 11-23-2 in its entirety reads:

"Every person guilty of murder in the first degree, except as hereinafter provided, shall be imprisoned for life. Every person guilty of murder in the second degree shall be imprisoned for not less than ten (10) years and may be imprisoned for life. Every person who shall commit murder while committed to confinement to the adult correctonal institutions or the state reformatory for women shall be punished by death. The punishment of death shall be inflicted by the administration of a lethal gas."

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PUBLIC LAWS

OF THE

STATE OF RHODE ISLAND

AND

PROVIDENCE PLANTATIONS

PASSED AT THE

GENERAL ASSEMBLY

AT THE

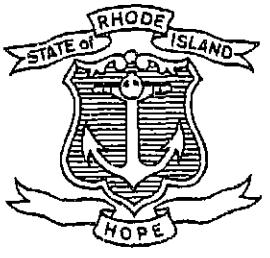
JANUARY SESSION, A.D., 1984

AND THE

SPECIAL JUNE SESSION, A.D., 1984

VOLUME I

CHAPTERS 1 THROUGH 273



JOINT COMMITTEE ON LEGISLATIVE AFFAIRS
SPEAKER MATTHEW J. SMITH, CHAIRMAN

LAW REVISION

1984

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preclude discreet discussion of a patient's case or examination of appropriate medical personnel.

(6) The patient's right to privacy and confidentiality shall extend to all records pertaining to the patient's treatment except as otherwise provided by law.

(7) The health care facility shall respond in a reasonable manner to the request of a patient's physician for medical services to the patient. The health care facility shall also respond in a reasonable manner to the patient's request for other services customarily rendered by the health care facility to the extent such services do not require the approval of the patient's physician or are not inconsistent with the patient's treatment.

(8) Before transferring a patient to another facility the health care facility must first inform the patient of the need for and alternatives to such a transfer.

(9) Upon request, the patient shall be furnished with the identities of all other health care and educational institutions that the health care facility has authorized to participate in his treatment and the nature of the relationship between such institutions and the health care facility.

(10) If the health care facility proposes to use the patient in any human experimentation project, it shall first thoroughly inform the patient of such proposal and offer the patient the right to refuse to participate in such project.

(11) Upon request, the patient shall be allowed to examine and shall be given an explanation of the bill rendered by the health care facility irrespective of the source of payment of such bill.

(12) Upon request, the patient shall be permitted to examine any pertinent health care facility rules and regulations that specifically govern his treatment.

(13) The patient shall be offered treatment without discrimination as to race, color, religion, national origin or source of payment.

(14) Patients shall be provided with a summarized medical bill within thirty days of discharge from a health care facility. Upon request the patient shall be furnished with an itemized copy of his bill. When patients are residents of state-operated institutions and facilities, the provisions of this section shall not apply.

(15) Upon request, the patient shall be allowed the use of a personal television set provided that said television complies with Underwriters' Laboratory standards and O.S.H.A. standards and so long as said television set is classified as a portable television.

SECTION 3. This act shall take effect on July 1, 1984.

CHAPTER 221

84-H 7176

Effective Without the Governor's Signature
May 9, 1984.

AN ACT PROVIDING FOR LIFE IMPRISONMENT WITHOUT PAROLE FOR FIRST DEGREE MURDER

It is enacted by the General Assembly as follows:

SECTION 1. Section 11-23-2 of the General Laws in Chapter 11-23 entitled "Homicide" is hereby amended to read as follows:

11-23-2. Penalties for murder. — Every person guilty of murder in the first degree~~, except as hereinafter provided,~~ shall be imprisoned for life. Every person guilty of murder in the first degree 1) committed intentionally while such person was engaged in the commission of another capital offense or other felony for which life imprisonment may be imposed; or 2) committed in a manner creating a great risk of death to more than one person by means of a weapon or device or substance which would normally be hazardous to the life of more than one person; or 3) committed at the direction of another person in return for money or any other thing of monetary value from that person; or 4) committed in a manner involving torture or an aggravated battery to the victim; or 5) committed against any member of the judiciary, law enforcement officer, corrections employee, or fireman arising from the lawful performance of his official duties; or 6) committed by a person who at the time of the murder was committed to confinement in the adult correctional institutions or the state reformatory for women upon conviction of a felony, shall be imprisoned for life and if ordered by the court pursuant to chapter 12-19.2 of the general laws such person shall not be eligible for parole from said imprisonment. Every person guilty of murder in the second degree shall be imprisoned for not less than ten (10) years and may be imprisoned for life. ~~Every person who shall commit murder while committed to confinement to the adult correctional institutions or the state reformatory for women shall be punished by death. The punishment of death shall be inflicted by the administration of a lethal gas.~~

SECTION 2. Title 12 of the General Laws entitled "Criminal Procedure" is hereby amended by adding thereto the following chapter:

CHAPTER 19.2
SENTENCING TO LIFE IMPRISONMENT WITHOUT PAROLE

12-19.2-1. Sentencing procedures — Trial by jury. — In all cases tried by a jury in which the penalty of life imprisonment without parole may be imposed pursuant to section 11-23-2 of the general laws and in which the attorney general has recommended to the court in writing within twenty (20) days of the date of the arraignment that such a sentence be imposed, the court shall, upon return of a verdict of guilty of murder in the first degree by the jury, instruct the jury to determine whether it has been proven beyond a reasonable doubt that the murder committed by the defendant involved one of the circumstances enumerated in section 11-23-2 of the general laws as the basis for imposition of a sentence of life imprisonment without parole. If after deliberation the jury finds that one or more of the enumerated circumstances was present, it shall state in writing, signed by the foreman of the jury, which such circumstance or circumstances it found beyond a reasonable doubt. Upon return of an affirmative verdict, the court shall conduct a presentence hearing. At said hearing, the court shall permit the attorney general and the defense to present additional evidence relevant to a determination of the sentence to be imposed as provided for in section 12-19.2-4. If after

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hearing evidence and argument relating to the presence or absence of aggravating and mitigating factors, the court shall, in its discretion, sentence the defendant to either life imprisonment without parole or life imprisonment. If the trial court is reversed on appeal because of error only in the presentence hearing, the new proceedings before the trial court which may be ordered shall pertain only to the issue of sentencing.

12-19.2-2. Sentencing procedures — Trial by jJudge sSitting without a jury. — In all cases tried by a judge sitting without a jury in which the penalty of life imprisonment without parole may be imposed pursuant to section 11-23-2 of the general laws and in which the attorney general has recommended to the court in writing within twenty (20) days of the date of the arraignment that such a sentence be imposed; the court shall, if said court finds the defendant guilty of murder in the first degree, also render a finding as to whether it has been proven beyond a reasonable doubt that the murder committed by the defendant involved one of the circumstances enumerated in section 11-23-2 of the general laws as the basis for imposition of a sentence of life imprisonment without parole. If the court finds that one or more of the enumerated circumstances was present, it shall state on the record which such circumstance or circumstances it found beyond a reasonable doubt. Upon an affirmative finding by the court, it shall conduct a presentence hearing. At said hearing, the court shall permit the attorney general and the defense to present additional evidence relevant to a determination of the sentence to be imposed as provided for in section 12-19.2-4. If after hearing evidence and argument relating to the presence or absence of aggravating and mitigating factors, the court shall in its discretion sentence the defendant to either life imprisonment without parole or life imprisonment. If the trial court is reversed on appeal because of error only in the presentence hearing, the new proceedings before the trial court which may be ordered shall pertain only to the issue of sentencing.

12-19.2-3. Sentencing procedures — Plea of guilty. — In all cases in which the defendant pleads guilty or nolo contendere to an offense for which the penalty of life imprisonment without parole may be imposed pursuant to section 11-23-2 of the general laws and in which the attorney general has recommended to the court in writing within twenty (20) days of the date of the arraignment that such a sentence be imposed, the court shall conduct a presentence hearing. At said hearing, the court shall permit the attorney general and the defense to present additional evidence relevant to a determination of the sentence to be imposed as provided for in section 12-19.2-4. If after hearing evidence and argument relating to the presence or absence of aggravating and mitigating factors, the court shall in its discretion sentence the defendant to either life imprisonment without parole or life imprisonment. If the trial court is reversed on appeal because of error only in the presentence hearing, the new proceedings before the trial court which may be ordered shall pertain only to the issue of sentencing.

12-19.2-4. Consideration of aggravating and mitigating circumstances. — At the presentence hearing, following a finding that one or more of the circumstances enumerated in section 11-23-2 of the general laws as the basis for imposition of a sentence of life imprisonment without parole was involved in the first degree murder of which the defendant has been convicted, the court shall consider evidence regarding the nature and circumstances of the offense and the personal history, character, record, and propensities of the defendant which are relevant to

the sentencing determination. After hearing evidence and argument regarding such aggravating and mitigating circumstances relating to the offense and the defendant, the court shall, in its discretion, sentence the defendant to life imprisonment without parole or to life imprisonment. The court shall state on the record its reasons for imposing such sentence.

12-19.2-5. Review of life sentence without parole. — The defendant shall have the right to appeal a sentence of life imprisonment without parole to the supreme court of the state in accordance with the applicable rules of court. In considering an appeal of such a sentence, the court, after review of the transcript of the proceedings below, may in its discretion, ratify the imposition of the sentence of life imprisonment without parole or may reduce the sentence to life imprisonment.

SECTION 3. This act shall take effect on July 1, 1984.

CHAPTER 222

84-H 7377

Effective Without the Governor's Signature
May 9, 1984.

AN ACT RELATING TO HEALTH CLUBS

It is enacted by the General Assembly as follows:

SECTION 1. Sections 5-50-2, 5-50-3 and 5-50-4 of the General Laws in Chapter 5-50 entitled "Health Clubs" are hereby amended to read as follows:

5-50-2. Right of cancellation. — Every contract for health club services shall provide that such contract may be cancelled within ~~twenty-two (22)~~ ten (10) business days after the date of receipt by the buyer of a copy of the contract by written notice mailed to the seller at the address specified in the contract. Cancellation shall be without liability on the part of the buyer, and the buyer shall be entitled to a refund of the entire consideration paid for the contract if any. The right of cancellation shall not be affected by the terms of the contract and may not be waived or otherwise surrendered. Said contract for health club services shall also contain a clause providing that (a) if by reason of relocation further than twenty-five (25) miles from a health club facility operated by the seller, the buyer shall be relieved from any further obligation under the contract not then due and owing , and (b) if the person receiving the benefits of such contract dies or becomes disabled during the membership term following the date of such contract the buyer or his estate shall be relieved of any further obligation for payment under the contract. In the case of disability the health club may require that a doctor's certificate be submitted as verification.

5-50-3. Notice to buyer. — A copy of every health club contract shall be delivered to the buyer at the time the contract is signed. All health club contracts

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