



**CLOSED**  
**VOLUME**



**VOLUME**  
**COMPLET**

DATED FROM  
À CONTER DU

OCT 67

TO  
JUSQU' AU

31 DEC. 70

**AFFIX TO TOP OF FILE — À METTRE SUR LE DOSSIER**

**DO NOT ADD ANY MORE PAPERS — NE PAS AJOUTER DE DOCUMENTS**

**FOR SUBSEQUENT CORRESPONDENCE SEE — POUR CORRESPONDANCE ULTÉRIEURE VOIR**

FILE NO. — DOSSIER N°

1037-60-12

~~141-206~~

VOLUME

3



TO  
A

# MEMORANDUM

CLASSIFICATION

DR. J. CIALE,  
CHIEF, CORRECTIONAL RESEARCH

YOUR FILE No.  
Votre dossier

OUR FILE No. 141-206  
Notre dossier

FROM  
De

J. H. HOLLIES  
DEPARTMENTAL COUNSEL

DATE December 22, 1970

FOLD

SUBJECT  
Sujet

REPLY TO RANDOLPH HARDING, M.P.

I wonder if you could help me to prepare a reply to Mr. Harding. I have had the advantage of your updated figures of murder statistics in Canada and the U.K. Have we any further statistics of recent date pertaining to changes in rates in other countries following the abolition of the death penalty?

  
J. H. HOLLIES

DR. J. CIALE,  
CHIEF, CORRECTIONAL RESERACH

141-206

J. H. HOLLIES  
DEPARTMENTAL COUNSEL

December 22, 1970

REPLY TO RANDOLPH HARDING, M.P.

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J. H. HOLLIES



**DEPARTMENT OF JUSTICE**  
**MEMORANDUM**

December 15, 1970

NOTE FOR: MR. J.H. HOLLIES

FROM: D.H. Christie

*before*  
Would you please reply to the attached  
letter from Randolph Harding, M.P.,  
for the signature of the Solicitor  
General or Acting Solicitor General.

*[Signature]*  
D.H.C.



HOUSE OF COMMONS  
CANADA

Minister's Office  
Bureau du Ministre

DEC 9 1970

MIN.

Ex. Asst.

SP. Asst.

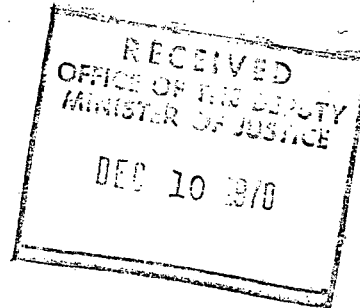
SP. Asst.

Pri. Sec.

Const. Sec.

195310-206

OTTAWA, December 8, 1970.



The Honourable J. Turner,  
Minister of Justice,  
House of Commons,  
O t t a w a, Ontario.

Dear Mr. Minister:

Re: Statistics on Capital Punishment

I have received several letters from constituents who feel that Canada should bring back the death penalty for all murders.

Could I obtain from your Department statistics on this problem, both before and after we changed our Canadian law. Is there any evidence that the lack of the death penalty as a deterrent has caused an upward swing in the murder rate in Canada or elsewhere?

Any views your Department would care to let me have on this problem would be appreciated.

Yours sincerely,

Randolph Harding, M.P.  
Kootenay West.

DM SM  
SOL GEN

DEC 22 9 12 0

FILE  
COSSIER

ENTERED



# MEMORANDUM

CLASSIFICATION

TO  
A

CHIEF, CORRECTIONAL RESEARCH CENTRE

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

DIRECTOR, CORRECTIONAL PLANNING BRANCH

DATE NOV. 23, 1970

FOLD

SUBJECT  
Sujet

Murder Statistics and Capital Punishment

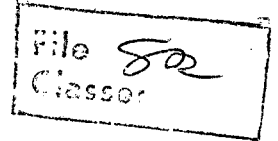
In the attached memo the Assistant Deputy Solicitor General has suggested that a Departmental position be developed on this matter.

In view of my impending transfer to the Penitentiary Service, I would appreciate it if you would commence discussions with Mr. Hofley on this subject directly.

bc  
[initials]

*J. Braithwaite*  
J. Braithwaite

141-206



CHIEF, CORRECTIONAL RESEARCH CENTRE

DIRECTOR, CORRECTIONAL PLANNING BRANCH

Nov. 23, 1970

Murder Statistics and Capital Punishment

In the attached memo the Assistant Deputy Solicitor General has suggested that a Departmental position be developed on this matter.

In view of my impending transfer to the Penitentiary Service, I would appreciate it if you would commence discussions with Mr. Hofley on this subject directly.

JOHN BRAITHWAITE

J. Braithwaite

cc. Mr. Hofley

Copy on: 83-3

# MEMORANDUM

CLASSIFICATION



TO  
A

MR. J.W. BRAITHWAITE  
DIRECTOR, CORRECTIONAL PLANNING BRANCH

YOUR FILE No.  
Votre dossier

OUR FILE No. 141-206  
Notre dossier

FROM  
De

ASSISTANT DEPUTY SOLICITOR GENERAL

DATE

Nov. 13th, 1970

FOLD


SUBJECT  
Sujet

Research into Murder Statistics  
and Capital Punishment

You will note from the attached file that we have had correspondence from Barry Mather, M.P. and Rev. James, concerning a research study into murder statistics and capital punishment.

It is the feeling generally, as expressed both by the Minister and the Deputy Minister, that we should not do the research suggested by Mr. Mather and I don't think we should make any further reply at this time.

However in looking to 1972, when this matter will be raised in the House, it seems evident that the Solicitor General will be called upon to make some sort of statement to express his views, either in Cabinet or elsewhere. In preparation we should develop a departmental position. I would like to discuss this with you or Dr. Ciale as soon as possible.

  
B.C. Hofley



Document disclosed

Doc# 0000418    le en  
FL

141-206

Ottawa 4, November 10, 1970

Dear Mr. [REDACTED]

Your letter of November 2nd addressed to the Minister of Justice has been referred to this Department, since it is we who are responsible in matters pertaining to capital cases.

I can quite understand your concern that the date now set for the execution of Clifford Lurvey happens, by coincidence, to fall on the day that Ukrainians celebrate Christmas. At the same time, I must tell you that there is no power in any government department to alter the execution date, since this is set by the courts. I should point out there are many days of the year that are holy days in one religion or another. I think, for example, of the Feast of Ramadan celebrated by our Arab community and Yom Kippur as observed by members of the Jewish religion. It would, I suggest, be a very difficult task for a court to set an execution date that might not offend the sensibilities of some segment of the Canadian community.

While I cannot in any way forecast the decision of Cabinet in the present case, I should add that it is impossible to say at this time whether or not the execution will actually take place. All sentences of death must be considered by Cabinet so that it may be determined whether the law should take its course or the sentence be commuted to one of life imprisonment. Such consideration by Cabinet has not as yet taken place in the case of Lurvey.

Thank you for having taken the time and trouble to write on this subject, which is obviously of importance to you and others who celebrate Christmas on January 7th.

Yours truly,

JHH/mab

10  
J.H. Hollies,  
Departmental Counsel

Mr. Paul Kit,  
465 Bathurst Street,  
Toronto 2B, Ontario

# SOLICITOR GENERAL

## MEMORANDUM

9 November

①

DM SM  
SOL GEN

Mr. Hopley  
(thru 286(AA))

NOV 9 12 13 PM '71

FILE  
DOSSIER

141-206

Mr. Hopley

Minister has not seen -

thru  
Mr. G'Brien  
13-10.

Please reply direct.

② Mr. Haller  
Mr. Hopley's complaint with  
will you please reply  
please - Mr. Hopley will  
sign.

J. G. Hopley  
9 Nov

000420

MINISTER OF JUSTICE - MINISTRE DE LA JUSTICE

Date ..... November 3, 1970.

Forward to ..... Mr. W.R.C. Little .....  
Faire suivre .....

ACTION REQUEST - FICHE DE SERVICE:

Reply for signature of .....  
Réponse pour la signature du .....

Please see me re this .....  
S.V.P. me voir à ce sujet .....

Attention XXXXX not acknowledged .....  
Attention .....

Information .....  
Renseignement .....


Note and return .....  
Noter et retourner .....

Note and return with comments .....  
Noter et retourner avec commentaires .....

Return with file .....  
Retourner avec dossier .....

Approval or revision before mailing .....  
Approbation ou revision avant de poster .....

Other instructions:  
Directives supplémentaires:

  
..... E.R.M. Griffiths ..... 000421  
..... Departmental Assistant .....

s.19(1)

November 2,

197-108  
24099

Mr.
Bureau du Ministre
1970 NOV 3 1970
MIN.
Ex. Asst.
SP. Asst.
SP. Asst.
Pri. Sec.
Asst. Sec.

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL  
NOV 9 8 54 AM '70

Hon. John Turner, M.P.  
Minister of Justice,  
Canadian Parliament,  
Ottawa, Ontario.

Honourable Sir:

If my memory serves me right there is pending one execution (hanging) that has to be carried out on January 7th, 1971.

On January 7th of every year Ukrainians in Canada and all over the world are celebrating their Christmas Day.

It would be a very fitting public relations gesture if you could change the execution day of this person.

Moreover could you, perhaps through our Canadian ambassador to the United Nations, make a request that nowhere in the world executions would be carried out on days like Christmas, Good Fridays, Sundays and perhaps other days which each country would consider too big to take a person's life. Mind you, I have nothing against death penalty. In fact, we should never have abolished it in Canada. Get rid of him if we have to, but not on those certain days of the year. There are enough other days. Other religions should also be considered and executions should not take place on the days they hold too holy to take a person's life.

Your kind consideration of this request would be much appreciated, I am sure, by the whole Ukrainian community in Canada.

Very truly yours,



PK/cm



Ottawa 4, November 6, 1970

Criminal Department  
The Home Office  
London, S.W.1  
England

Dear Sir:

This refers to your annual publication, "Criminal Statistics, England and Wales" which had until 1968 contained a table in the Chapter on Murder pertaining to the number of known murderers or suspects, number of victims, both infants and those over 1 year of age - similar to the copy I am attaching herewith.

As we are currently updating our murder statistics, we would like to obtain the comparable statistics for the year 1969 under columns (1) to (7) of the Table.

Thanking you in advance.

Yours truly,

*S.A. Shuster*

S.A. Shuster,  
Research Officer.

SAS:amd

Attached.

J.H. HOLLIES, Q.C.  
DEPARTMENTAL COUNSEL

RESEARCH OFFICER

6-11-70

MURDER STATISTICS

Dr. Ciale, who is away from his office attending a Conference and several meetings in western Canada, has asked me to supply you with the updated statistical material on Murders, as requested in your memorandum dated October 26, 1970.

The most recent statistics for Canada show that in 1969 there were 342 murders, which is equivalent to a rate of 1.9 per 100,000 population - 7 years of age and over.

The statistics relating to England and Wales are as follows:-

Year	Total Known Murders or Suspects	Number of Instances Where Victim under One Year of Age
1967	146	6
1968	164	5

Unfortunately, comparable figures for 1969 are not contained in the "Criminal Statistics" report for that year.

(sgd) S.A. Shuster  
S.A. Shuster  
for  
Chief  
Correctional Research

SAS:wmd



# MEMORANDUM

CLASSIFICATION

TO  
A

DR. JUSTIN CIALE,  
CHIEF, CORRECTIONAL RESEARCH

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

J.H. HOLLIES

DATE October 26, 1970

FOLD

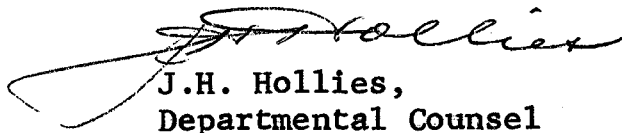
SUBJECT  
Sujet

Capital Case - Background Material

We will shortly have another capital case going forward for consideration by Cabinet as to whether the death sentence should be commuted. As background for the Minister in the last capital case, we provided some comparative figures on murder rates. I attach a photostat copy of that material and would ask that you take such measures as may be at your disposal to try to obtain figures for 1969 for Canada and subsequent to 1966 for England and Wales.

While there is no great urgency at this moment, we will have to let the Minister have the requisite information as soon as we get psychiatric reports that are outstanding. In these circumstances, I would be most grateful if you could let me have a reply by two weeks from today.

Att.

  
J.H. Hollies,  
Departmental Counsel

*note*  
*Data supplied 6/Nov/70*  
*SAB*  
*C.R.O.*

Comparative Figures for murder

Canada

The amendments to the Criminal Code restricting the circumstances in which murder is capital were effective at the end of 1967. The statistics furnished by D.B.S. as to the number of murders and rate per 100,000 are not reliable before 1961. Commencing with 1961, the figures are as follows:

<u>Year</u>	<u>Number of Murders</u>	<u>Rate per 100,000</u>
1961	185	1.2
1962	217	1.4
1963	215	1.4
1964	218	1.4
1965	243	1.5
1966	220	1.3
1967	281	1.6
1968	314	1.8
1969	342	1.9

England and Wales

In March, 1957, the Homicide Act came into force in England and Wales which markedly limited the circumstances in which a murder was to be classified as "capital". The law was further amended, Royal Assent being given in November, 1965, by abolishing for a five year trial period the death penalty for any murder.

The figures available for England and Wales are difficult to assess since Hansard gives statistics which materially differ from those included in a recent white paper.

The figures for 1952 to 1966, set out hereunder, relate to the number of known murderers or suspects and included murder of infants under one year of age.

Figures are as follows:

<u>Year</u>	<u>Total known murderers or suspects</u>	<u>Number of instances where victim under one year involved</u>
1952	112	4
1953	106	3
1954	111	2
1955	103	2
1956	124	1
1957	117	2
1958	102	5

- 2 -

<u>Year</u>	<u>Total known murders<sup>ers</sup> or suspects</u>	<u>Number of instances <sup>where</sup> victim under one year <del>age involved</del> <i>of age</i></u>
1959	113	1
1960	135	3
1961	116	6
1962	129	2
1963	106	nil
1964	129	2
1965	124	4
1966	125	2

Mr. Duncan Sandys is reported in Hansard for June 24, 1969, as saying (in part),

"Many who have previously supported abolition have now changed their minds and they include Honourable Members of this House. Since December, 1964, there has been a startling increase in the number of the type to which the death penalty used to apply. During the last four years there have been 161 capital murders. That figure compares with 71 during the four previous years. It may be argued that that merely reflects the increase in crime of all kinds. But that is not borne out by the figures issued by the Home Office. While the number of capital murders has more than doubled, the number of non-capital murders to which the death penalty did not apply and which were therefore not affected by its suspension, has remained completely constant".

The figures upon which Mr. Sandys based his statement are not available here. It is presumed that in referring to the increase in "capital murders" he is referring to those murders which would have been capital had the death penalty remained in effect.





s.19(1)

# MEMORANDUM

CLASSIFICATION

TO  
A

THE SOLICITOR GENERAL

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

J.H. HOLLIES

DATE November 2, 1970



FOLD

SUBJECT  
Sujet

Report on Capital Cases

✓ Execution Date:

7th January, 1971.

Appeal Stage:

Appeal to Supreme Court dismissed  
13th October, 1970. Report under  
preparation. Waiting for psychiatric  
examination. ✓

Execution Date:

February 23, 1971.

Appeal Stage:

Appeal dismissed by Ontario Court of Appeal.  
Further appeal to Supreme Court of Canada  
now pending.

Execution Date:

Convicted at Winnipeg, Manitoba 14th October,  
1970. Execution date believed to be in  
June, 1971.

*3/11/12  
Advised Mr Hollies  
Minister wish to  
proceed as quickly as  
possible with the  
hurry case.  
BM*

*J.H. Hollies*  
J.H. Hollies,  
Departmental Counsel

CANADA

Ministère du Solliciteur-

Général

Department of the

Solicitor-General

TO: SOLICITOR-GENERAL

AU: SOLLICITEUR-GÉNÉRAL

29/ix/70

☐ POUR AUTORISATION  
FOR APPROVAL

☒ FOR  
POUR SIGNATURE

☐ POUR  
FOR INFORMATION

☐ FOR DIRECTION  
POUR DIRECTIVE

☐ SUR SA DEMANDE  
AS REQUESTED

☐ TO NOTE AND RETURN  
PRENDRE NOTE ET  
RENOYER

DICTATED BY  
DICTÉ PAR F.X.O'BRIEN

28 Sept.

DATE

DACTYLOGRAPHED BY  
TYPED BY

28 Sept.

DATE

This is merely an interim  
reply: I'm NOT anxious  
to get into a study & be  
misunderstood in a satisfactory  
way of saying what should be  
said!  
Esby

000429

DEPARTMENT OF THE SOLICITOR GENERAL  
MINISTÈRE DU SOLICITEUR GÉNÉRAL

MEMORANDUM

12 Oct 70

①

DM

This file came forward  
on a B.F.O. - an interim  
reply was sent to Mr. Mathew  
by the Minister on 29 Sep. 70

Do you wish a further  
reply be prepared? If so,  
may I have direction re:  
the studies on murders requested.

② over

*HOBI*

000430

② instructed by DM  
to "look into" matter  
& report to him. J.P.  
21 Oct 70



# SOLICITOR GENERAL

## MEMORANDUM

23 Sep 70.

✓ Deputy Minister

1. Minister has seen —

Will you please have reply  
prepared (for Minister's  
signature) to Mr. Mathers.

B.F. Oct 6/70

WCH  
E/A



OTTAWA 4, September 29, 1970.

141-206

Dear Mr. Mathor:

This is in reply to your letters of September 16 and 22, 1970 in regard to research into murder statistics and capital punishment.

I have read with interest the accompanying copies of correspondence from Rev. J.T.L. James, President, Canadian Correctional Chaplains' Association and from Mrs. T.G. Morris. The proposal put forward by Rev. James is presently under consideration. In regard to Mrs. Morris' letter, most of her queries are answered in the latest Dominion Bureau of Statistics Publication Murder Statistics, issued this month by the Queen's Printer. This publication covers the period 1965-69 and is a very thorough survey.

I will advise you shortly concerning Rev. James' proposal.

Yours sincerely,

ORIGINAL SIGNED BY  
GEORGE J. McILRAITH

F.X.O'BRIEN/lcf

George J. McIlraith.

Mr. Barry Mathor, M.P.,  
House of Commons,  
OTTAWA 4, Ontario.

BF 13 Oct  
F.X. O'Brien  
1/10/70



# MEMORANDUM

CLASSIFICATION

TO  
A Mr. Braithwaite

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

DATE Sept. 25, 1970

FROM  
De Mr. Pope

FOLD

SUBJECT  
Sujet

1. Reference is made to Mr. Barry Mathers' letter of September 16, 1970, and the photostats of letters which he received from:
  - a. Rev. J.T.L. James, President, Canadian Correctional Chaplains' Association.
  - b. Mrs. T.G. Norris
2. First of all I believe that in both cases they should be made aware of the latest DBS publication "Murder Statistics" issued this month, and available from the Queen's Printer (cost 50¢). This publication covers the period 1965-69 and is a very thorough survey. This publication would answer most of Mrs. Norris' queries.
3. In regard to the suggestion, put forward by the Canadian Correctional Chaplains' Association, that "... a study should be made of those now imprisoned for murder, to determine what if any effect the knowledge that they were or were not risking capital punishment had on them at and immediately before the time of their crimes", I have discussed the matter with Mr. Shuster. Such a study has been considered in the past but the doubtful validity of the results has stopped any action being taken by the Penitentiary Service.
4. I, personally agree with Rev. James "that most killings are.... not rationally planned and carried out", therefore any thoughts of punishment are not a deterrent. For the premeditated murder the individual tries to avoid punishment of any kind by planning the "perfect murder" and the "death sentence" or "life sentence" or a punishment is no particular deterrent, except possibly in more careful planning if the "death sentence" is the only punishment, in such cases, irrespective of the degree of punishment, a person is to be and will be killed.
5. Perhaps the place for such a study is at the Court, immediately after conviction and sentence has been given. However, this might result in another book like "In Cold Blood" by Truman Capote. Of course the most desirable subjects to be studied, from a research point of view, would be those persons who wanted to kill or murder someone but didn't - What stopped them? Was it the possibility of a "Death Sentence"?
6. All the above are just "thoughts", which you asked for, as a basis for framing a reply to Mr. Mather.

F.W. Pope

Chief,

Correctional Research & Statistics

Armed Robbery



TO  
A

# MEMORANDUM

CLASSIFICATION

DIRECTOR, CORRECTIONAL PLANNING

YOUR FILE No.  
Votre dossier

OUR FILE No. 141-206 Vol. 2  
Notre dossier

FROM  
De

ACTING ADMINISTRATIVE ASSISTANT

DATE Sept. 23, 1970

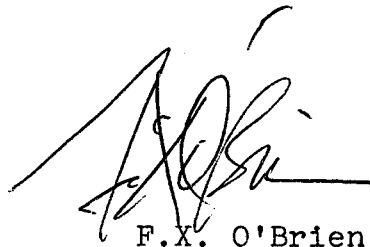
FOLD

SUBJECT  
Sujet

Capital Punishment

Attached is a letter from The Honourable Barry Mather, M.P. to the Solicitor General in regard to above. Mr. Mather's letter is also accompanied by correspondence between him and Rev. J.T.L. James, President of the Canadian Correctional Chaplains Association and Mrs. T.G. Norris.

Please prepare a reply for the Minister's signature to Mr. Mather by October 6, 1970.



F.X. O'Brien

Att.

*Note: DM directed that preparation of reply be held up, further to a ministerial decision on the subject of the proposed shreds. In the meantime, I am directed to draft an interim reply to Mr. Mather. F.X. O'Brien 25/9/70*

DIRECTOR, CORRECTIONAL PLANNING

141-206 Vol. 2

Sept. 23, 1970


ACTING ADMINISTRATIVE ASSISTANT

Capital Punishment

Attached is a letter from The Honourable Barry Mather, M.P. to the Solicitor General in regard to above. Mr. Mather's letter is also accompanied by correspondence between him and Rev. J.T.L. James, President of the Canadian Correctional Chaplains Association and Mrs. T.G. Norris.

Please prepare a reply for the Minister's signature to Mr. Mather by October 6, 1970.

F.X.O'BRIEN/sd  
Att.



F.X. O'Brien

BF 6028  
SD  
20/9/70

SOLICITOR GENERAL

MEMORANDUM

*[Handwritten signature]*  
25 Sep 10

Deputy Minister

25 Sep 10

1. Minister has seen.
2. This refers to our earlier letter sent to you for preparation of reply for Minister's signature on 23 Sep 10

Letter C/A

000438

BEST AVAILABLE COPY



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

SEP 24 11 26 AM '70

OTTAWA  
September 22, 1970.SM  
SOL GEN

The Honourable Georges McIlraith,  
Solicitor General of Canada,  
OTTAWA.

SEP 25 2 51 PM

FILE  
DOSSIER

Dear Mr. Minister:

The recent release by the Dominion Bureau of Statistics, of figures indicating a considerable increase in the murder and in the rate of murders in Canada has renewed public discussion of this subject in relation to the death penalty. As presumably this same subject will be of concern to Parliament next year when the five-year abolition period terminates. I thought it would be timely to make the following suggestion:-

I would like the appropriate section of your Department to study and report on such factors as the experience in other countries who have, or who do not have, the death penalty for murders; as to the number of murders in Canada in which culprit was mentally deranged (i.e.--is this type of murder increasing?); the number of murder cases in which alcohol was involved.

There is also the proposal made by the Chaplain's Association,-- that murderers in custody be asked as to whether the presence or absence of the death penalty had bearing on their committing the crime.

There may well be other factors which would be useful to have examined with the idea of compiling timely information to the public and particularly parliamentarians.

Yours sincerely,

*Harry Mather*  
Harry Mather, M.P.  
Surrey, B.C.

## 342 MURDERS LAST YEAR

## Bring back the hangman?

By PETER DEMPSON  
Telegram Associate Editor

Should capital punishment be restored in Canada?

The recent brutal slayings of eight people in British Columbia, coupled with the simultaneous release of figures showing that murders in 1969 had jumped by 55 per cent in three years, have brought about demands that the question be re-opened.

The Dominion Bureau of Statistics reports that the number of murders in Canada last year totalled 342, or an average of almost one every day. In 1966, the total was 220.

The rate of killings and cases of attempted murder were also up.

Eldon Woolliams, outspoken Conservative MP for Calgary North, and justice critic for his party, says the capital punishment law is "a farce." Why, he adds, "the Cabinet is even commuting killers of police!"

The Canadian Association of Police Chiefs, at its conference in London, Ont., early in September, also appealed to Ottawa to review the hanging ban because of the sharp rise in murders.

Earlier, Commissioner W. Leonard Higgitt of the RCMP expressed the view that the partial abolition of the death penalty is giving "grave cause for concern" because of the climb in the murder rate.

An increasing number of Canadians are becoming concerned over the trend, too, judging by their letters to newspapers. Many believe the Government should reinstitute capital punishment.

### Little doubt

Mr. Woolliams, a strong retentionist, says there is little doubt in his mind that the death penalty deters people from committing murder. "The figures show that."

The Calgary MP recalled that Justice Minister John Turner recently said the courts should "get tough" with criminals.

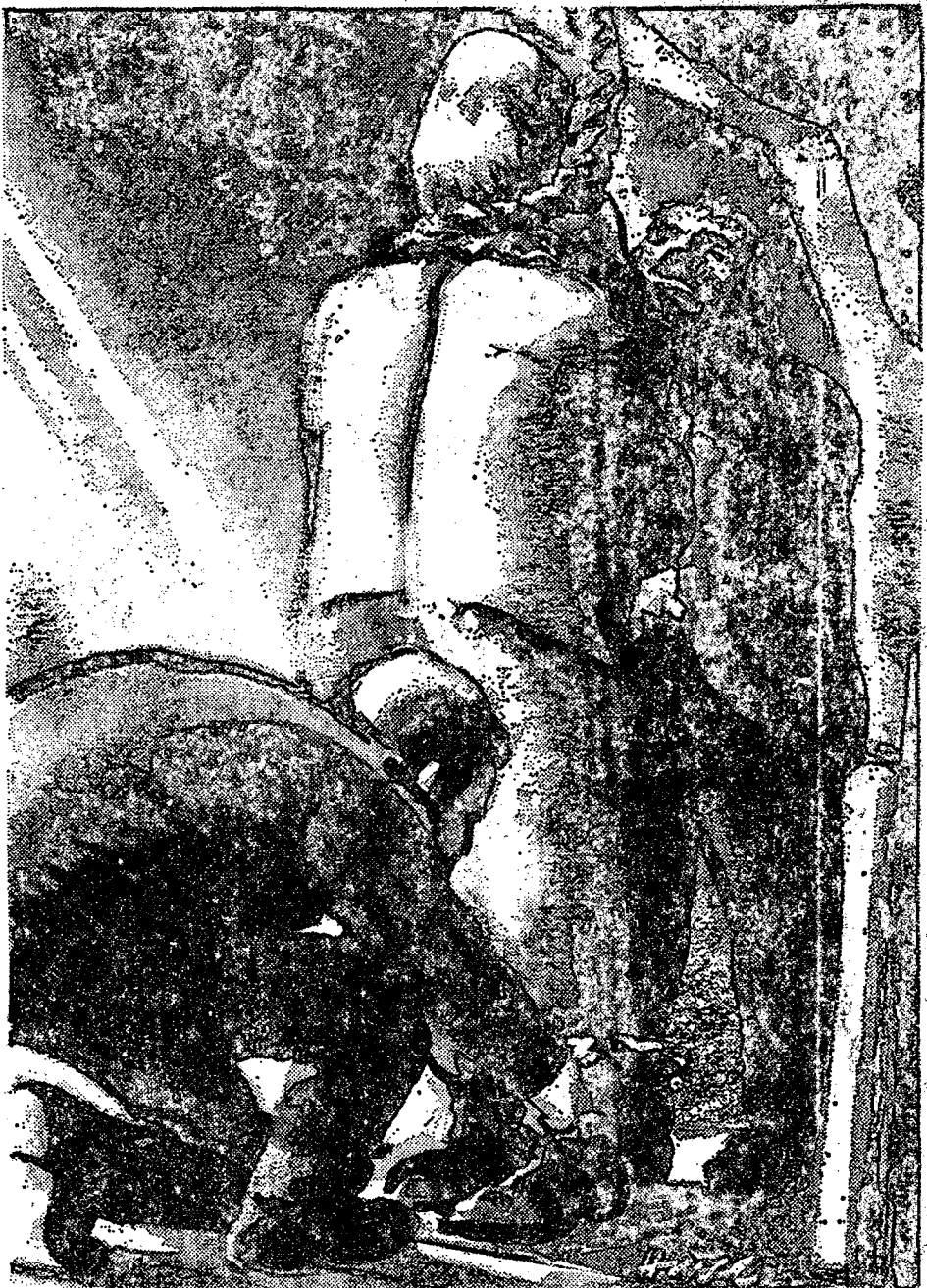
"So what does he do? He sits in Cabinet and agrees to commute the sentences of murderers who have killed police. How can our police do the job expected of them when the Government won't back them up and enforce the law of the land?"

Mr. Woolliams agrees, however, that the sharp jump in murders may be part of the world-wide rise of crime and violence. In Metro Toronto, for instance, violent crimes were up 11.6 per cent in the first six months of this year.

In December, 1967, Parliament virtually abolished the death penalty for a five-year trial period, except for those convicted of slaying police officers or prison guards. The vote was 114 to 87, with many members in the 265-seat House of Commons abstaining or absent.

Just 20 months earlier, a private MP's bill to outlaw the gallows was rejected in a "free" vote by 143 to 112. Despite this, the Pearson Government continued almost automatically to commute all death sentences, regardless of whether a jury's recommendation for mercy was attached.

Prime Minister Pearson said his



personal abhorrence of capital punishment was, in effect, a factor in what was described as the "wholesale" commutation of death sentences before, and when, the new law went into effect — 54 in all.

Since then, only one murderer of a policeman has had his sentence commuted to life imprisonment. He is Leonard Otto Borg, now 34, who was convicted of killing an RCMP corporal in Alberta in 1967. The jury had recommended mercy.

### Police slayers

Currently, two men are under sentence of death for police slayings that occurred since the trial law came into effect. One is William Roy Rosik, 23, convicted of the shooting last August of Constable Robert Carrick, also 23, in a Windsor suburb. His appeal is now before the Supreme Court of Canada. Carrick was killed when answering a domestic complaint.

The other is Clifford Lurvey, 53, a Vancouver man sentenced to be hanged for shooting Constable Leonard Shakespeare, 26, during a burglary in a St. Boniface store in July 1969. His case is now before the Manitoba Appeal Court.

In both cases, the jury also recommended mercy.

There was also the slaying last October of Constable David Goldsworthy, 26, of Metro Toronto police, in a North York field. Vincenzo Fazzari, 23, was first charged with capital murder, then pleaded guilty to non-capital murder. He is now serving life.

The Criminal Code requires a capital murder charge to be laid only when a policeman or prison guard is killed while performing his duty. The charge was changed to non-capital murder after the Crown attorney's office said it would have difficulty proving Goldsworthy was on duty when shot.

There hasn't been an execution in Canada since Dec. 11, 1962, when two convicted murderers, Arthur Lucas and Ronald Turpin, were hanged back-to-back at Don Jail in Toronto. Canada is one of 58 remaining countries that still retains the death penalty, restricted as it is to killers of police and prison guards.

Mr. Woolliams accepts all the arguments that the sharp rise in crime and violence in Canada, as throughout the world, has been a factor in the increase in murders. Multiple slayings such as those in British Columbia, and in northern Saskatchewan about two years ago when seven members of one family were killed, no doubt exaggerate the picture. Some murders, too, become manslaughter cases.

### On increase

Despite this, he insists, murder is on the increase in Canada. The present capital punishment law is one of the reasons.

He predicted that if the present trend continues, many Canadians who are now abolitionists "will change their minds" by the time the five-year trial period for banning capital punishment ends in December, 1972.





HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

DM-SM  
SOL GEN

SEP 23 42 00 PM '70

FILE  
DOSSIER

141-206

OTTAWA  
September 16, 1970.

The Honourable George McIlraith,  
Solicitor General of Canada,  
OTTAWA.

Dear Mr. Minister:

I enclose a copy of a letter which I have  
received from the Reverend J.T.L. James, President of the  
Canadian Correctional Chaplains Association.

I consider the suggestion he makes on behalf of  
the Association a good one.

As I wrote to Reverend James...I would urge that  
you consider having a study made of murderers in custody, as to  
whether they feel that capital punishment had any effect on their  
risking their crime.

I also enclose a copy of my reply to a Mrs. T.G.  
Norris, and a copy of her letter, in the same matter.

Yours sincerely,

Barry Mather, M.P.  
Surrey, B.C.

Enclosures.

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL  
SEP 22 12 32 PM '70



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

OTTAWA  
September 16, 1970.

The Reverend J.T.L. James,  
President,  
Canadian Correctional Chaplains Association,  
511 Stradbrook Avenue,  
WINNIPEG 13, Man.

Dear Reverend James:

I was glad to hear from you and I am taking action  
along the line suggested, i.e. to urge the Solicitor General to  
have a study made of murderers in custody, as to whether they feel that  
capital punishment had any effect on their risking their crime.

Yours sincerely,

Barry Mather, M.P.  
Surrey, B.C.

✓  
cc. The Honourable George McIlraith,  
Solicitor General of Canada,  
OTTAWA.

s.19(1)

BEST AVAILABLE COPY



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

OTTAWA  
September 16, 1970.

Mrs. [REDACTED]

Dear Mrs. Norris:

I was very glad to receive your recent letter on the subject of the increase in Canadian murders since the suspension of capital punishment in 1966.

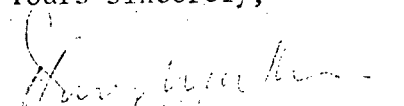
I am asking the Solicitor General to initiate through the research division of Correctional Planning Branch of his Department a study into:-

(a) Aspects of murder including a proposal by the Canadian Correctional Chaplain Association that there be a survey among those now imprisoned for murder to find whether the threat of capital punishment, or the lack of such threat had any bearing in their commitment of the crime.

(b) I am going to add your suggestions to that one.

It seems to me that with the abolition period ending next year it is timely for us to make a thorough search of all such factors and to avoid, if possible, an emotional reaction to such a discussion.

Yours sincerely,

  
Barry Mather, M.P.  
Surrey, B.C.

✓ cc. The Honourable George McIlraith,  
Solicitor General of Canada,  
OTTAWA.

BEST AVAILABLE COPY

s.19(1)

MRS. [REDACTED]

Dear Mr. [REDACTED] -

I was very interested to read in  
the press that you were making a survey of  
murders and reported an increase since  
1966.

I was wondering if you were also conducting  
an enquiry into the type of murders committed.

I would be most interested to know -

a) whether the increase was greater in  
Quebec than other provinces?

b) How many were committed by people  
who were mentally ill?

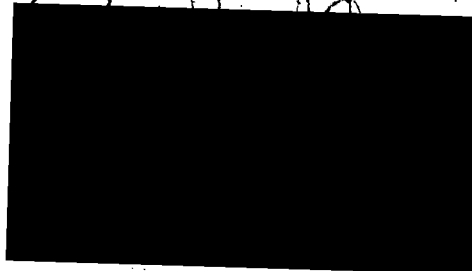
s.19(1)

e) How many murderers were under  
the influence of alcohol when the murder  
was committed.

f) How many murders were unsolved?

Shaw writes many times urging the  
abolishment of capital punishment over the  
years and do not think it has much bearing  
on murders but then seems to be so few  
statistics.

Yours faithfully,



PRESIDENT  
REV. J. T. L. JAMES  
511 STRADBROOK AVE.  
WINNIPEG 13, MAN.

VICE-PRESIDENT  
REV. R. M. TARDIF  
47 DES RAMPARTS  
QUEBEC CITY, QUE.

PAST PRESIDENTS  
REV. CANON MINTO SWAN  
REV. THOMAS CORCORAN  
LT. COL. J. C. EACOTT  
M. L'ABBE MARC LECAVALIER  
REV. S. G. WEST  
REV. J.-P. REGIMEAL, O.S.S.T.

CANADIAN CORRECTIONAL CHAPLAINS' ASSOCIATION  
(affiliated with the Canadian Corrections Association)

L'ASSOCIATION CANADIENNE DES AUMONIERES  
EN CRIMINOLOGIE  
(affiliée à la Société canadienne de Criminologie)

SECRETARY  
MAJOR J. ZARFAS  
202 - 261 FORT ST.  
WINNIPEG 1, MAN.

TREASURER  
REV. H. J. BEDFORD, S.J.  
2200 GRANT AVE.  
WINNIPEG 29, MAN.

September 10, 1970

Mr Barry Mather,  
Member of Parliament,  
House of Commons,  
OTTAWA, Ont.

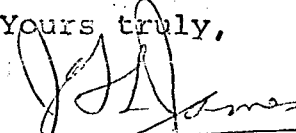
Dear Sir:

I was interested to read in the newspapers and to hear on Winnipeg C.B.C.'s "Information Radio" of your continued research into the vexing question of capital punishment. You may recall that our Association collected, published, and distributed to all Members of Parliament at the time of the last debate, the official and supporting statements of the major religious denominations, on the subject.

It seems to me as a criminologist as well as priest and prison chaplain that there is a specific piece of research which would be of the greatest assistance in deciding on the deterrent effect of capital punishment. I believe that a study should be made of those now imprisoned for murder, to determine what if any effect the knowledge that they were or were not risking capital punishment had on them at and immediately before the time of their crimes. It is my personal hypothesis that the risk of punishment exercises only a general deterrent effect on people but rarely is a specific deterrent unless the crime is deliberately planned and executed. It is my impression that most killings are crimes of passion, not rationally planned and carried out.

As the Department of the Solicitor General now has a Correctional Planning Branch with a research division, it would seem to me that the facilities exist to undertake a carefully devised, thorough, and comprehensive study of murderers in custody, which could yield the kind of scientific data not now available. If you are in a position to encourage such a study, I can assure you of the support of our Association and believe that other groups would likewise favour such a course of action.

Yours truly,

  
(The Revd) J.T.L. James,  
President.

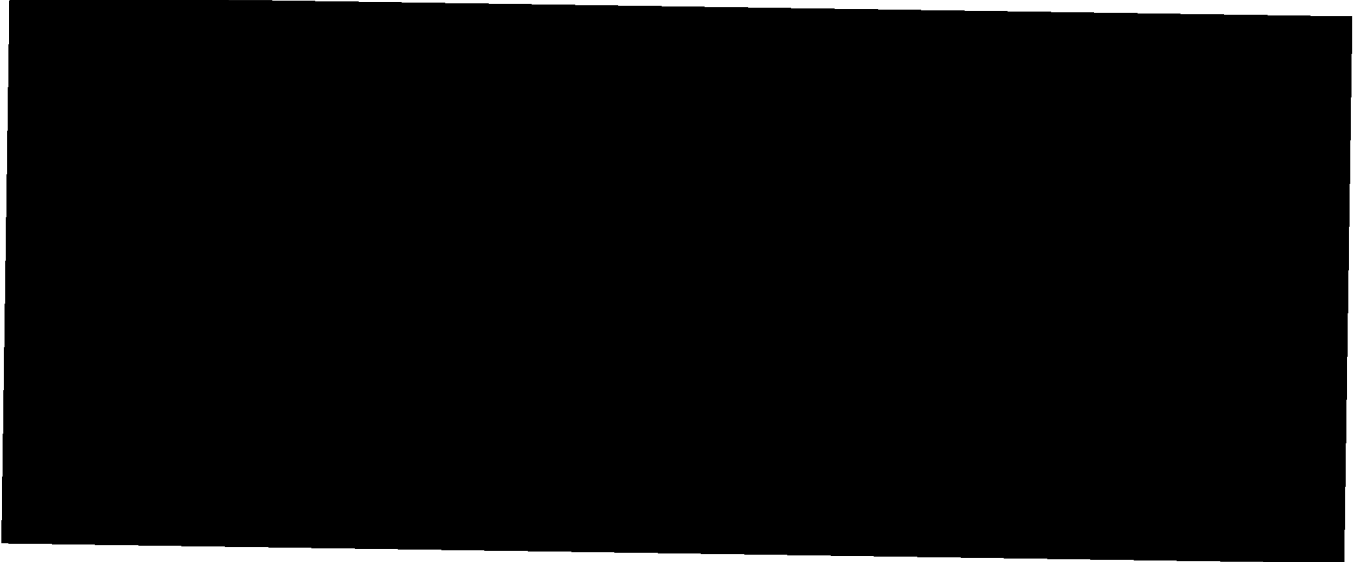
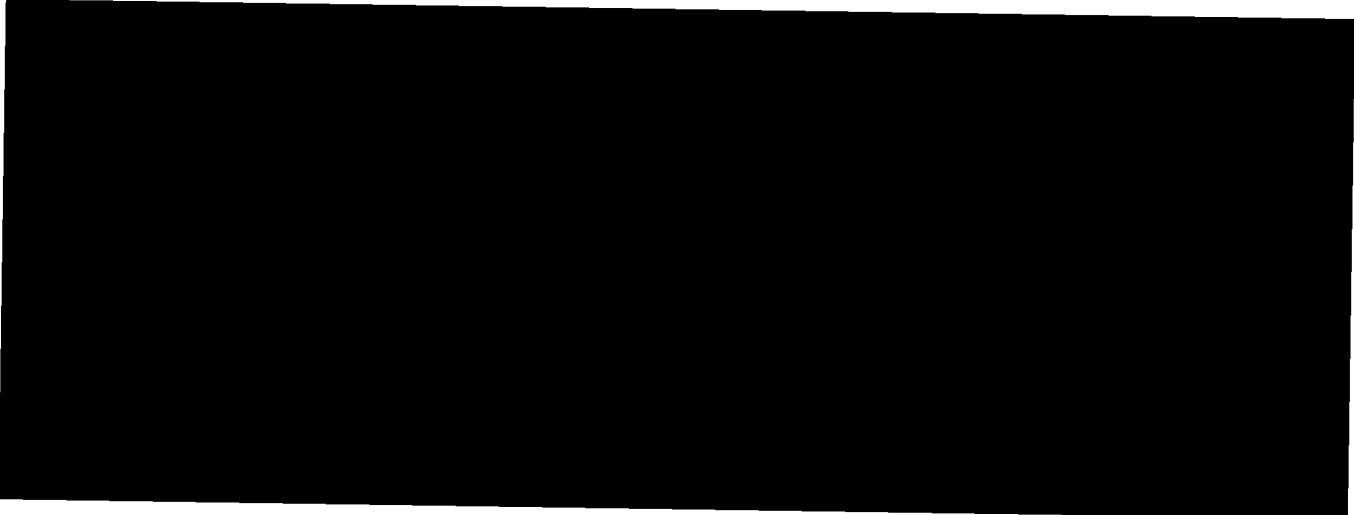
s.23

141-206

Ottawa 4, December 16, 1969

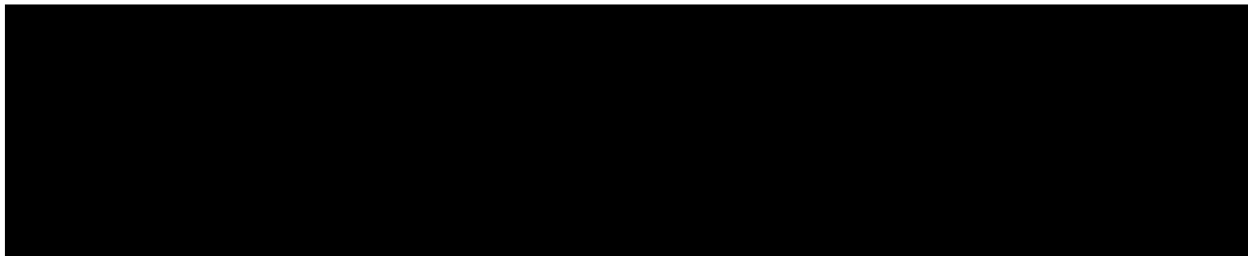
Dear Mr. Lee:

I acknowledge your letter of December 11th under your file 20-CDA-5-1, with which you enclosed a copy of a Note No. 551/4/69 from the High Commission of India.




.....2

Mr. E.G. Lee,  
Legal Division,  
Department of External Affairs,  
520 Daly Building,  
Ottawa, Ontario



I trust that this is sufficient for you to frame  
the answer you propose to make to the High Commission of India.

Yours truly,

  
J.H. Hollies,  
Senior Solicitor

JHH/mab



DEPARTMENT OF EXTERNAL AFFAIRS



MINISTÈRE DES AFFAIRES EXTÉRIEURES

OTTAWA 2, December 11, 1969.

File 20-DDA-5-1

Dear Mr. Hollies,

We enclose a copy of a Note # 551/4/69 dated December 3, 1969 from the High Commission of India, in which they request information about the abolition of the death penalty and its impact on the incidences of capital crime.

We should be grateful if you would give us your advice and comment so that we may frame an answer for the High Commission.

Yours sincerely,

*Elfee*  
Legal Division,  
Department of External Affairs.

Mr. J.H. Hollies, Senior Solicitor,  
Legal Services Division,  
Solicitor General Department,  
# 306, Sir Wilfrid Laurier Bldg.,  
Ottawa, Ont.

DM SM  
SOL GEN

DEC 15 11 40 A.M.

FILE \_\_\_\_\_  
DOSSIER \_\_\_\_\_

OTT/551/4/69

The High Commission of India presents its compliments to the Department of External Affairs, Government of Canada, Ottawa and has the honour to state that the Government of India are presently collecting information about abolition of death sentence in other countries and the impact on the incidence of murder cases in those countries as a result thereof.

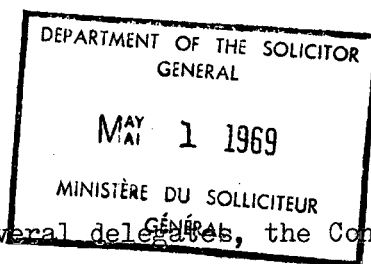
It is requested that the requisite information in so far as Canada is concerned may kindly be intimated to this High Commission for onward transmission to the Government of India.

The High Commission avails itself of this opportunity to renew to the Department of External Affairs the assurances of its highest consideration.

Department of External Affairs,  
Government of Canada,  
OTTAWA

Dated: December 3, 1969

ALTERNATIVE SANCTION



1. At the request of several delegates, the Consultative Committee discussed the problem of the alternative sanction, that is to say, of the punishment imposed on persons convicted of offences for which capital punishment might have been imposed by law, but who are not executed because either (a) the court or the jury has a discretion in imposing capital punishment and chooses a different penalty, or (b) the court or jury imposed a capital sentence which was subsequently commuted by executive clemency to a different penalty. The Committee also included in its discussion under this heading the sentence imposed on those convicted of an offence which, until recently in the history of the jurisdiction in question, was punishable capitally.

2. The Consultative Committee found itself in broad agreement with the recommendation of the Ad hoc Advisory Committee of Experts on the Prevention of Crime and Treatment of Offenders as set out in paragraph 116 of Capital Punishment: Developments 1961 to 1965, but expanded those recommendations, as follows, in respect of the penal treatment of those serving alternative sanctions.

3. Extended imprisonment is the generally accepted alternative sanction. The Consultative Committee was of the view that, in principle, such prisoners should be treated neither more severely nor more leniently than other long-term prisoners. Their classification in terms of custody and training, the availability to them of placement in open institutions, and similar circumstances of their imprisonment and correctional programmes should be based on their dangerousness, their proclivity to escape, their training needs, and the available correctional resources, not on the fact that they are serving an alternative sanction.

- 2 -

4. The period of imprisonment should not be so long that the prisoner, if and when he ceases to be a real danger to the community, has no realistic hope of ultimate release. Social protection is not increased by excessively protracted alternative sanctions and the destructive effects of too prolonged incarceration on the offender are well established. It was agreed that there should be periodic review of the cases of all prisoners serving alternative sanctions after they have served whatever is regarded in each country as the necessary minimum for their particular crime.

5. Where a country's penal system provides for reductions of the duration of imprisonment in respect of the "good behaviour" of the prisoner, similar provisions should, as far as possible, be applied to those serving alternative sanctions. If their terms of imprisonment are indeterminate or indefinite, it may be that the parole board, or whatever is the responsible releasing agency, should take first cognisance of the case of each prisoner serving an alternative sanction at a time defined in part by such a provision for reduction of sentence for good behaviour.

6. Effective social defence requires that the prisoner serving an alternative sanction should, when released from prison, be subject to supervision in the community, and possible reemprisonment if this should prove to be necessary. Further, arrangements for half-way houses as a release procedure for long-term prisoners and for "working out" as a prelude to their release, should, as they develop in a country's penal system, be extended to those serving alternative sanctions.

*should be available in appropriate cases*

DEPARTMENT OF THE SOLICITOR GENERAL  
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

Solicitor General.

Recommended for signature, pls.

*ftt Halliwell*  
for D.M.  
c.o.d.

19 Feb 69

141-206

Ottawa 4, February 19, 1969

Dear Mr. Dusseault:

Your letter of February 13th addressed to the Minister of Justice, which was signed by a number of other gentlemen, has been passed to me for a reply.

I have taken careful note of your representations that in view of today's conditions capital punishment must be resorted to and certain other measures should also be used.

Yours sincerely,

ORIGINAL SIGNED BY  
GEORGE J. McILRAITH

George J. McIlraith

JHH/mab

Mr. Joseph O. Dusseault,  
Lac Guindon,  
CtÉ, Terrebonne, P.Q.

notes - P.A.  
F. Abellie  
21 Feb 69



# ACTION REQUEST

TO Mr Hollen DATE Feb 18/69  
LOCATION \_\_\_\_\_

FROM **E. R. M. GRIFFITHS**

RE FILE NO. \_\_\_\_\_

FOR: **Executive Assistant to  
Solicitor General**

<input type="checkbox"/>	ACTION
<input type="checkbox"/>	APPROVAL
<input type="checkbox"/>	COMMENTS
<input checked="" type="checkbox"/>	DRAFT REPLY
<input type="checkbox"/>	INFORMATION
<input type="checkbox"/>	INVESTIGATE AND REPORT
<input type="checkbox"/>	INVESTIGATION
<input type="checkbox"/>	MAKE.....COPIES
<input type="checkbox"/>	MORE DETAILS
<input type="checkbox"/>	NOTE AND FILE

<input type="checkbox"/>	NOTE & FORWARD
<input type="checkbox"/>	NOTE & RETURN
<input type="checkbox"/>	P.A. ON FILE
<input type="checkbox"/>	REPLY DIRECTLY
<input type="checkbox"/>	REPLY, PLEASE
<input type="checkbox"/>	SEE ME, PLEASE
<input type="checkbox"/>	SIGNATURE
<input type="checkbox"/>	TRANSLATION
<input type="checkbox"/>	YOUR REQUEST

PREPARE MEMO TO:.....

REPLY FOR SIGNATURE OF:.....

REMARKS.....

000455

OFFICE OF  
THE MINISTER OF JUSTICE  
RECEIVED  
OFFICE OF THE  
CLERK OF THE  
PARLIAMENT

FEB 18 2 14 PM 1969  
Date February 18, 1969.

Forward to Mr. E..M.R. Griffiths

Perusal and Return with Draft reply for my

Signature .....

Please see me re this .....

Attention xxx not acknowledged

Information .....

Perusal and Return .....

Perusal and Return with File .....

Perusal and Return with Recommendation .....

Perusal and Return with Comments .....

Let me have material asked for herein .....

Approval or Revision before Mailing .....

Please Fill in Blanks and Return .....

Special Instructions:



Mr. Richard D. Hayes,  
Executive Assistant.

000456



s.19(1)

Minister's Office
Bureau du Ministre
FEB 17 1969
Ex. Asst.
SP. Asst.
SP. Asst.
Pri. Sec.
Const. Sec.

LAC GUINDON. Montreal.  
CTÉ. TERREBONNE, P.Q. February 13, 1969

The Honorable Minister of Justice,  
Mr. John Turner,

Sir. At the present moment many persons are hurt due to another bomb blast, a few minutes ago, and innocent people, will always be exposed if you Member of parliament don't act at once.

Now Sir the reason why I, and we the undersigned are protesting against the lifting of capital punishment, we and many more like us are judging this step as immediate requirement, for the protection of the public, and we believe it is your duty to protect us against such behavior, which is unfair in our society of today.

We must go back to CAPITAL PUNISHMENT in order to prevent further, or at least to reduce the number of acts of violence, and also the whip should be used again in many other cases of violence, including rape cases, robbery with assault, and other similar cases.

The federal government should have a hard labor camp, Yes Sir I repeat, A hard labor camp And I mean hard... ~~let's~~ stop fooling ourself, if we want a free society, we are on the wrong track, by allowing outlaws to run around freely while we the good people of this society are afraid to go out at night, this is not freedom.

We are even exposed to danger during the working hours in broad daylight, is this freedom Sir, I like to know?

Twenty Four

Now at this very moment approximately ~~sixteen~~ persons are receiving medical care due to a bomb blast at the stock market building in Montreal which occurred around three o'clock this afternoon; Now Mr. Minister let's be serious and act, accordingly, after all we are the people who are paying the shot, also we are the ones requesting ~~protection~~ protection, and we should have it regardless of cost.

A supporter of The Honorable Leo Cadieux,  
Minister of defence,

Sincerely yours,



# ACTION REQUEST

TO Mr Hollies DATE Feb 14/68

LOCATION

FROM **E. R. M. GRIFFITHS**

RE FILE NO.

FOR: **Executive Assistant to  
Solicitor General**

☒ ACTION  
☒ APPROVAL  
☒ COMMENTS  
☒ DRAFT REPLY  
☐ INFORMATION  
☐ INVESTIGATE AND REPORT  
☐ INVESTIGATION  
☐ MAKE ..... COPIES  
☐ MORE DETAILS  
☒ NOTE AND FILE

☐ NOTE & FORWARD  
☐ NOTE & RETURN  
☐ P.A. ON FILE  
☐ REPLY DIRECTLY  
☐ REPLY, PLEASE  
☐ SEE ME, PLEASE  
☐ SIGNATURE  
☐ TRANSLATION  
☐ YOUR REQUEST

PREPARE MEMO TO: .....

REPLY FOR SIGNATURE OF: .....

MARKS: .....

*noted - PA*  
*[Signature]*  
*14 Feb 68*

000458


*Referred by direction of The Prime Minister*  
*Transmis à la demande du Premier ministre*

To The Minister of      Solicitor General  
Au Ministre d              Attention: Mr. E.M.R. Griffiths,  
Executive Assistant.

**FOR INFORMATION AND ANY NECESSARY ACTION**  
**POUR EXAMEN ET DÉCISION PERTINENTE**

Also referred to:  
Également transmis à  
For attention.

February 11, 1969

  
Mrs. Olga Maxwell,  
Secretary.

Ottawa,

000459



COPY  
COPIE

OFFICE OF THE PRIME MINISTER • CABINET DU PREMIER MINISTRE

O t t a w a (4),  
February 11, 1969.

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL  
FEB 13 8 48 AM '69

Dear Mr. DeVreeze:

On behalf of the Prime Minister, I wish to acknowledge receipt of your letter on the subject of capital punishment.

Please be assured that careful note has been taken of the views which you have put forward.

In addition, we are bringing your letter to the attention of the Minister most concerned with this matter.

Thank you for your concern in writing.

Yours sincerely,

Original signed by  
Original signé par  
MRS. OLGA MAXWELL

Mrs. Olga Maxwell,  
Secretary.

Mr. F.L.M. DeVreeze,  
430 Ave. Des Pins,  
St. Bruno, P.Q.

c.c. Solicitor General  
Attention: Mr. E.M.R. Griffiths, Executive Assistant.\*

\*For attention

DEPT. OF THE SOLICITOR GENERAL CENTRAL REGISTRY
Referred to <i>Mr. J. J. J. J.</i>
FEB 14 1969
File No. <i>141-206</i>

Memorandum. No. 21-1-1969.

To the Right Hon. Minister President of Canada.  
Ottawa.

OFFICE  
CABINET

Dear Minister President 69 JAN 24 PM 2 42

Permit me please a few minutes of your precious time of a happening of today: "new bombs in Montreal" of some weeks ago: "murder on the highways" of which clipping attached.

The terrible impact of these criminal happenings still have us all in their grip. The terrible killing of two innocent men in their wives' presence on the highway, the not less criminal acts of placing bombs in large bins and departmental stores, where scores of innocent people be affected, cry for vengeance and justice to Heaven.

The greatest disservice the Canadian government could have done the people of this big land of ours, certainly been the elimination of the death penalty.

Never yet, has the undersigned, in the pursuit of gaining his living for wife and 5 children, been or bearing a concealed weapon, like pistol or revolver, or a stick of dynamite. Yet, the number of these people, who place selves squarely outside the law, and do not consider a life valuable, are on the increase, ever since the death penalty was done away with.

There is no deterrent anymore. Should these onflows not continue to go on as before. There effective punishment anymore, no noose, no whip or stick. To meet out a physical punishment they so really deserve.

Mothers and children can so easily be buried under the rubble of crashing walls caused by a dynamite stick, placed by a criminal hand. Good honest bank tellers and duty observing law enforcement officers can at any moment be mowed down by the whims of a crazy hold-up man, who finds a loaded pistol a far better tool to get money than to take up an honorable profession.

Monsieur le Premier Ministre, la population Canadienne n'a rien perdu avec un criminel qui sera pendu pour des crimes commis et il faut mieux préserver des personnes honnêtes que sauver un individu qui va faire exactement pareil, dès sa libération de prison après une durée de quelques ans de quarantaine dans un prison.

En plus, la considération de corriger ces individus incorrigibles, ne tient pas debout. L'expérience a confirmé que ces récidivistes ne se corrigent jamais, mais, se dirigeront de nouveau envers les lieux criminels comme auparavant.

La peine de mort ne touchera jamais une millions de gens qui pourrissent leur bonté dans la vie honnêtement. Alors pourquoi enlever cette protection des gens respectables et l'accorder aux hors-de-la-loi qui à droit et a grande désobéissance à la population de bonne et honnête volonté?

Cher Monsieur le Premier Ministre, un tel attentat peut aussi bien victimiser même ma femme même moi, ou un de mes enfants, et aussi à un de mes chers amis avec leurs enfants, ou à un des milliers des bons citoyens Canadien qui se parcourent chaque jour dans la rue de notre pays. Ceci peut aussi arriver à nous même.

Et, Monsieur le Premier Ministre, je peux vous assurer, qu'un tel bandit avec des intentions pareilles, ne certainement penser une deuxième fois, d'il est sûr, que la potence, ou les balles d'un péléton de la justice l'attendent. Alors, voilà l'exemple repoussant pour ce meurtrier avec le motif de se reconverter à la société respectable.

May I please say this letter and and  
urge you, Mr Prime Minister, in the interest of all

s.19(1)

good willing and decent living citizens of this Canada of ours, in their idea of protecting their lives and that of their families, to please re-instate the supreme penalty of death, which will only be incited out to those outlaws who have declared a relentless war against the law abiding citizens of our Country.

Time after the suppression of the death penalty has proven, that this penalty has to be retained in order to protect the good willing and do away with the no-good-for-nothing bank of murderers and holdup men.

Anybody who has on him a concealed pistol or revolver, or a stick of dynamite with the intention of causing harm has forfeited his life, certainly after proof that these weapons did take part in actual killings of good citizens.

Better to do away with one criminal on the gallows, and to save hundreds of innocent people than to ponder on the false humanitarian consideration that these bandits will better themselves after 15 years of prison, (usually ending after 5 years with parole!) after which, normally, they are worse than at the time they got in.

Thank you, Mr. Prime Minister for your attention, in this matter. The majority of the country will be grateful to you.

Bonne Santé - Good health.

D.A.V. Sincerely

s.19(1)

Ottawa 4, Ontario  
January 10, 1968.

141-206

Dear Mr. [REDACTED]

The Honourable Lawrence T. Ponnell, Solicitor General of Canada, has asked me to acknowledge your letter to him of January 8, 1968 and to say that he has noted your views on the enactment of the recent amendments to the Criminal Code respecting the imposition of the death penalty in relation to murder.

Yours truly,

  
T.D. MacDonald

Mr. E.H. Lane,  
Box 898,  
High River,  
Alberta.





'I write as I please'

# Fred Kennedy

## *A government licence to murder*

Now that the federal government, with the assistance of members of the House of Commons, has, in essence, legalized cold blooded murder, except in cases where police officers and prison guards are liquidated while on duty, Justice Minister L. T. Pinnell should now complete his centennial project by retiring from politics, accept a judgeship, and thus be in a position to further work on behalf of murderers. Certainly he should get out of the cabinet before a court somewhere in Canada sentences the murderer of a police officer or a prison guard to death. As an unsolicited member of the Association of Bleeding Hearts, it could prove very painful indeed if he finds that he is prevented by law from again saving the life of another murderer.

Under the terms of the government's act to abolish capital punishment for capital murder, with the two exceptions as outlined above, and which becomes effective as of this date, potential murderers are now given full licence to liquidate anyone, just so long as they are not policemen or prison guards, in the full knowledge that they won't be executed if they are caught and convicted. They can rape and murder your mother, wife, daughter or sister. They can shoot down bank tellers in cold blood while in the act of committing a robbery. You can have your throat slit in your own backyard, or you can be gunned down in the living room of your own home or in your automobile, and the most the perpetrators of these crimes can get is a paper 'life imprisonment' term, which, under our parole system, is a mere ten years in the penitentiary. Some fun, eh?

There is probably no parallel in Canadian parliamentary history where a justice minister has worked so hard and so consistently to save persons convicted of capital murder to escape the full penalty of their crimes. Even when a majority of members of the House of Commons refused to support a somewhat similar bill about 18 months ago, Mr. Pinnell, with the support of the prime minister and majority members of his cabinet, succeeded in saving nearly a score of convicted murderers from the gallows, in open defiance of the wishes of the majority of members of the House of Commons. This, of course, was a continuing embarrassment to the government, and it was finally decided to bring in a new bill.

However, they decided to throw in a sop in order to gain support for the measure, so a clause was inserted which excluded policemen and prison guards from the government permits to murder.

You ask any policeman today whether he would prefer to have protection for his wife and children under this kind of legislation rather than for himself, and he'll tell you that he would prefer to take his chances with a murderer, if by doing so, some extra measure of protection was accorded his wife and family. After all, police officers are armed and have been trained to defend themselves. They are paid to risk their lives in the performance of their duty, and I'm sure none want to shelter behind the skirts of their wives and families.

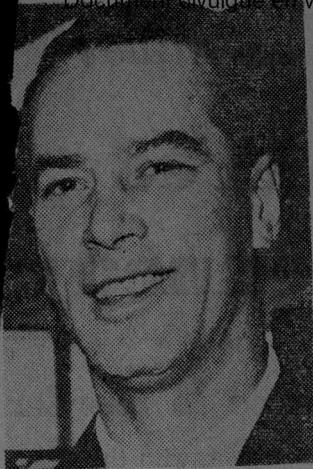
The new act becomes operative at a time when major crime is on the increase all over Canada. In Calgary, Police Chief Ken McIver, in presenting his annual report, stated that there was an increase of 12 per cent over the previous year, which in turn showed an increase over 1965.

The records also will show that crime is increasing among young adults and juveniles. The increase in juvenile delinquency is so rapid, that existing detention home facilities for youngsters awaiting trial are such that in Calgary, it has not been possible to house alleged law breakers from country points. It had been necessary for the RCMP to house some of these youngsters in their cell blocks at Calgary headquarters, and this resulted in a public outcry.

Lack of facilities caused by the increased crime rate has resulted in other difficulties. At Gleichen recently, a number of boys (not town residents) broke into the Canadian Legion building and carted off about 30 cases of beer. They then stole a car and were apprehended in Calgary. What happened to them at this point is not quite clear, but two days later the Legion building was again burglarized and more beer stolen. Officers of the Legion have claimed that the same group committed both offences.

With crime on the increase, one has to doubt the wisdom of the latest federal government move to protect and the full import of this move may be conveyed sooner than some people believe.

000465



**BERT OLMSTEAD**

... hard on pocketbook

for an incident in Boston Dec. 13. Blake was given an automatic \$50 assessment for jumping on the ice to argue with referee Bill Friday and an additional \$200 by Campbell for coaching his club from the stands after being ejected from the game by the referee.

Blake had become distraught over a disputed goal. Canadiens won 6-2.

Prior to that, on Dec. 3, Canadiens and the Bruins took part in a free-for-all that saw both benches cleared. Campbell slammed players of both clubs with a total of \$1,650 in fines for that incident.

On Nov. 5 it was Toronto

Maple Leafs and Boston players in a general waltz that cost them \$1,200. Once again the benches were cleared, but again the Boston players were the last over the boards.

The only other incident occurred Nov. 19 at Philadelphia, when the Flyers and St. Louis Blues' players were fined \$1,275 for brawling.

The total amount donated thus far to the NHL's indigent players fund, which is the recipient of all fines collected, is \$5,825.

In addition to the 11 Oakland players fined Friday for leaving their bench in Boston, goaltender Gary Smith was assessed \$50 for leaving his crease to take part in the fight.

The brawl started in the third period between Boston right winger Ken Hodge and Oakland's Charlie Burns.

The players who each received automatic \$50 fines for leaving their respective benches are:

Oakland—Tom Thurlby, Bob Lemieux, Bob Baun, Billy Harris, Bill Hicke, Tracy Pratt, Alain Caron, George Swarbrick, Ron Harris, Larry Popein and Mike Laughton.

Boston—substitute goaltender John Adams, Bobby Orr, Ed Westfall, Garry Doak, Dallas Smith, John Bucyk, Glen Sather, Derek Sanderson, Fred Stanfield, John McKenzie, Eddie Shack and Ron Muir.

## ng to Spurs



**FISCHER**  
eline help

to a blueline crew that so far this season has been anything but impressive.

Fischer is expected to arrive in town early next week and he will probably see his first game action when Saskatoon Quakers visit the Corral Jan. 7.

To make room for the five-foot, 11-inch Fischer, the cellar-dwelling Spurs will be forced to cut one member of the present roster but who gets the axe will not be known until sometime this weekend.

There is a possibility the Spurs may reduce by two in order to leave a player's card open in the event another prospect becomes available before Feb. 10.

Fischer is a graduate of the Regina Pat minor program and played three years with the Saskatchewan junior squad. He spent a year in the Eastern Amateur League with Jacksonville before coming to the Spurs just prior to the start of last season.

## king life easy

bringing talented youngsters instead to give them a taste of the International brand of ice hockey.

Seven of the Swedish players have been with the Country's national team for fewer than 10 games. The inexperience is balanced a bit by Bert-Ola Norlander's 127 games, Carl-Gorban Oberg's 156 and Leif Holmqvist's 79.

The Canadians, who placed third behind Russia and Sweden in the 1967 World Championships in Vienna, appear to be just hitting their stride after a slow start that has left them with an 18-7-3 record.

Canada's fortunes appear to

called in Harry Smith, a defencemen for Trail Smoke Eaters; the last Canadian team to win the world crown, in an effort to solidify an up-and-down blueline crew.

Winnipeg hockey fans who have been turning out in rather small numbers for national team home games, are scrambling for tournament tickets. Winnipeg Arena's 9,000 seats are 75-per-cent sold for the six games.

Monday's afternoon opening will be followed by four 7 p.m. games, with Sweden vs. Russia Tuesday; Canada vs. the Russians Wednesday and the

000466

s.19(1)

Jan 8 - 68  
Box 898

Justice Minister Pinnell  
Sir;

No doubt you will ignore this but decent minded Canadians still have a right to protest. The recent legislation to legalize all sorts of crime is frightening. Your policy is well stacked in favour of the criminal.

Why not more stringent laws to protect decent law abiding citizens or is that asking too much.

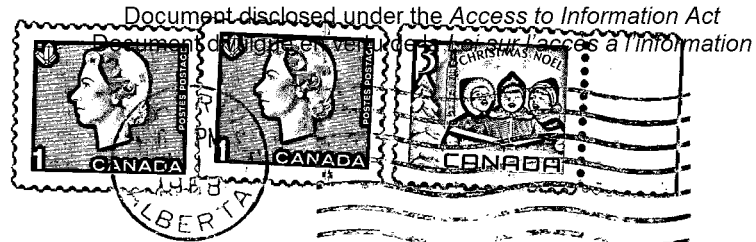
Sincerely

Mr. Cameron

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL  
JAN 10 9 14 AM '68

000467

RH Lane  
Box 898  
High River.



Justice Minister L. S. Punnell  
Parliament Bldg  
Ottawa Canada



000468



File Away

DEPARTMENT OF THE ATTORNEY GENERAL  
OFFICE OF THE DEPUTY MINISTER

PARLIAMENT BUILDINGS  
TORONTO 2

January 4, 1968

Mr. T. D. MacDonald,  
Deputy Solicitor General,  
Justice Building,  
Ottawa, Ontario.

Dear Mr. MacDonald:

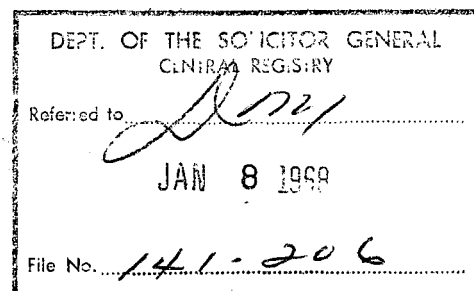
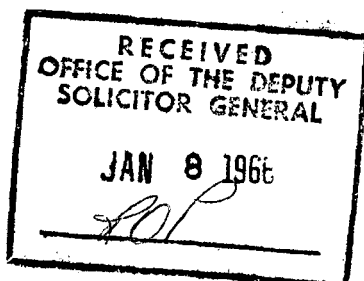
This will acknowledge and thank you for your  
letter of December 28th respecting the effective date  
of the Act relating to capital murder.


Yours faithfully,

A handwritten signature in dark ink, appearing to read 'A. R. Dick'.

A. R. DICK,  
Deputy Attorney General

/vp





File Away

141-206

000470



CANADA

PRIVY COUNCIL

P.C. 1968-49

AT THE GOVERNMENT HOUSE AT OTTAWA

THURSDAY, the 4th day of JANUARY, 1968

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL.

WHEREAS there are at present sixteen persons under sentence of death for having committed the crime of capital murder;

AND WHEREAS by an Act of Parliament which received Royal Assent on December 21, 1967, and which came into force by proclamation on December 29th the crime of capital murder is now limited by operation of subsection (2) of section 202A of the Criminal Code as follows:

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

- (a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or
- (b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death.";

...2

P.C. 1968-49

- 2 -

AND WHEREAS none of the persons presently under sentence of death come within the scope of said subsection (2) of section 202A;

AND WHEREAS in the opinion of the Solicitor General it is generally recognized and expected that having regard to the present state of the law in relation to the crime of murder the sentence of death will not be executed in any of the aforementioned cases and no useful purpose can be served by postponing the decision in respect of the exercise of clemency until, as has usually been the practice in the past, the judicial proceedings are at an end.

THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Solicitor General, hereby commutes the sentence of death imposed upon each of the persons hereinafter named to a term of life imprisonment in the Penitentiary designated opposite his name:

COLLIN, Robert - St. Vincent de Paul  
BERNIER, Marcel - St. Vincent de Paul  
MARTIN, Claude - St. Vincent de Paul  
GLADU, Jean-Jacques - St. Vincent de Paul  
POIRIER, Roland - St. Vincent de Paul  
POIRIER, Jacques - St. Vincent de Paul  
DEMERS, Roger - St. Vincent de Paul  
BROWN, Douglas - St. Vincent de Paul  
BOOTH, Douglas Joseph - Kingston  
BOIVIN, Jean-Jacques - St. Vincent de Paul  
DELEON, David Albert - St. Vincent de Paul  
BOIVIN, Henri - St. Vincent de Paul  
MYERS, Herbert Mathew - British Columbia  
CASTELLANI, Rene Emile - British Columbia  
ORTT, Harold Arthur - Kingston  
BOULET, Ovila - St. Vincent de Paul.

CERTIFIED TO BE A TRUE COPY



CLERK OF THE PRIVY COUNCIL



EN

# Telecommunications

H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

1968 JAN 8 PM 5 11

MOA434

MO AHA031 RX 56 COLLECT CHATHAM ONT 8 458P EST

C H CHRISTIE FOR DEPUTY

*323 Sir Wilfred Laurier*

SOLICITOR GENERAL FD OTTAWA ONT

YOUR MESSAGE DATE RECEIVED AS FOLLOWS QUOTE GOVERNOR

GENERAL IN COUNCIL HAS COMMUTED DEATH SENTENCE OF HAROLD

ARTHUR ORTT TO LIFE IMPRISONMENT IN THE KINGSTON

PENITENTIARY STOP TRANSFER TO PENITENTIARY TO BE HELD IN

ABEYANCE PENDING DISPOSITION OF ACCUSED'S APPEAL STOP

PLEASE REPEAT BACK THIS TELEGRAM WITHOUT FAIL IMMEDIATELY

UPON RECEIPT STOP LETTER FOLLOWS UNQUOTE

DONALD ROSS CUSHMAN SHERIFF COUNTY OF KENT

(00).



Ottawa 4, January 3, 1968

Dear Mr. Brunet:

I enclose herewith, copy of The Canada Gazette  
of Friday, December 29, 1967.

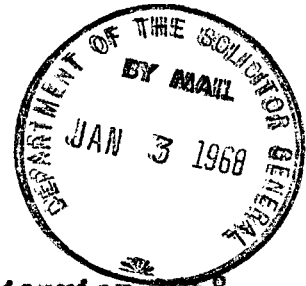
Yours truly,

Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Encl.

Mr. R. Brunet,  
Chief Crown Prosecutor,  
Court House,  
100 Notre Dame Street East,  
Montreal, Quebec



Ottawa 4, le 3 janvier 1968.

Cher monsieur Chouinard,

Pour faire suite à ma lettre du 28 décembre 1967, vous trouverez ci-incluses, pour votre information, deux copies de la Gazette du Canada du vendredi, le 29 décembre 1967.

Bien à vous,

Original signed by  
D. H. CROFT

T.D. MacDonald.

M. Julien Chouinard, c.r.,  
Sous-ministre de la Justice,  
Province de Québec,  
Québec, Québec.

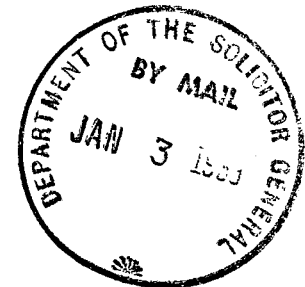
p.j.

Cher monsieur Green,

Pour faire suite à ma lettre du 28  
décembre, vous trouverez ci-inclus, pour  
votre information, deux copies de la Gazette  
du Canada du vendredi, le 29 décembre 1967.

Sincèrement

sous-ministre de la justice,



Ottawa 4, January 3, 1968.

Dear Mr. Rouse:

Further to my letter of December 28, 1967,  
I enclose herewith, for your information, two copies of  
the Canada Gazette of Friday, December 29, 1967.

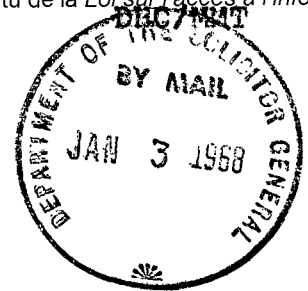
Yours truly,

Original signed by  
D. H. CHRISTIE

T.D. MacDonald.

Encl.

Mr. D.G. Rouse,  
Deputy Attorney General,  
Province of New Brunswick,  
Fredericton, New Brunswick.



Ottawa 4, January 3, 1968.

Dear Mr. Meldrum:

Further to my letter of December 28, 1967, I enclose herewith, for your information, two copies of the Canada Gazette of Friday, December 29, 1967.

Yours truly,

Original signed by  
D. H. CHRISTIE

T.D. MacDonald.

Encl.

Mr. R.S. Meldrum, Q.C.,  
Deputy Attorney General,  
Province of Saskatchewan,  
Regina, Saskatchewan.

DHC/MMT



Ottawa 4, January 3, 1968.

Dear Mr. Hart:

Further to my letter of December 28, 1967, I enclose herewith, for your information, two copies of the Canada Gazette of Friday, December 29, 1967.

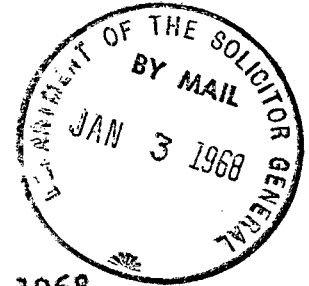
Yours truly,

Original signed by  
D. H. CHRISTIE

T.D. MacDonald

Encl.

Mr. John E. Hart, Q.C.,  
Deputy Attorney General,  
Province of Alberta,  
Edmonton, Alberta.



Ottawa 4, January 3, 1968.

Dear Mr. Greene:

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Yours truly,

Original signed by  
D. H. CHRISTIE

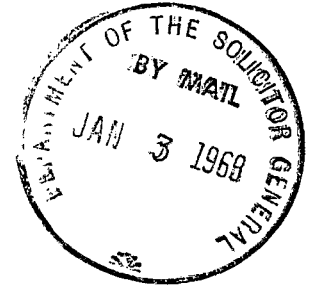
T.D. MacDonald.

Enc.

Mr. Cyril J. Greene, Q.C.,  
Deputy Minister of Justice,  
Province of Newfoundland,  
St. John's, Newfoundland.



DHC/ROP



Ottawa 4, January 3, 1968

Dear Mr. McGuigan:

Further to my letter of December 28, 1967 I enclose herewith, for your information, two copies of the Canada Gazette of Friday, December 29, 1967.

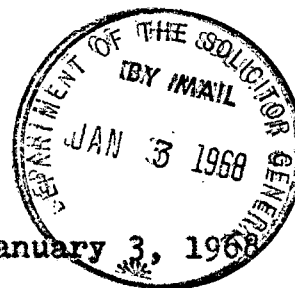
Yours truly,

Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Encl. 2

Mr. J. A. McGuigan,  
Deputy Attorney General,  
Province of Prince Edward Island,  
Charlottetown, Prince Edward Island



Ottawa 4, January 3, 1968

Dear Mr. MacDonald:

Further to my letter of December 28, 1967 I enclose herewith, for your information, two copies of the Canada Gazette of Friday, December 29, 1967.

Yours truly,

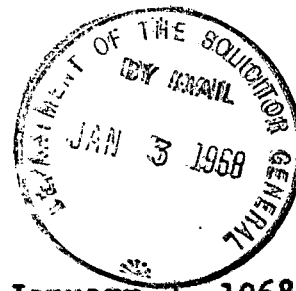
Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Encl. 2

Mr. J.A.Y. MacDonald, Q.C.,  
Deputy Attorney General,  
Province of Nova Scotia,  
Halifax, Nova Scotia

DHC/ROP



Ottawa 4, January 3, 1968

Dear Mr. Pilkey:

Further to my letter of December 28, 1967 I enclose herewith, for your information, two copies of the Canada Gazette of Friday, December 29, 1967.

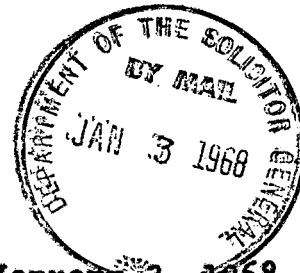
Yours truly,

Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Encl. 2

Mr. G. E. Pilkey, Q.C.,  
Deputy Attorney General,  
Province of Manitoba,  
Winnipeg, Manitoba



Ottawa 4, January 3, 1968

Dear Dr. Kennedy:

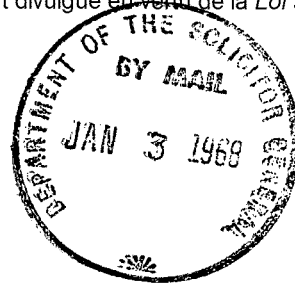
Further to my letter of December 28, 1967 I enclose herewith, for your information, two copies of the Canada Gazette of Friday, December 29, 1967.

Yours truly,

Original signed by  
B. N. CHRISTIE  
T. D. MacDonald

Encl. 2

Dr. Gilbert D. Kennedy, Q.C.,  
Deputy Attorney General,  
Province of British Columbia,  
Victoria, British Columbia



Ottawa 4, January 3, 1968

Dear Mr. Dick:

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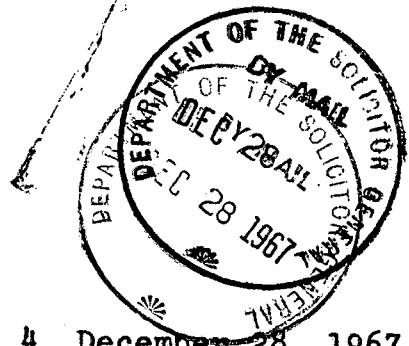
Yours truly,

Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Encl. 2

Mr. A. R. Dick, Q.C.,  
Deputy Attorney General,  
Province of Ontario,  
Parliament Buildings,  
Toronto 2, Ontario



Ottawa 4, December 28, 1967

Dear Mr. Dick:

This will confirm that the Act relating to capital murder which received Royal Assent on December 21st has been proclaimed in force effective Friday, December 29th, 1967. A copy of the issue of the Canada Gazette in which the proclamation is published will be sent to you next week.

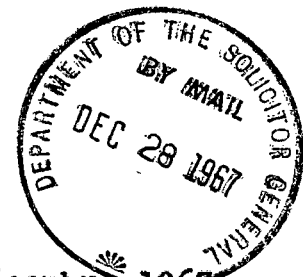
Yours truly,

Authorized by  
D. H. CHRISTIE

T. D. MacDonald

Mr. A. R. Dick, Q.C.,  
Deputy Attorney General,  
Province of Ontario,  
Parliament Buildings,  
Toronto 2, Ontario

DHC/MMT



Ottawa 4, le 28 décembre 1967.

Cher monsieur Chouinard,

La présente est pour vous confirmer que la loi relative au meurtre qualifié, qui a reçu la sanction royale ce 21 décembre, a été proclamée en vigueur à partir du 29 décembre 1967. Vous recevrez, la semaine prochaine, une copie de la Gazette du Canada dans laquelle la proclamation est publiée.

Bien à vous,

Original signed by  
D. H. CHRISTIE

T.D. MacDonald

M. Julien Chouinard, c.r.,  
Sous-Ministre de la Justice,  
Province de Québec,  
Québec, Québec.

La présente est pour vous confirmer  
que la loi relative au mentu qualifié,  
qui a reçu la sanction royale le 21 décembre,  
a été ~~disposée~~ <sup>proclamée</sup> en vigueur à partir du 29  
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Sincèrement



Ottawa 4, December 28, 1967

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Yours truly,

T. D. MacDonald

Mr. A. R. Dick, Q.C.,  
Deputy Attorney General,  
Province of Ontario,  
Parliament Buildings,  
Toronto 2, Ontario

TDM/MMT



Ottawa 4, December 28, 1967.

Dear Mr. Rouse:

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Yours truly,

Original signed by  
D. H. CHRISTIE

T.D. MacDonald

Mr. D.G. Rouse,  
Deputy Attorney General,  
Province of New Brunswick,  
Fredericton, New Brunswick.



Ottawa 4, December 28, 1967

Dear Mr. MacDonald:

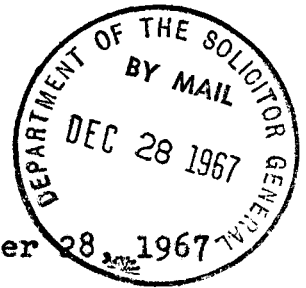
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Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Mr. J.A.Y. MacDonald, Q.C.,  
Deputy Attorney General,  
Province of Nova Scotia,  
Halifax, Nova Scotia



Ottawa 4, December 28, 1967

Dear Mr. McGuigan:

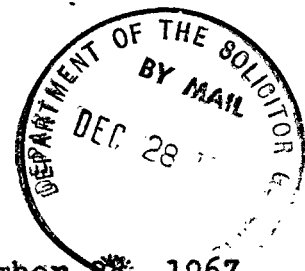
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Original signed by  
D. W. CHRISTIE

T. D. MacDonald

Mr. J. A. McGuigan,  
Deputy Attorney General,  
Province of Prince Edward Island,  
Charlottetown, Prince Edward Island



Ottawa 4, December 28, 1967

Dear Mr. Greene:

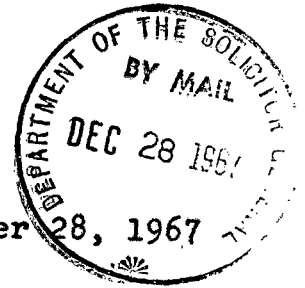
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D. H. CHRISTIE

T. D. MacDonald

Mr. Cyril J. Greene, Q.C.,  
Deputy Minister of Justice,  
Province of Newfoundland,  
St. John's, Newfoundland



Ottawa 4, December 28, 1967

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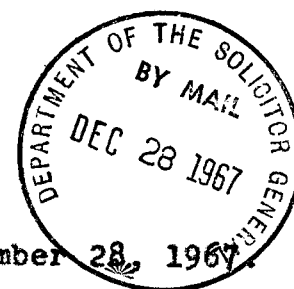
Yours truly,

Original signed by  
D. H. CHRISTIE

T. D. MacDonald

Mr. John E. Hart, Q.C.,  
Deputy Attorney General,  
Province of Alberta,  
Edmonton, Alberta

DHC/MMT



Ottawa 4, December 28, 1967.

Dear Mr. Meldrum:

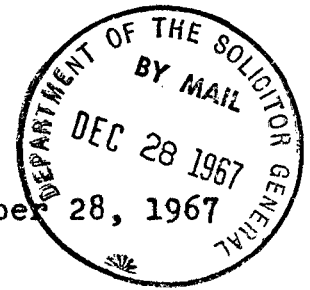
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Yours truly,

Original signed by  
G. W. CHRISTIE

T.D. MacDonald

Mr. R.S. Meldrum, Q.C.,  
Deputy Attorney General,  
Province of Saskatchewan,  
Regina, Saskatchewan.



Ottawa 4, December 28, 1967

Dear Mr. Pilkey:

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Yours truly,

Original signed by  
Q. H. CHRISTIE

T. D. MacDonald

Mr. G. E. Pilkey, Q.C.,  
Deputy Attorney General,  
Province of Manitoba,  
Winnipeg, Manitoba



Ottawa 4



December 28 1967

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Yours truly,

Original of  
D. H. CHEN

T. D. MacDonald

Dr. Gilbert D. Kennedy, Q.C.,  
Deputy Attorney General,  
Province of British Columbia,  
Victoria, British Columbia

Canadian  
Pacific  
TELEGRAM

ZCRNF 159ZC 16/14

CPR FD TORONTO ONT 27 519P

MR T D MACDONALD QC

DEPUTY SOLICITOR GENERAL OTTAWA ONT

RE YOUR WIRE CAPITAL MURDER AMMENDMENTS PROCLAMATION DATE. DECEMBER  
29TH SATISFACTORY TO ATTORNEY GENERAL

W C BOWMAN DIRECTOR OF PUBLIC PROSECUTION

RE ~~29TH~~

Canadian  
Pacific  
TÉLÉGRAMME

Canadian  
Pacific  
TELEGRAM

141-206

DEC 27 5 39 PM '67

LOCAL TIME CD.183M.81

HEURE LOCALE CD.183M.81

LOCAL TIME CD.183M.81



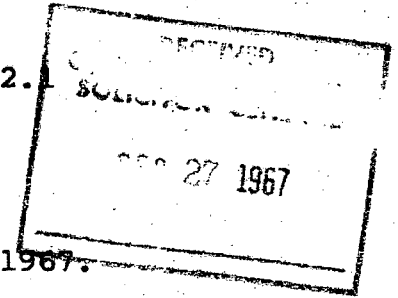
MANITOBA

ATTORNEY-GENERAL  
WINNIPEG 1

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

DEC 26 2 13 PM '67

102.



December 22nd, 1967.

The Honourable L.T. Pennell,  
Solicitor General,  
Parliament Buildings,  
Ottawa, Ontario.

Dear Mr. Pennell:

Re: Bill C-168 - An Act to  
Amend the Criminal Code.

With reference to your letter of  
December 6th, 1967, I attach a copy of a  
telegram sent this date by my Deputy  
Minister to T.D. McDonald.

I trust this is the information  
you require.

Yours very truly,

Sterling R. Lyon,  
Attorney-General. p

IM  
Encl.

TELEGRAM

December 22nd, 1967.

T. D. McDONALD, ESQ.,  
DEPUTY SOLICITOR GENERAL  
OTTAWA, ONTARIO.

REFERENCE LETTER OF SOLICITOR GENERAL DATED DECEMBER SIXTH  
AND YOUR SUBSEQUENT TELEGRAPH STOP THERE ARE TWO CAPITAL  
CASES PENDING IN MANITOBA STOP INFORMATIONS SWORN BUT  
PRELIMINARIES NOT COMMENCED STOP AS INDICTMENTS NOT  
PREFERRED UNDER PART XVII I ASSUME INFORMATIONS WILL BE  
AMENDED TO CHARGE NON-CAPITAL MURDER  
PLEASE CONFIRM DATE LEGISLATION IN FORCE

  
GORDON E. PILKEY

Deputy Attorney-General.

U V  
telecommunications  
Document divulgué en vertu de la Loi sur l'accès à l'information

H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

1967 DEC 27 AM 11 06

MOA114

NO DA02124/23 FD EDMONTON ALTA 27 858A MT

T D MACDONALD DEPUTY SOLICITOR GENERAL

OTTAWA ONT

CONFIRMING THE TELEPHONE ADVICE GIVEN TO MR CHRISTIE YESTERDAY  
ALBERTA IS AGREEABLE TO PROCLAMATION OF BILL RELATING TO CAPITAL  
MURDER EFFECTIVE DECEMBER 29

JOHN E HART DEPUTY ATTORNEY GENERAL

(00).



# ACTION REQUEST

TO Mr. Cameron DATE June 3/68  
LOCATION \_\_\_\_\_

FROM E. R. M. GRIFFITHS RE FILE NO. \_\_\_\_\_  
FOR: Executive Assistant to  
Solicitor General

<input checked="" type="checkbox"/>	ACTION	<input type="checkbox"/>	NOTE & FORWARD
<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	NOTE & RETURN
<input type="checkbox"/>	COMMENTS	<input type="checkbox"/>	P.A. ON FILE
<input type="checkbox"/>	DRAFT REPLY	<input type="checkbox"/>	REPLY DIRECTLY
<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	REPLY, PLEASE
<input type="checkbox"/>	INVESTIGATE AND REPORT	<input type="checkbox"/>	SEE ME, PLEASE
<input type="checkbox"/>	INVESTIGATION	<input type="checkbox"/>	SIGNATURE
<input type="checkbox"/>	MAKE.....COPIES	<input type="checkbox"/>	TRANSLATION
<input type="checkbox"/>	MORE DETAILS	<input type="checkbox"/>	YOUR REQUEST
<input type="checkbox"/>	NOTE AND FILE	<input type="checkbox"/>	

PREPARE MEMO TO: .....

REPLY FOR SIGNATURE OF: .....

REMARKS: .....

000502



P.C. 1967-2399



PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee  
of the Privy Council, approved by His Excellency the Governor  
General on the 27th December, 1967

The Committee of the Privy Council, on the  
recommendation of the Solicitor General, advise that,  
pursuant to section 5 of An Act to amend the Criminal  
Code, being chapter 15 of the Statutes of Canada, 1967,  
a Proclamation do issue fixing the 29th day of December,  
1967, as the day on which the said Act shall come into  
force.

CERTIFIED TO BE A TRUE COPY

CLERK OF THE PRIVY COUNCIL

000504



P.C. 1967-2399



PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee  
of the Privy Council, approved by His Excellency the Governor  
General on the 27th December, 1967

The Committee of the Privy Council, on the  
recommendation of the Solicitor General, advise that,  
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CLERK OF THE PRIVY COUNCIL

P.C. 1967-2399



PRIVY COUNCIL

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1967, as the day on which the said Act shall come into  
force.

CERTIFIED TO BE A TRUE COPY

A handwritten signature in dark ink, appearing to read "W. J. P. [unclear]".

CLERK OF THE PRIVY COUNCIL

CN

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# telecommunications

H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

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HAA007 32/31 HA ST JOHNS NFLD 27 1049A NST

1967 DEC 27 AM 9 28

T D MACDONALD

DEPUTY SOLICITOR GENERAL

DEPT OF JUSTICE OTTAWA ONT

RETEL TO THE DEPUTY ATTORNEY GENERAL RESPECTING THE BILL

RELATING TO CAPITAL MURDER STOP THE DATE DECEMBER 29 NEXT IS

A SATISFACTORY DATE TO US FOR BRINGING THE BILL INTO FORCE

VINCENT P MCCARTHY ASSISTANT DEPUTY MINISTER

29

(52).

RECEIVED  
OFFICE OF THE DEPUTY  
SOLICITOR GENERAL

DEC 27 1967

*R.P.*

000507

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# telecommunications

H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

1967 DEC 27 AM 11 06

MOA114

NO DAO2124/23 FD EDMONTON ALTA 27 858A MT

T D MACDONALD DEPUTY SOLICITOR GENERAL

OTTAWA ONT

CONFIRMING THE TELEPHONE ADVICE GIVEN TO MR CHRISTIE YESTERDAY  
ALBERTA IS AGREEABLE TO PROCLAMATION OF BILL RELATING TO CAPITAL  
MURDER EFFECTIVE DECEMBER 29

JOHN E HART DEPUTY ATTORNEY GENERAL

(00).

LOCAL TIME C.D. IRSM B1

HEURE LOCALE C.D. IRSM B1

LOCAL TIME C.D. IRSM B1

000509

DEC 27 5 39 PM '67

ZCRNF 159ZC 16/14

CPR FD TORONTO ONT 27 519P

MR T D MACDONALD QC

DEPUTY SOLICITOR GENERAL <sup>0 255</sup> OTTAWA ONT

RE YOUR WIRE CAPITAL MURDER AMMENDMENTS PROCLAMATION DATE. DECEMBER  
29TH SATISFACTORY TO ATTORNEY GENERAL

W C BOWMAN DIRECTOR OF PUBLIC PROSECUTION

RE ~~29TH~~

Canadian  
Pacific  
TELEGRAM

Canadian  
Pacific  
TÉLÉGRAMME

Canadian  
Pacific  
TELEGRAM



CABINET DU MINISTRE DE LA JUSTICE

GOUVERNEMENT DU QUÉBEC

Notre dossier: 7554 - 65

Québec, le 22 décembre 1967.

DEPT. OF THE SOLICITOR GENERAL GENERAL REGISTRY
Referred to <i>Dir. Casiers</i>
JAN 3 1968
File No. <i>141-206</i>

Cher monsieur Pennell,

Je fais suite à votre lettre du 6 décembre 1967 incluant une copie du projet de loi modifiant certaines dispositions du code criminel ayant trait à la peine capitale.

Vous trouverez, sous ce pli, le nombre des causes de peine capitale qui sont pendantes devant les tribunaux de la province de Québec, d'après la loi actuelle, ainsi que le stade où elles en sont rendues.

Nous relevons trois (3) causes de meurtre qualifié, à un stade précédant la présentation d'un acte d'accusation, c'est-à-dire, où il y a eu dénonciation et où le prévenu a subi, subit ou doit subir l'enquête préliminaire;

Vingt-deux (22) causes de meurtre qualifié, dans lesquelles il y a eu citation à procès, le procès devant avoir lieu au prochain terme de la Cour du Banc de la Reine, juridiction criminelle;

Douze (12) causes de meurtre qualifié, dans lesquelles le verdict a été rendu, et porté en appel;



CABINET DU MINISTRE DE LA JUSTICE

GOUVERNEMENT DU QUÉBEC

2/

Quatre (4) causes de meurtre qualifié, dans lesquelles l'accusé a été interné pour cause de maladie mentale et les procédures sont forcément suspendues pour une période indéterminée.

Il y a donc quarante-et-une (41) causes de peine capitale qui sont pendantes.

J'ose croire que ces quelques renseignements sauront vous satisfaire et vous assurant de ma coopération la plus entière, je vous prie d'agréer l'expression de mes sentiments les meilleurs.

*J. Bertrand*

L'honorable L.-T. Pennell,  
Solliciteur général du Canada,  
Parlement,  
Ottawa.

Accusations pendantes où la peine capitale peut être prononcée.

District de St-Maurice

Jean-Marc Rufiange attend son quatrième procès;

Marcel Bernier est en appel dans la cause relative à Denise Therrien et attend son procès dans le cas de Laurette Beaudoin;

Rose-Aimée Fafard doit subir son procès au prochain terme.

District de Roberval

Rodrigue Bolduc, dont la cause est ajournée sine die, vu qu'il est interné à Saint-Michel-Archange.

District d'Arthabaska

Un nommé Fraser, qui est actuellement détenu dans un hôpital psychiatrique.

District de St-François

J. J. Gagnon, qui attend son procès au terme de février 1968;

André Lamothe, qui attend son procès au terme de février 1968;

Un nommé Fournier, actuellement détenu dans un hôpital psychiatrique.



2/

District de Québec

Paul-Emile Martel - cause en appel;

Ovila Boulet - cause en appel;

Roger Demers - cause en appel et jugement attendu.

District de Bedford

Larry Thomas White - examen volontaire 19-12-67;

Jean-Marie Dauphinais, actuellement détenu dans un hôpital psychiatrique.

District de Hauterive

Paul-Omer Tremblay, attend son procès au prochain terme des assises;

Jules Saint-Pierre, attend son procès au prochain terme des assises.

District de Hull

Michael E. D. Bastien, attend son procès aux assises;

Conrad Fernand Gratton, attend son procès aux assises;

George E. Hayes, attend son procès aux assises.

3/

3/

District de Chicoutimi

Luc Boudreault - enquête préliminaire;

Paul Landry - enquête préliminaire.

District de Montréal

12 individus attendent leur procès aux prochaines assises;

8 causes sont en appel;

Il sera facile d'avoir les noms, si la chose est nécessaire.

RESUME:

Total: 40

<u>Stage préliminaire</u>	<u>procès</u>	<u>appels</u>	<u>internés</u>
3	22	12	4

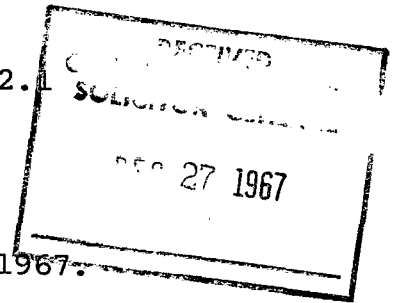
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OFFICE OF THE  
SOLICITOR GENERAL

DEC 26 2 13 PM '67



ATTORNEY-GENERAL  
WINNIPEG 1

102.1



December 22nd, 1967.

The Honourable L.T. Pennell,  
Solicitor General,  
Parliament Buildings,  
Ottawa, Ontario.

Dear Mr. Pennell:

Re: Bill C-168 - An Act to  
Amend the Criminal Code.

With reference to your letter of  
December 6th, 1967, I attach a copy of a  
telegram sent this date by my Deputy  
Minister to T.D. McDonald.

I trust this is the information  
you require.

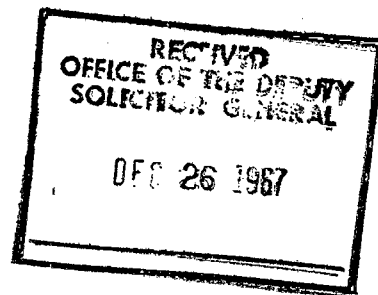
Yours very truly,

Sterling R. Lyon,  
Attorney-General.

IM  
Encl.



DEPARTMENT OF THE ATTORNEY GENERAL  
ST. JOHN'S, NEWFOUNDLAND



December 19th, 1967

The Honourable Lawrence T. Pennell, P.C., Q.C.  
Solicitor General of Canada  
Ottawa 4  
CANADA

RE: Bill C-168 - An Act to Amend the Criminal  
Code

Dear Mr. Pennell:

I acknowledge receipt of your letter of December 6th, 1967, wherein you enclosed a copy of the above named Bill.

I note that this Bill will be proclaimed in the very near future.

We do not have any capital cases, under the present law, pending in this Province at this time.

Yours sincerely

T. Alex Hickman

Minister of Justice and Attorney General for  
Newfoundland.

TAH:pl

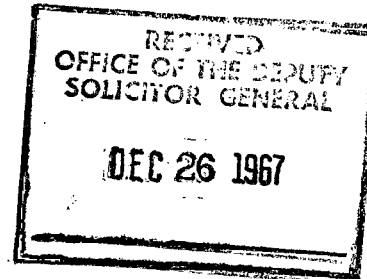
DEPT. OF THE SOLICITOR GENERAL CENTRAL REGISTRY	
Referred to	
DEC 26 1967	
File No.	141-206

000516



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OFFICE OF THE  
SOLICITOR GENERAL  
DEC 26 9 38 AM '67

P. O. Box 2000,  
20 December 1967.



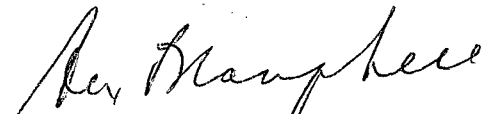
The Honourable Lawrence T. Pennell,  
Solicitor General,  
OTTAWA, 4, CANADA.

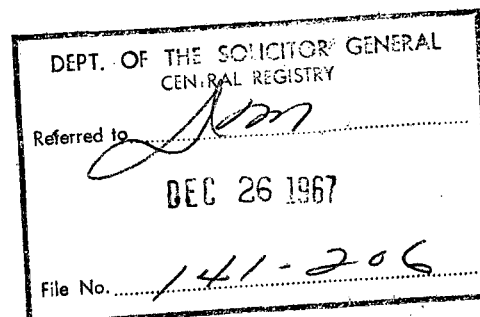
RE: BILL C-168  
AN ACT TO AMEND THE CRIMINAL CODE

Dear Mr. Pennell:

Thank you for your letter of December 6th.  
in this matter. There are no Capital cases pending in  
this Province.

Yours very truly,

  
ALEXANDER B. CAMPBELL  
ATTORNEY-GENERAL



TELEGRAM

December 22nd, 1967.

T. D. McDONALD, ESQ.,  
DEPUTY SOLICITOR GENERAL  
OTTAWA, ONTARIO.

REFERENCE LETTER OF SOLICITOR GENERAL DATED DECEMBER SIXTH  
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PRELIMINARIES NOT COMMENCED STOP AS INDICTMENTS NOT  
PREFERRED UNDER PART XVII I ASSUME INFORMATIONS WILL BE  
AMENDED TO CHARGE NON-CAPITAL MURDER  
PLEASE CONFIRM DATE LEGISLATION IN FORCE



GORDON E. PILKEY

Deputy Attorney-General.

CN

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# Telecommunications

H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

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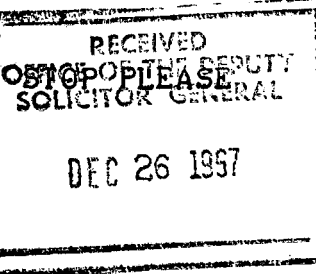
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T D MCDONALD ESQUIRE

DEPUTY SOLICITOR GENERAL OTTAWA ONT

REF LETTER OF SOLICITOR GENERAL DATED DECEMBER SIXTH AND YOUR  
SUBSEQUENT TELEGRAM STOP THERE ARE TWO CAPITAL CASES PENDING IN  
MANITOBA STOP INFORMATION SWORN BUT PRELIMINARIES NOT COMMENCED  
STOP AS INDICTMENT NOT PREFERRED UNDER PART XVII I ASSUME  
INFORMATION WILL BE AMMENDED TO CHARGE NON CAPITOL MURDER STOP PLEASE



000519



H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

CONFIRM DATE LEGISLATION ENFORCE

GORDON E PILKEY DEPUTY ATTORNEY GENERAL

PART XVII.



T. D. Mac Donnell 2336021  
Mrs. R. Alexander 2328823  
Mr. J. Baithwaite 1457528

~~231-2-186~~  
TIME 4:10  
BY J. B.  
L. W.  
J. B. 907  
Tues  
1.1.19.19.19

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JAN 10 1970

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# Telecommunications

H. J. Clarke, general manager • directeur général Toronto DEC 26 1967

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T D MACDONALD QC

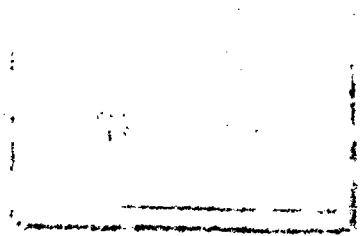
DEPT OF JUSTICE OTTAWA ONT

PROCLAMATION DATE SATISFACTORY RE CAPITAL MURDER

ROY S MELDRUM - DEPUTY ATTORNEY GENERAL

(07).

000522



25

*Ms A*

*25*

TO THE SECRETARY  
OF THE  
TREASURY

THE SECRETARY OF THE  
TREASURY  
OCTOBER 1970  
(10)

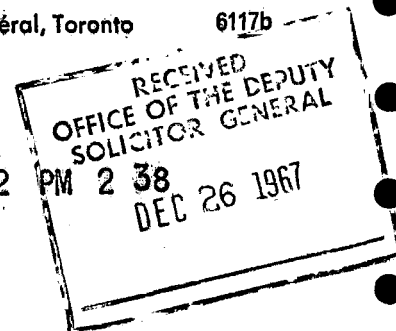
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# telecommunications

H. J. Clarke, general manager • directeur général, Toronto

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T D MACDONALD DEPUTY SOLICITOR GENERAL

OTTAWA ONT

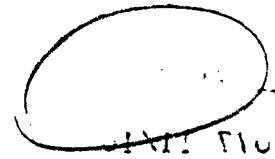
IN ANSWER TO YOUR TELEGRAM DECEMBER 29 SATISFACTORY-TO US.

D G ROUSE DEPUTY MINISTER OF JUSTICE

~~28~~

(11).

11/11/11



SECTION

CIVIL FRONT OFFICE

*Handwritten signature*

THE SECRETARY OF DEFENCE

JANUARY NOTIFICATION YOUNG PERSONNEL

THE ARMY

AS OF THE 10th OF JANUARY 1980

NOTICE TO DETERMINE YOUNG PERSONNEL

(11)

CN

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# Télécommunications

H. J. Clarke, general manager • directeur général, Toronto

6117b

local time • heure locale

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T D MACDONALD, DEPUTY SOLICITOR GENERAL

OTTAWA ONT

RETEL THANKS FOR INFORMATION CONTAINED THEREIN NO  
PROBLEMS STOP HAVE IN FACT GIVEN INSTRUCTIONS ALL POLICE  
FORCES AND PROSECUTORS TO CHARGE NONCAPITAL MURDER  
EXCEPT THOSE EXEMPTIONS WITHIN NEW SECTION THIS DONE IN  
ANTICIPATION OF YOUR WIRE

GILBERT D KENNEDY DEPUTY ATTORNEY GENERAL

(29).

1967 DEC 22

PM-3788

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OFFICE OF THE DEPUTY  
SOLICITOR GENERAL

DEC 26 1967

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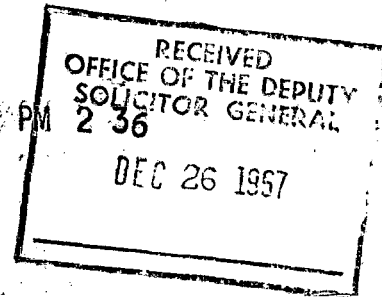
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PEI GOVT CHTN

CHARLOTTETOWN PEI DEC 22/67



1967 DEC 22 PM 2 36

MR T D MACDONALD

DEPUTY SOLICITOR GENERAL

OTTAWA

THE EFFECTIVE DATE OF BILL RELATING TO CAPITAL MURDER  
SATISFACTORY TO US

J A MCGUIGAN

DEPUTY ATTORNEY GENERAL

*This message received direct from sender by CN-CR Tolex.  
Une dépêche reçue directement de l'expéditeur par Télec CN-CR.*

**CN TÉLÉCOMMUNICATIONS**


CN TELTEX OTT

PEI GOVT CHTN

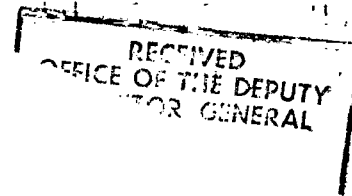


T. D. W. [unclear] 2322823  
Mrs. A. [unclear] 7457528  
[unclear] [unclear] [unclear]

Post Mrs D Mac D - by [unclear]

  
this am

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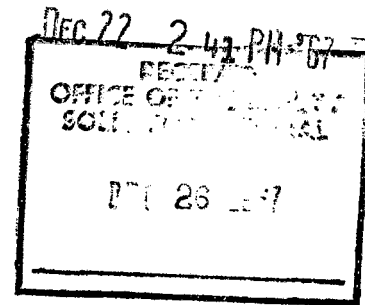
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TELEGRAM

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LOCAL TIME CD.1RSM B1



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FD HALIFAX NS 22 320P

T D MACDONALD (0 216 *Justice Bldg*)  
DEPUTY SOLICITOR GENERAL OTTAWA

NO OBJECTION TO PROCLAMATION OF BILL RELATING TO CAPITOL MURDER

J A Y MACDONALD

AXA268

Canadien  
Pacifique

TÉLÉGRAMME

Canadian  
Pacific

TELEGRAM

reverse of previous page



NOV 23 1970

ED HALLERIN RE 25 3501

RECEIVED

NO COLLECTION T & DOCUMENTATION OF ALL RELATING TO CRIMINAL MATTERS  
ATTENTION GENERAL OFFICE  
RECEIVED

2-1-71

#2  
000531

The attached telegram was sent to each of the following on  
December 22, 1967

Dr. Gilbert D. Kennedy, Q.C.,  
Deputy Attorney General,  
Province of British Columbia,  
Victoria, British Columbia ✓

Mr. Cyril J. Greene, Q.C., ✓  
Deputy Attorney General,  
Province of Newfoundland,  
St. John's, Newfoundland

Mr. John E. Hart, Q.C.,  
Deputy Attorney General,  
Province of Alberta,  
Edmonton, Alberta ✓✓

Mr. R. S. Meldrum, Q.C.,  
Deputy Attorney General, ✓  
Province of Saskatchewan,  
Regina, Saskatchewan ✓

Mr. G. E. Pilkey, Q.C.,  
Deputy Attorney General, ✓  
Province of Manitoba,  
Winnipeg, Manitoba

Mr. A. R. Dick, Q.C.,  
Deputy Attorney General,  
Province of Ontario,  
Toronto 2, Ontario ✓  
O.K.  
D.N.C.

Mr. Julien Chouinard, Q.C.,  
Deputy Attorney General,  
Province of Quebec,  
Quebec, Quebec ✓  
O.K.  
D.N.C.

Mr. J.A.Y. MacDonald, Q.C.,  
Deputy Attorney General, ✓  
Province of Nova Scotia  
Halifax, Nova Scotia

Mr. D. G. Rouse,  
Deputy Attorney General,  
Province of New Brunswick,  
Fredericton, New Brunswick ✓

Mr. J. A. McGuigan,  
Deputy Attorney General,  
Province of Prince Edward Island,  
Charlottetown, P.E.I. ✓

DEPARTMENT OF THE SOLICITOR GENERAL

TELEGRAM

OTTAWA 4 DECEMBER 22 1967

FURTHER TO THE SOLICITOR GENERAL'S LETTER OF DECEMBER 6TH  
THE BILL RELATING TO CAPITAL MURDER RECEIVED ROYAL ASSENT  
YESTERDAY AND IT IS INTENDED TO PROCLAIM IT IN FORCE EFFECTIVE  
DECEMBER 29TH NEXT STOP IS THIS DATE SATISFACTORY TO YOU  
BEARING IN MIND THE TRANSITIONAL PROVISIONS OF THE ACT AND THE  
DESIRABILITY OF ALL PERSONS TO BE TRIED AFTER THAT DATE FOR  
MURDER SHALL BE TRIED FOR NON-CAPITAL MURDER UNLESS THEY COME  
WITHIN SECTION ONE OF THE ACT STOP PLEASE WIRE REPLY

T D MacDONALD

DEPUTY SOLICITOR GENERAL

CHARGE TO:

Department of the Solicitor General  
Account No. C.N.R. - 2-200-54831

(Phone 235-7211)

*ROP*

Telegram - Everybody

Further to the S-G's letter of Dec 15

1+ is intended to bring the bill  
relating to c.p. into force on December

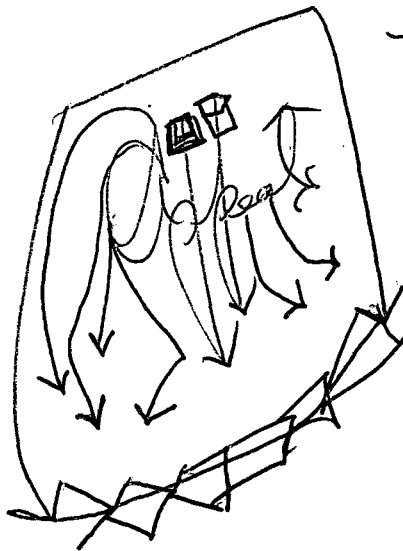
28 Having regard to the transitional  
provisions in the bill is this date agreeable  
to you

December 22, 1967

DRAFT

Further to the Solicitor General's letter of December sixth the Bill relating to capital murder received Royal Assent yesterday and it is intended to proclaim it in force effective December twenty<sup>four</sup>~~eight~~ next stop Is this date satisfactory to you bearing in mind the transitional provisions of the Act and the desirability that all persons to be tried after that date for murder shall be tried for non-capital murder unless they come within section one of the Act stop Please wire reply

~~W. J. P.~~  
O.P.P.



Jan 22 Dec 67

DEPARTMENT OF JUSTICE  
OFFICE OF THE MINISTER



NEW BRUNSWICK

MINISTÈRE DE LA JUSTICE  
CABINET DU MINISTRE

Fredericton, N. B.  
December 15, 1967

*T. D. Macdonald*

The Honourable L. T. Pennell  
~~Solicitor General~~  
Ottawa 4, Ontario

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

DEC 18 9 50 AM '67

Dear Mr. Pennell:

Re: Bill C-168 - An Act to Amend  
the Criminal Code

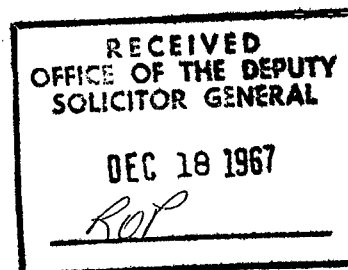
With reference to your letter of  
December 6, I am informed that there are no  
capital cases pending in our Province that  
could be affected by the passing of Bill C-168,  
a copy of which you sent me.

Yours very truly,

*Bernard A. Jean*

Bernard A. Jean, Q. C.  
Minister of Justice

/cg





ATTORNEY GENERAL



ALBERTA

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

DEC 18 9 50 AM '67

*T. D. Marshall*

EDMONTON, Alberta,  
December 14th, 1967.

The Honourable Mr. L. T. Pennell, Q.C.,  
Solicitor General,  
OTTAWA, Canada.

Dear Mr. Pennell:

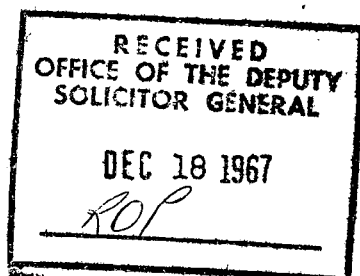
I have for acknowledgement your letter of December 6th with respect to Bill C-168 and your request regarding the number of capital cases, under the present law, that are pending in the Province of Alberta.

At date of writing there are a total of four capital cases pending in Alberta and these are enumerated hereunder:

- 2 cases have been committed for trial.
- 1 case is presently under appeal on a sentence of life imprisonment.
- 1 case (female) is on remand for psychiatric observation and examination.

Yours truly,

*Lawrence Manning*  
Attorney General





RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

DEC 18 9 50 AM '67

MINISTER OF JUSTICE  
AND  
ATTORNEY GENERAL

Parliament Buildings  
Toronto, Ontario  
December 14, 1967

*T. D. Macdonald*

The Honourable L. T. Pennell  
Solicitor General  
Parliament Buildings  
Ottawa, Ontario

RECEIVED  
OFFICE OF THE DEPUTY  
SOLICITOR GENERAL

DEC 18 1967

*R.O.P.*

Dear Mr. Pennell:

Re: Bill C-168 - An Act to Amend the Criminal Code

Replying to your letter of the 6th instant, I would advise that the situation in Ontario with respect to the prosecution of charges of capital murder is as follows:

Persons charged and awaiting preliminary hearing	7
Persons committed for trial	10
Persons presently being tried	1
Convictions under appeal to the Court of Appeal or the Supreme Court of Canada	2

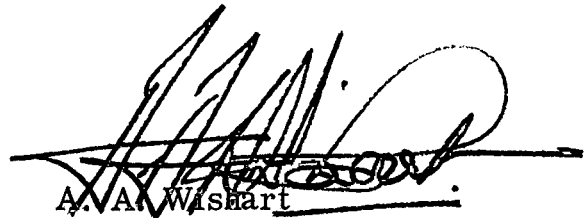
It is anticipated that the trial presently in progress will be concluded within the next few days. There will be no further trials or indictments preferred before January 8, 1968, which is the earliest date upon which the Winter Assizes commence.

./.

- 2 -

Will you please let me know if you require  
any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. A. Wishart', is written over a horizontal line. The signature is stylized with a large loop at the end.

A. A. Wishart  
Minister of Justice  
and Attorney General



RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

DEC 18 9 49 AM '67

C 95-2

IN YOUR REPLY REFER TO FILE .....

December 15th, 1967.

The Honourable L.T. Pennell, P.C., Q.C., M.P.,  
Solicitor General of Canada,  
Ottawa 4, Ontario.

Dear Mr. Pennell,

This will acknowledge your letter of  
December 6th addressed to the Honourable the  
Attorney-General and received here yesterday.

Thank you for the copy of Bill C-168  
as passed by the House of Commons. We would  
appreciate early notification when the Bill has  
received Royal Assent and later when it is pro-  
claimed.

You have asked for the number of capital  
cases under the present law that are pending in  
our province and the stages in which these cases  
are. There are no cases being tried before the  
courts to-day.

The Bill defines "commencement of pro-  
ceedings" as preferring of an indictment. Indict-  
ments are preferred at the opening of any particular  
trial, and we will not be preferring any capital  
murder indictments unless they fit within the new  
definition until we hear further from you.

I think this answers your questions suf-  
ficiently. We will let you know the number who  
have been convicted and are awaiting appeal, or the  
number who have had their appeals dealt with and  
are awaiting commutation if you wish it, but I  
suspect this figure is not the figure you really  
want.

RECEIVED  
OFFICE OF THE DEPUTY  
SOLICITOR GENERAL

DEC 18 1967

*ROP*

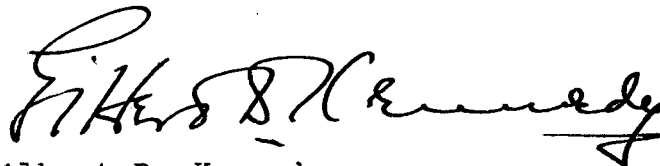
The Honourable L.T. Pennell

December 15th, 1967,

I am looking forward to seeing you next month at the Juvenile Delinquents discussion.

Kindest regards and best wishes for the New Year.

Yours truly,

A handwritten signature in dark ink, appearing to read "Gilbert D. Kennedy". The signature is fluid and cursive, with a prominent initial "G" and a long, sweeping underline.

Gilbert D. Kennedy,  
Deputy Attorney-General.

GDK/BM.



# ACTION REQUEST

TO: T. O. Macdonald DATE: Dec 15/67  
LOCATION:

FROM: E. R. M. GRIFFITHS

RE FILE NO.

FOR: Executive Assistant to  
Solicitor General

<input checked="" type="checkbox"/>	ACTION
<input type="checkbox"/>	APPROVAL
<input type="checkbox"/>	COMMENTS
<input type="checkbox"/>	DRAFT REPLY
<input type="checkbox"/>	INFORMATION
<input type="checkbox"/>	INVESTIGATE AND REPORT
<input type="checkbox"/>	INVESTIGATION
<input type="checkbox"/>	MAKE.....COPIES
<input type="checkbox"/>	MORE DETAILS
<input type="checkbox"/>	NOTE AND FILE

<input type="checkbox"/>	NOTE & FORWARD
<input type="checkbox"/>	NOTE & RETURN
<input type="checkbox"/>	P.A. ON FILE
<input type="checkbox"/>	REPLY DIRECTLY
<input type="checkbox"/>	REPLY, PLEASE
<input type="checkbox"/>	SEE ME, PLEASE
<input type="checkbox"/>	SIGNATURE
<input type="checkbox"/>	TRANSLATION
<input type="checkbox"/>	YOUR REQUEST

PREPARE MEMO TO:.....

REPLY FOR SIGNATURE OF:.....

MARKS:.....

RECEIVED  
OFFICE OF THE DEPUTY  
SOLICITOR GENERAL

DEC 15 1967

*ROP*

000542

I



ATTORNEY GENERAL  
NOVA SCOTIA

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

DEC 15 10 11 AM '67

Halifax, 13th December, 1967

Dear Mr. Pennell:

I have your letter of the 6th December, enclosing a copy of Bill C-168.

My information is that, at the present time, there are not pending in this Province any capital cases. There is at present under investigation one homicide case involving a youth but no charge has been laid at the present time and it is unlikely that a capital murder charge will be proceeded with. There is one other homicide case also still under investigation, but without any identification of the person or persons responsible.

Yours very truly,

*R. A. Donahoe*

R. A. Donahoe  
Attorney General

The Honourable L. T. Pennell, Q.C.,  
Solicitor General,  
Ottawa 4, Ontario

DEPT. OF THE SOLICITOR GENERAL CENTRAL REGISTRY
Referred to.....
DEC 18 1967
File No. <u>141-206</u>

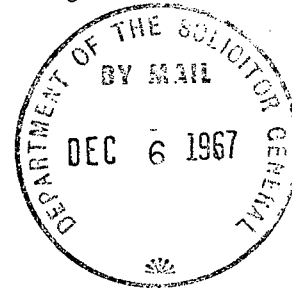
RSP

To lib in loose file  
until all copies are in

15.12.67

J. A. Coe

TDR/MIT



Ottawa 4, December 6, 1967.

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Campbell:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable Alexander Campbell,  
Attorney General of the Province  
of Prince Edward Island,  
Province House,  
Charlottetown, P.E.I.





Ottawa 4, December 6, 1967.

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Hickman:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable T. Alex Hickman,  
Minister of Justice,  
Province of Newfoundland,  
St. John's, Newfoundland.



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Donahoe:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable R. A. Donahoe, Q.C.,  
Attorney General of the  
Province of Nova Scotia,  
Halifax, Nova Scotia

TDR/133



Ottawa 4, December 6, 1967.

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Jean:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable Bernard Jean,  
Attorney General of the Province  
of New Brunswick,  
Fredericton, N.B.



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Wishart:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

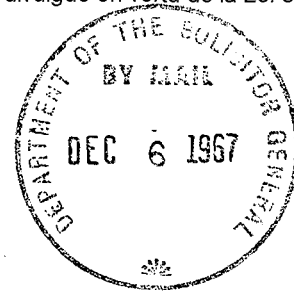
In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable A. A. Wishart, Q.C.,  
Minister of Justice and Attorney General,  
Province of Ontario,  
Parliament Buildings,  
Toronto 2, Ontario



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Lyon:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

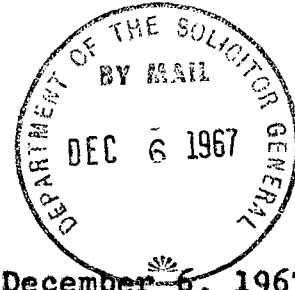
In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable Sterling Lyon, Q.C.,  
Attorney General of the  
Province of Manitoba,  
Winnipeg, Manitoba



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Heald:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable Darrel V. Heald, Q.C.,  
Attorney General of the  
Province of Saskatchewan,  
Legislative Building,  
Regina, Saskatchewan



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Manning:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable Ernest C. Manning,  
Attorney General of the  
Province of Alberta,  
Province House,  
Edmonton, Alberta



Ottawa 4, le 6 décembre 1967.

Re: Loi Modifiant le Code Criminel  
Bill C-168

Cher monsieur Bertrand,

Je vous envoie sous le même pli une copie du projet de loi ci-haut mentionné, tel qu'il a été adopté par la Chambre des Communes, et qui est maintenant devant le Sénat. Vous remarquerez qu'il a été rédigé pour entrer en vigueur le jour de sa proclamation.

Advenant que ce projet de loi devienne loi dans un avenir rapproché, je vous serais reconnaissant de me faire connaître le nombre de causes de peine capitale, d'après la loi actuelle, qui sont pendantes dans votre Province, et à quels stages ces causes sont rendues. Ces renseignements nous aideraient à déterminer à quelle époque la nouvelle loi devrait entrer en vigueur.

Sincèrement,

Original Signed By  
L. T. PENNELL

L'Honorable Jean-Jacques Bertrand,  
Ministre de la Justice,  
Québec, P. Québec.



Bill C-168

Re: loi modifiant le code criminel.

Cher monsieur,

Je vous envoie sous le même pli une copie du projet de loi ci-haut mentionné, tel qu'il a été adopté par la Chambre des Communes, et qui est maintenant devant le Sénat. Vous remarquerez qu'il a été rédigé pour entrer en vigueur le jour de sa proclamation.

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Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Bonner:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

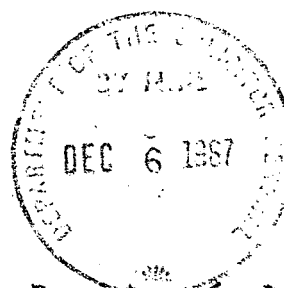
Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable R. W. Bonner, Q.C.,  
Attorney General of the Province  
of British Columbia,  
Province House,  
Victoria, British Columbia

TDM/ROP



Ottawa 4, December 6, 1967

**Re: Bill C-168 - An Act to Amend the Criminal Code**

---

Dear Mr. Bonner:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

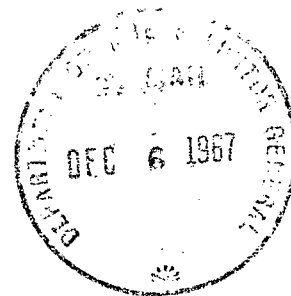
Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable R. W. Bonner, Q.C.,  
Attorney General of the Province  
of British Columbia,  
Province House,  
Victoria, British Columbia

TII/PTT



Ottawa 4, le 6 décembre 1967.

Re: Loi Modifiant le Code Criminel  
Bill C-168

Cher monsieur Bertrand,

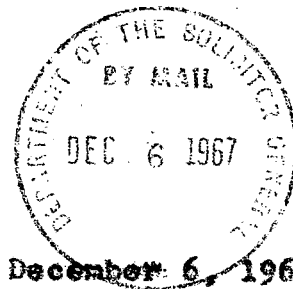
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Advenant que ce projet de loi devienne loi dans un avenir rapproché, je vous serais reconnaissant de me faire connaître le nombre de causes de peine capitale, d'après la loi actuelle, qui sont pendantes dans votre Province, et à quels stades ces causes sont rendues. Ces renseignements nous aideraient à déterminer à quelle époque la nouvelle loi devrait entrer en vigueur.

Sincèrement,

Original Signed By  
L. T. PENNELL

L'Honorable Jean-Jacques Bertrand,  
Ministre de la Justice,  
Québec, P. Québec.



Ottawa 4, December 6, 1967

**Re: Bill C-168 - An Act to Amend the Criminal Code**

Dear Mr. Manning:

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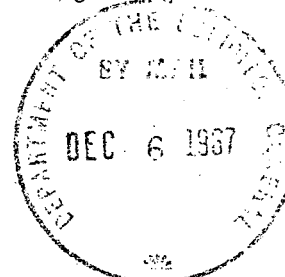
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Yours sincerely,

Signed by  
L. T. PELLER

Encl.

The Honourable Ernest C. Manning,  
Attorney General of the  
Province of Alberta,  
Province House,  
Edmonton, Alberta



Ottawa 4, December 6, 1967

**Re: Bill C-168 - An Act to Amend the Criminal Code**

Dear Mr. Heald:

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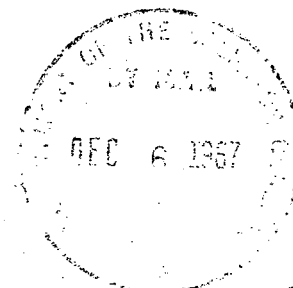
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Yours sincerely,

Original Signed by  
T. PENNELL

Encl.

The Honourable Darrel V. Heald, Q.C.,  
Attorney General of the  
Province of Saskatchewan,  
Legislative Building,  
Regina, Saskatchewan



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Lyon:

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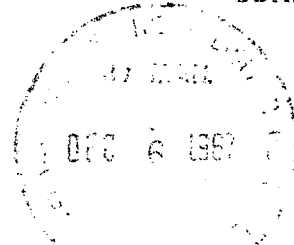
Yours sincerely,

Original Signed by  
L. T. PEARRELL

Encl.

The Honourable Sterling Lyon, Q.C.,  
Attorney General of the  
Province of Manitoba,  
Winnipeg, Manitoba

TDM/ROP



Ottawa 4, December 6, 1967

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Wishart:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

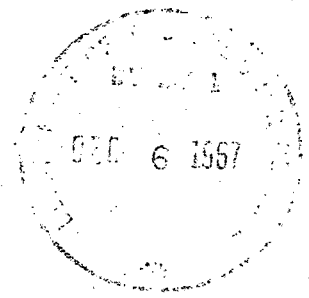
Original Signed by  
L. T. PENNELL

Encl.

The Honourable A. A. Wishart, Q.C.,  
Minister of Justice and Attorney General,  
Province of Ontario,  
Parliament Buildings,  
Toronto 2, Ontario



TBR/HT



Ottawa 4, December 6, 1967.

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Jean:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

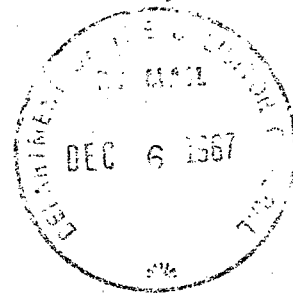
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Yours sincerely,

Encl. 1  
L. T. PETERMAN

Encl.

The Honourable Bernard Jean,  
Attorney General of the Province  
of New Brunswick,  
Fredericton, N.B.



Ottawa 4, December 6, 1967

**Re: Bill C-168 - An Act to Amend the Criminal  
Code**

---

Dear Mr. Donahoe:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

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Yours sincerely,

Original Signed by  
L. T. PENNELL

Encl.

The Honourable R. A. Donahoe, Q.C.,  
Attorney General of the  
Province of Nova Scotia,  
Halifax, Nova Scotia



Ottawa 4, December 6, 1967.

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Hickman:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which these cases are. This will assist us in determining when to bring the Act into force.

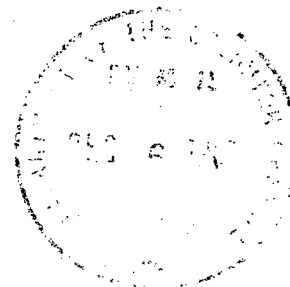
Yours sincerely,

Original signed by  
L. T. M. HILL

Encl.

The Honourable T. Alex Hickman,  
Minister of Justice,  
Province of Newfoundland,  
St. John's, Newfoundland.

7/11/1967



Ottawa 4, December 6, 1967.

Re: Bill C-168 - An Act to Amend the Criminal Code

Dear Mr. Campbell:

I am enclosing a copy of the above-mentioned Bill in the form in which it passed through the Commons and has now gone to the Senate. You will note that it is drawn to come into force on proclamation.

In case the Bill should be enacted into law at an early date, would you please let me know the number of capital cases, under the present law, that are pending in your Province and the stages in which those cases are. This will assist us in determining when to bring the Act into force.

Yours sincerely,

Original signed by  
L. T. JENNELL

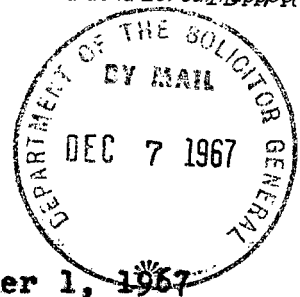
Encl.

The Honourable Alexander Campbell,  
Attorney General of the Province  
of Prince Edward Island,  
Province House,  
Charlottetown, P.E.I.

141-206

File Away

000565



Ottawa 4, December 1, 1967

My dear Colleague:

During the debate on the Capital Punishment Bill I undertook to discuss with you the question of including, in the cases of capital murder, persons who were killed while assisting policemen or prison guards and we did have some discussion about this question.

It seems to me that there are two possible approaches: first, to mention such persons expressly in section 202A of the Criminal Code and, second, to give them the status, generally, of police officers.

I should be obliged if you would ask your officials to give some further consideration to this issue in line with my undertaking during the debate.

Yours sincerely,

Original Signed by  
L. T. PENNELL

The Honourable Pierre-Elliott Trudeau,  
Minister of Justice,  
Ottawa, Ontario



141-206

000567

# MEMORANDUM

CLASSIFICATION



XX For Deputy Solicitor General

A

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

1231 (1)

DATE November 30, 1967

FROM Commissioner of Penitentiaries  
De

SUBJECT Inmates who have had death sentences  
Sujet commuted

1. In accordance with your request the following telegram was sent to all institutions:

"Urgently required number of inmates in your institutions and your satellites who have had death sentence commuted to life imprisonment. Reply by telegram today showing institutional breakdown."

verbal request  
by Geo. Kor  
during lunch-hour  
Wednesday  
29.11.67

2. All institutions had replied by this morning and the total number of inmates in the penitentiaries who were sentenced to death and then had their sentences commuted to life imprisonment is 104 and there are 7 such inmates in mental hospitals who are on our register. Therefore, the total number of inmates who were sentenced to death and have had their sentences commuted to life imprisonment is 111.

information  
passed to  
Mr. O'GRADY  
for attention  
of the Minister  
30.11.67  
E.C. Kor

  
J. R. Stone,  
Deputy Commissioner,  
for Commissioner.

JRS/SM



000568



File Away

141-206000569

SOLICITOR GENERAL.

M.J. O'GRADY.

November 29, 1967.

DISPOSITION OF PERSONS SERVING COMMUTED  
DEATH SENTENCES.

Here are some figures related to the persons who, since 1920, have had death sentences commuted to life imprisonment. The figures indicate what became of those men after they were consigned to prison.

1. Number of Men Commuted:

The figures given at pages 63-65 of the Department of Justice booklet Capital Punishment give the number of commutations since 1920 as follows:

1920 - 1929	69
1930 - 1939	42
1940 - 1949	46
1950 - 1959	70
1960 - 1967 (to Sept. 30)	47
	<u>274</u>

2. The material supplied by Mr. Street indicates that during this same period, 117 persons serving commuted sentences were paroled. These break down as follows:

Still on parole	88 (plus two re-paroled)
Died on parole	12
Deported	6
Revoked	6 (less two re-paroled)
Forfeited	5
	<u>117</u>

2.

3. Summary.

Commutated since 1920		274
Paroled	117	
Still in prison and eligible for parole (approx)	17 *	
Still in prison and not eligible for parole (approx)	94 *	
Died in prison before being paroled (approx)	56	
	<u>274</u>	<u>2274</u>

It will be seen therefore that over this 47-year period, about 43% of those whose death sentences were commuted to life imprisonment were eventually paroled. Of course, a large part of the remaining 57% is included in the group which is not yet eligible for parole.

Mr. Street's figures for the period 1959-1967 indicate that of the 45 men who were eligible for parole during that period, 32 were actually paroled. That is, in recent years of those convicted murderers who are eligible, about 70% are being granted paroles. These are approximations only. More detailed figures would take longer to collect.

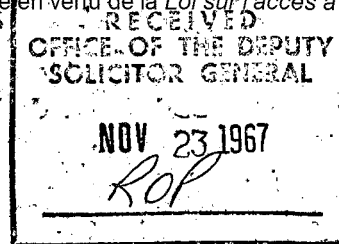
\* Of the total of 111 inmates still in prison serving commuted death sentences, 7 are in mental hospitals but remain on the penitentiary register.

MJO:gb



File Away

000572



November 21, 1967.

The Honourable L.T. Pennell,  
Solicitor General,  
Justice Building,  
Ottawa, Canada.

Dear Mr. Pennell:

I wish to congratulate you on the decision to introduce a compromise Bill with regard to capital punishment, a decision requiring more courage than an extreme abolitionist position, since any compromise leaves you open to the attack from both sides. It was undoubtedly due to the sincerity and eloquence with which you introduced the Bill, and to your respect for the contrary views, that you have gathered an unprecedented amount of support for a humanitarian and, in general, rational solution.

You are, I am sure, aware that in one respect - concerning special protection for police officers and prison guards - the Bill lacks logic and defeats the very argument on which the case for abolition rests. This, with respect, is unnecessary. In the committee stage one surely must be able to find a more palatable formulation, without adopting the extreme abolitionist position, for which there is at present insufficient support. It is with this purpose in mind that I am taking the liberty of sending you, with permission from the Ouimet Committee, my notes on capital punishment prepared for the Committee as part of an outline of the philosophy of corrections. In my outline I state as the purpose of criminal law and corrections "the protection of society including the offender."

You will see that the notes represent only a rough draft, but I respectfully suggest that they contain a formulation which is in line with the intention of Bill C-168 and yet is compatible with logic and scientific evidence. If they are of help to you, I shall be very glad. If not, I wish you good luck with the Bill, even in defiance of logic.

I remain,

Yours sincerely,

DEPT. OF THE SOLICITOR GENERAL  
CENTRAL REGISTRY  
Referred to *D 174*  
NOV 23 1967  
File No. *141-206*

Encl.

c.c. Deputy Minister

T. Grygier  
Director

risks are largely unknown and remain to be studied.

- 4) A concept of protection that includes the offender is incompatible with capital punishment unless it is shown that capital punishment is the only possible measure that insures society's protection. One can accept that society's protection is more important than that of the individual offender, but there seems to be no reason to destroy the offender altogether without scientific evidence that this is necessary. Moreover, in accordance with the principles of science, the onus of proof is on the measure to be applied and not on its critics. In that sense the evidence regarding the effectiveness of capital punishment in protecting society is quite conclusive: the hypothesis of the particular protective effect of the death penalty must, on scientific grounds, be rejected.
- 5) In addition to failing to protect either society or the offender, capital punishment creates in our society a flight from reality in the application of law.

If a person declares firmly that he is up and going, although he remains seated as before, we suspect an immobilising mental conflict, ambivalence of the magnitude characteristic of schizophrenia. Yet this has been precisely our approach to capital punishment.

In most countries the Courts have a wide discretion in choosing an appropriate penalty for a particular case of murder, but Canada offers no alternative to this maximum penalty. Contrary to all modern penal philosophy it is a fixed penalty, pronounced irrespective of any mitigating circumstances. Yet in Canada there have been no executions since 1963 and almost none for several years before, although death sentences were duly pronounced in all cases of murder or, later, of "capital murder". In the United States, where capital punishment is on the books of most States, especially

those with high murder rates, in 1966 there were more than ten thousand murders but only one execution. Moreover, in numerous cases (in some jurisdictions this is even obligatory) psychiatric experts were called, in teams of equal strength, to give evidence about the sanity of the defendant. Whatever its merits in other respects, the adversary system of justice, where experts are called not by the Court but separately by prosecution and defence, enhances prolonged argument rather than unbiased opinion. Conviction is followed by appeal and other legal steps delaying justice but justified to save the defendant's neck. When all remedies have failed, after a few stays of execution, usually comes commutation of the sentence. Thus capital punishment, in theory a speedy and decisive action, leads to delays costly in both money and human misery, and offers to the potential murderer a very low probability of execution, while nonetheless occasionally leading to the irreversible punishment of innocent persons. In these circumstances a rational murderer need not treat the risk of being executed very seriously; an irrational murderer (and these, as statistics show, are in the majority) does not consider the consequences of his actions at all. In a democratic society and an adversary system of justice all the steps taken to protect the accused from execution make the administration of justice so cumbersome and erratic that protection of society can hardly be enhanced. Whatever capital punishment means, it does not mean eliminating any significant number of murderers, and its mandatory character further increases the element of fiction in the application of law.

- 6) Possible grounds for the retention of capital punishment for murder of police officers and correctional personnel have to be considered. These two categories of public servants are risking their lives on behalf of society and a substantial proportion of them (a majority in Canada and other jurisdictions that have at least partly retained

capital punishment, and a sizeable minority in other jurisdictions) feel that total abolition would increase further the risks involved in their work. The question is, should society keep additional sanctions purely out of respect for the feelings of its trusted servants?

Criminal sanctions against hate literature, threats and other expressions of hostility towards minority groups pose a similar problem. They do curtail freedom of speech and the evidence tends to show that they are ineffective: the offenders do not reform when fined or imprisoned, and may even feel more resentful and so become more fanatical in pursuing their objective. If there is any justification for applying sanctions of criminal law in this area, it does not rest on deterrence, reformation or retribution: these sanctions are effective in protecting threatened minorities only in virtue of demonstrating to them that they are not left unprotected. Lack of sanctions increase the threat and the psychic injury caused, and indeed intended, by hate-mongers.

Nonetheless, the two situations are not identical, despite a superficial similarity. The purpose of criminal sanctions against slander and other psychic hurt to religious, racial, national or other identifiable groups is to reduce that hurt; in that sense the sanctions are effective, especially if they do not increase the actual danger by being excessively severe and creating martyrs in the cause of hate. The purpose of capital punishment is not to save people from psychic hurt but to save their lives; to maintain capital punishment solely in order to foster a false feeling of security is incompatible with the higher purpose - that of protecting society including the offender.

- 7) Any contention that the police and the correctional personnel need special protection through the supposedly deterrent effect of capital punishment is untenable. The statistical evidence concerning the deterrent effect of the death penalty shows that this is no more with regard to the police and prison



guards than to other citizens; in fact more policemen are murdered in jurisdictions with, than in those without, capital punishment. Other conditions being constant, the effect of capital punishment appears to be about the same as that of the existing alternative, i.e. of prolonged imprisonment (not always life imprisonment). If one accepts the statistical evidence and assumes that capital punishment offers no special protection, abolishing the death penalty for the murder of other citizens and maintaining it for the murder of policemen and prison officers means that in this particular case the whole purpose of the criminal law is changed: in general it is only society's protection, but the police and the correctional officers have the power to demand revenge, a demand not open to others. This is bad public relations, if nothing else.

- 8) If one rejects the statistical evidence and assumes, however wrongly, that the death penalty does offer additional protection, there seems to be no reason to offer this protection to some members of the public and not to others. The only justification can be found in the fact that the police and correctional personnel frequently find themselves in situations of risk, in which the deterrent effect of life imprisonment cannot possibly operate. This happens if the potential murderer is already facing life imprisonment or so many years of incarceration that they virtually amount to life; for this reason mandatory life imprisonment creates special problems. If under such circumstances capital punishment is taken away, all effective legal sanctions are taken away; citizens coming into contact with a violent criminal trying to escape custody, inmates of a penitentiary and, especially, correctional and law enforcement officers are left unprotected. Nobody is as dangerous as the man who has ceased to care; and his guardians react accordingly.
- 9) The threat of capital punishment for murder other than that described above has a deep and detrimental effect on the whole

machinery of justice. Instead of facing the realistic question of custody and treatment of a killer (who ought to be confined in a mental hospital if his state of mind warrants it, but elsewhere if it does not), the threat of capital punishment makes of paramount importance the question of whether the killer is or is not responsible for his actions. If he is 'insane' he remains in custody; if he is responsible he may hang. It is for this reason that the question of criminal responsibility confuses the juries and discredits the members of the medical profession who are called upon as experts to solve a problem that is neither medical nor scientific.

10) A possible solution, compatible with logic and available evidence, might be:

- a) To abolish capital punishment in general terms and to substitute imprisonment, up to life imprisonment, for murder other than that described below.
- b) To maintain capital punishment as an alternative, and not a mandatory sanction, for murder committed by a person who is already facing, for another crime, imprisonment approximating his life expectancy.
- c) To make the eventual release of the murderer sentenced to life imprisonment as difficult as but no more difficult than the release of a killer detained in a mental hospital.

11) In practice the above solution would be equivalent to retaining capital punishment for murder of policemen and prison guards, and extending it to some other potential victims; but it would avoid the fiction and the injustice of a mandatory penalty and the impression that law enforcement and correctional personnel have special status, irrespective of the situations of risk, that cannot possibly be denied. Whether or not such an excep-

tion to the general rule of abolishing capital punishment is justified cannot be decided at the moment; on logical grounds the exception is indeed necessary, but most murders involve so much psychopathology that the potential victims - most often wives, children, lovers and friends rather than policemen - can expect no protection against it from any deterrent.

141-206

File Away

000580

SOLICITOR GENERAL.

DEPUTY SOLICITOR GENERAL.

November 13, 1967.

NOTES FOR PRIME MINISTER'S SPEECH.

1. It was said that there would be no need to debate this matter again except for the handling of the matter by the Government which had refused to carry out the wishes of the House as expressed last year.

Answer: The Governor-in-Council dealt with each case on its merits after careful preparation by the Solicitor General and thorough study in Cabinet. Section 656 of the Criminal Code provides that the Governor-in-Council may commute the sentence of death to life imprisonment or any lesser term. The present Bill puts before Parliament a choice - abolition except in respect of police officers and prison guards for a trial period of five years - which was not brought before the House in this form by the resolution and amendments which were voted upon last year.

Furthermore, this is a matter in respect of which public opinion is continuously evolving and it is appropriate that it be raised at frequent intervals for review.

2. It was said that the exceptions of police officers and prison guards weakened the arguments for abolition and held law enforcement people up to ridicule as people asking a special favour of Parliament.

Answer: It is difficult to answer this point. The best answer that can be made is to the effect that the Bill is, admittedly, a compromise and that the two groups concerned, in spite of lack of statistical evidence, feel that the exceptions given them some protection.

2.

3. It was said that there was concern on the Opposition side of the House that this was not truly a free vote as far as Government members are concerned. Some Opposition members said the Prime Minister should reassure the House that the Government would not consider the defeat of this Bill to be an expression of want of confidence.

Answer: The Prime Minister may wish to reassure the House on this point.

4. It was said that the Bill, in its present form, puts abolitionist members in a difficult position because, believing in total abolition, they are now being asked to vote for partial abolition.

Answer: The abolitionist members, logically, must be interested in a further restriction of the death penalty even if they will be unable to obtain total abolition.

5. It was said by Mr. Churchill that he was unconvinced that fear of death was not a deterrent; that the ordinary person did not wish to die.

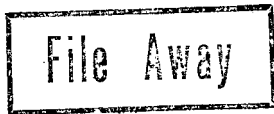
Answer: This misses the point of the argument. In the first place no-one would deny that the death penalty is a deterrent; what is said is that it is not a unique deterrent significantly more effective than life imprisonment. Furthermore, the person who commits murder does so in passion and does not consider the consequences; or in planned circumstances where he does not expect to be caught.

6. Mr. Churchill also suggested that we should retain the death penalty for use in extraordinary circumstances; it would be generally understood that, as has been the practice in recent years, sentences of death would be carried out only on rare occasions.

Answer: So long as the death penalty remains on the statute books, the impression is given that the community as a whole thinks it an appropriate device for dealing with the murder problem. One purpose of the Bill is to make it clear that the death penalty is no longer considered to be a necessary or humane ingredient of our system of criminal justice.

Secondly, the Bill if passed will remain in force for an experimental five-year period only. If the five-year experience indicates that the death penalty would in fact have a significant and unique deterrent effect, or that its retention is necessary for unusual cases, it can be reintroduced.

141-206



000584





# MEMORANDUM

CLASSIFICATION

TO  
A

Solicitor General *CC: Deputy Minister*

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

G.C. Koz

DATE November 10, 1967.

SUBJECT  
Sujet

TV Broadcast re: Capital Punishment, November 9, 1967.

Thursday night, November 9, after 7 o'clock news reporting on the Solicitor General's address in the House, Mr. Dogan Akman (University of Ottawa) was interviewed on TV in regard to the pending Bill and capital punishment generally. A brief summary of his pronouncements is as follows:

- he made a study (for past 3 years) of attacks by penitentiary inmates on prison guards. He attempted to make similar study for attacks on police officers but was frustrated by refusal of Police Assoc-n to conduct such study;
- he is opposed to the penalty of death but he feels that every citizen must be afforded equal protection and equal rights; (i.e. no discrimination: police or non-police)
- "under pretext of unsubstantiated statements, the proposed Bill has no place under our social system".
- "We did not bother in Canada to collect factual data on the real risks affecting police". There are some 30,000 policemen on active duty every day; and there are on the average 3-4 policemen killed every year - the mortality rate is easily calculated, and is much lower than the mortality rate in other occupations: firemen, construction workers, lumberjacks, etc. Study in USA disclosed that occupational hazards (fatality rate) in 33 occupations were higher than for policemen.
- "Who kills policemen?" -- referred to data published by the Department of Justice for 1961-64: in 7 cases the killers were either

... /2

... /2

insane or mentally deranged. In addition, out of 14 killers quoted, 4 were shot by the police and their mental health cannot therefore be ascertained.

- Policemen do chose their vocation in full knowledge of the occupational risks involved, and they are adequately compensated for such risks (Toronto junior constable earns \$7700, or more than university professor with 2 masters' degrees).
- lack of formal studies -- "there is nowhere in Canada a source of information for assaults committed on prison guards", except the number of policemen and guards actually killed-on-duty. To study such problems, one would have to query how negligent was the guard himself: if he were a homosexual and tried to assault an inmate and was killed in return, such things never come out for public knowledge. Assaults on policemen and prison guards are better indication of occupational hazards than actual deaths, but we have no data in this respect.
- pertinent studies were made elsewhere than in Canada in matters relative to the proposed Bill -- one cannot disprove the findings of such studies by mere rhetoric only or by arguments raised on moral grounds. "We are witnessing apathy by those who should have started proper research..."
- convicted murderers do not repeat the crime of murder; therefore they represent no great hazard to society: why kill them...? The studies of Dr. Bruno Cormier indicated that murder is a very peculiar crime, committed under stress of very strong psychological forces, that are not recurrent. The National Parole Board states that murderers released on parole show excellent adjustment to society: Why kill them...? In Canadian history there was only one murderer released from prison who committed another murder -- but if our prisons had the benefit of better psychiatric services, that man should have never been released from prison.
- on a question by the commentator "What is your solution?", Mr. Akman suggested: Suspend the present law for say 5 years, appoint a Royal Commission to study the incidence of murders in Canada; compel Police Assoc-n and prison authorities to provide data on assaults on policemen and prison guards. After 5 years,

... /3

BEST AVAILABLE COPY

.... /3

adequate factual data would be collected to make a sound judgement. We cannot debate such issue on moral grounds alone, while we lack factual information.

- concluding question by the commentator:  
"Will our legislators get enough factual data before they decide?"

G.C.K.  
G.C. Koz

P.S.: (i) Mr. Akman was apparently employed at Kingston Penitentiary around the time guard Wentworth was killed in inmates' dormitory or in adjacent lavatory.

(ii) The Penitentiary Service supplied Mr. Akman with data on assaults by inmates on a questionnaire designed by himself: he published the results in Canadian Journal of Corrections, Oct. 1966 page 284, and elsewhere.

141-206

File Away

000588

# MEMORANDUM

CLASSIFICATION

TO  
A  
SOLICITOR GENERAL.

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

DATE November 9, 1967.

FROM  
De  
M.J. O'GRADY.

SUBJECT  
Sujet  
U.K. CAPITAL MURDER STATISTICS: SOME  
OBSERVATIONS.

I attach some Tables giving murder statistics for the United Kingdom for recent years.

1. Table 1 gives the number of victims per year, and the number per million of population per year, from 1951 through 1966. It will be noted that the rate of victims is remarkably steady, and in 1966, was actually less than in the period 1931-40.
2. Table 2 gives "capital offences known to police". It will be noted that there has been some increase in numbers in 1966, but the increase is much less, for example, than the increase from 1959-1960, when no legislative changes were involved.
3. Table 3 gives figures for persons convicted of murder of all types for some recent years. There seem to have been significant increases in 1965 and 1966 in this area.
4. Table 4 gives number of persons convicted of attempted murder for some recent years. Again, there seems to have been an increase in 1966, although it will be noted there was a considerable decrease in 1965.
5. Mr. Duncan Sandys seems to have been talking about the alleged increase in 1966 in the number of "capital offences", and in the number of persons convicted for murder. His statement in the Times that the rate of murder has almost doubled seems to me to be completely without foundation. Apart from that, the apparent increase in 1966 in these

figures should be qualified by the following:

- (i) The Murder (Abolition of Death Penalty) Act, came into force on November 8, 1965. Therefore, the available statistics are only for a fourteen-month period. The police report 35 incidents for 1966, and a further 11 are attributed to the final months of 1965.

This term is too short to detect any trends. In past years, there have been greater swings than this, for no apparent reason. Our Bureau of Statistics thinks 10 years would be required to establish a statistically accurate trend.

- (ii) In any event, the 1966 figure for "capital offences known to police" will probably be reduced as appeals are completed. Past experience seems to indicate that the figure for murders will be reduced by about 5% after the appeal process. (See page 70, Department of Justice booklet Capital Punishment). This would reduce the 1966 "incidents" figure to 33: about the same as that for 1965.

- (iii) It is interesting to note that for a short period after passage of the Homicide Act (1957), the statistics seem to indicate an increased murder rate. This apparent increase later disappeared. (See page 92, Department of Justice booklet, Capital Punishment). It may be that the statistical reporting process is disrupted by changes in the legislation.

- (iv) It seems possible that juries in the United Kingdom will be more willing to bring in "murder" convictions now that capital punishment has been abolished. In particular, Section 2 of the Homicide Act (1957) afforded juries an opportunity to reduce "murder" to "manslaughter" where it was thought that "diminished responsibility" existed. Juries may simply not be paying as much attention to this problem now.

- (v) The Home Office figures for 1966 for "capital" offences are, of course, only guesses since there are no longer any capital offences under the

3.

legislation. In particular, the statisticians must guess at how Sections 5-12 (now repealed) of the Homicide Act (1957) would have applied to 1966 fact situations.

Under the Homicide Act, "murder" was "capital murder" where done in furtherance of a theft; by shooting or explosion; for the purpose of avoiding or preventing lawful arrest; for the purpose of effecting or assisting an escape from custody; where the victim was a police officer acting in the execution of his duties; where the victim was a prison officer and the killer a prisoner.

Of course, the fact that the 1966 figure is a guess reduces its validity somewhat.

ML 7-0

TABLE 1

Number of victims of "murder", and rate per million of population,  
U.K., 1931 - 1966.

<u>Year</u>	<u>No. of Victims</u>	<u>No. per million</u>
1931-40 average	130	3.2
1941-50 average	152	-
1951-55 average	137	3.1
1956	150	3.4
1957*	151	3.3
1958	125	2.8
1959	141	3.1
1960	135	3.0
1961	130	2.8
1962	142	3.0
1963	133	2.8
1964	153	3.2
1965	151	3.2
1966	143	3.0

Source: Votes and Proceedings, October 24, 1967, p. 4.  
Taken from material published in U.K. Hansard,  
July 20, 1967.

\* As of March 21, 1957, the Homicide Act (1957) introduced  
concept of "diminished responsibility", to reduce what  
might otherwise have been "murder" to "manslaughter" in  
certain cases.



TABLE 2

Capital murders known to Police (no. of incidents), and rate per million of population, U.K. 1952 - 1966.

<u>Year</u>	<u>Capital Murder (Home Office estimate)</u>	<u>Rate per million of population</u>
1952	17	.38
1953	17	.38
1954	22	.44
1955	15	.33
1956	30	.67
1957	22	.49
1958	19	.42
1959	23	.51
1960	31	.67
1961	20	.43
1962	28	.60
1963	22	.46
1964	26	.54
1965	32	.67
1966	35	.73

Source: Based on same sources as Table 1. Figures for 1965 and 1966 do not appear in Votes and Proceedings, but are those given by Mr. Duncan Sandys and other newspaper reports, and so must represent revised Home Office figures which we have not yet obtained.

Murder (Abolition of Death Penalty) Act came into force November 9, 1965.

Figures prior to March 21, 1957 and subsequent to November 9, 1965 are Home Office estimates only since "capital murder" existed as a separate offence only between those dates.

TABLE 3.

Number of persons convicted of murder, capital murder, and non-capital murder for selected years, England and Wales.

<u>Year</u>	<u>Number of persons convicted</u>
1950	38
1964	44
1965	55
1966	72

Source: Criminal Statistics, England and Wales, 1966.  
Home Office, p. xx.

TABLE 4.

Number of persons convicted of attempted murder. Selected years,  
England and Wales.

<u>Year</u>	<u>Number of persons convicted</u>
1950	38
1964	35
1965	29
1966	50

Source: Same as Table 3.

File Away

141-20 000596



# MEMORANDUM

CLASSIFICATION

TO  
A

SOLICITOR GENERAL.

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

M.J. O'GRADY.

DATE November 6, 1967.

SUBJECT  
Sujet

INCREASE IN THE RATE OF CRIME IN CANADA: CAPITAL PUNISHMENT FILE.

As requested, I attach a number of tables indicating changes in the crime rate in Canada in recent years.

Tables 1 and 2 are based on data collected by D.B.S. under its uniform crime reporting system, and include all the offences reported by police departments, for the year in which the offence occurred. Of course, it does not follow that convictions would have ensued in all cases. "Offences against the person" are reported on the basis of one offence for each victim; "offences against property" are reported on the basis of one offence for each incident.

Tables 3 and 4 give the number of persons convicted for indictable offences, and the number of convictions for indictable offences for the years 1954-1965. Rates per 100,000 are also given.

## What is the Increase in the Crime Rate?

It is difficult to give a simple answer to this question. However, the answer might be put as follows:

- (a) Between 1962 and 1966, the Canadian population increased from 18.6 million to 20 million, or by about 7.5%.

During this same period the total annual number of Criminal Code offences reported by police increased from 546,124 to 736,656: an increase of about 35%.

The increase in all offences reported, including provincial statutes and municipal bylaws, was

2.

from 796,675 to 1,091,496: an increase of about 36%.

- (b) Between 1962 and 1965, the rate of Criminal Code offences reported per 1,000 of population increased from 35.3 to 43.8: an increase of about 24%. The rate of all offences reported per 1,000 of population (including provincial statutes and municipal bylaws) increased from 51.5 to 64.9: an increase of about 26%.
- (c) It is obvious, therefore, that the rate of increase in reported crime is considerably greater than the rate of increase in population.
- (d) The figures in Table 3 and 4 for convictions are probably "harder" than the figures for "reported crime".

Between 1955 and 1965, the population of Canada increased from 15.7 million to 19.6 million: or by about 25%.

During this period the number of convictions for indictable offences increased from 54,252 to 75,300: an increase of about 39%.

During the same period, the number of persons convicted per annum rose from 28,273 to 41,832: an increase of about 47%.

Relating these crime growth figures (however they are interpreted) to the growth in the rate of homicide in recent years, it will be seen that the homicide figures are very much more stable than the crime figures taken as a whole. Of course, the numbers of homicides are so small, relative to the numbers of other crimes, that it is difficult to compare rates of change in any meaningful way. In particular, percentage comparisons are not helpful.

*W. J. O.*

TABLE 1.

Number of offences reported to D.B.S. by police  
by major categories. 7 years of age and over. Canada 1962-1966.

<u>Category</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>	<u>1965</u>	<u>1966</u>
Crimes against the person, c.c. <sup>1</sup>	36,075	41,344	49,103	53,204	63,637
Crimes against property, c.c. <sup>2</sup>	356,434	393,402	419,714	416,264	457,322
Morals <sup>3</sup>	3,937	4,507	4,710	4,020	4,451
Narcotics Control Act and Food and Drug Act <sup>4</sup>	1,003	902	623	768	1,423
Other C.C. and 5 federal statutes.	148,675	158,627	185,679	184,544	209,823
SUBTOTAL:	<u>546,124</u>	<u>598,782</u>	<u>659,829</u>	<u>658,800</u>	<u>736,656</u>
Provincial statutes	195,853	219,288	248,772	271,857	289,321
Municipal bylaws	54,698	56,502	52,316	58,794	65,519
TOTAL:	<u>796,675</u>	<u>874,572</u>	<u>960,917</u>	<u>989,451</u>	<u>1,091,496</u>

Source: D.B.S. Crime Statistics (Annual). Statistics for years prior to 1962 are not considered reliable by D.B.S. because of reporting problems, and so are not given. Figures relate to offences reported to police by year in which the offence occurred. D.B.S. does not consider totals for "provincial statutes" or "municipal bylaws" particularly reliable either.

1. Includes D.B.S. totals for capital murder; non-capital murder; attempted murder; manslaughter; rape; other sex offences; wounding; assaults other than indecent assaults.
2. Includes D.B.S. totals for robbery; breaking and entering; theft of motor vehicle; theft over \$50; theft under \$50; stolen goods; frauds.
3. Includes D.B.S. totals for prostitution; gaming and betting.
4. Includes D.B.S. totals for Narcotics Control Act; Food and Drugs Act (controlled drugs).
5. Includes D.B.S. totals for "other Criminal Code"; "other federal statutes"; offensive weapons.

TABLE 2.

Offences reported to D.B.S. by police, by major categories. Rate per 1,000 population. 7 years of age and over. Canada 1962 - 1966.

Category	1962	Rate per 1,000 population				1966
		1963	1964	1965		
Crimes against the person, c.c.	2.3	2.6	3.1	3.2	3.8	
Crimes against property, c.c.	23.1	25.0	26.1	25.4	27.2	
Morals, c.c.	.26	.29	.29	.25	.26	
Narcotics Control Act and Food and Drug Act	.06	.06	.04	.05	.08	
Other Cr. Code and Federal Statutes	9.6	10.1	11.6	11.3	12.5	
SUBTOTAL:	35.3	38.1	41.1	40.2	43.8	
Provincial Statutes	12.7	13.9	15.5	16.6	17.2	
Municipal Bylaws	3.5	3.6	3.3	3.6	3.9	
TOTAL:	51.5	55.6	59.9	60.4	64.9	

SOURCE; D.B.S., Crime Statistics (Annual)



TABLE 3.

Number of Persons Convicted for Indictable Offences, 16 years of age and over. Canada, 1954 - 1965.

<u>Year</u>	<u>Number of Persons Convicted</u>	<u>Rate per 100,000.</u>
1954	30,848	302
1955	28,273	274
1956	27,413	259
1957	31,765	292
1958	34,546	311
1959	31,847	281
1960	35,443	307
1961	38,679	330
1962	38,663	324
1963	42,914	354
1964	42,097	340
1965	41,832	330

Source: D.B.S. This table appears at p. 109 of the Department of Justice Booklet, Capital Punishment.

TABLE 4.

Number of Convictions for Indictable Offences, 16 years of age and over. Canada, 1954 - 1965.

<u>Year</u>	<u>Number of Convictions</u>	<u>Rate per 100,000.</u>
1954	56,847	556
1955	54,252	521
1956	45,913	433
1957	54,900	504
1958	62,839	566
1959	57,639	509
1960	64,707	561
1961	71,262	608
1962	71,507	599
1963	78,518	647
1964	76,310	616
1965	75,300	594

Source: D.B.S. This table appears at p. 109 of the Department of Justice booklet, Capital Punishment.



141-206

000603

# MEMORANDUM

CLASSIFICATION

TO  
A.

SOLICITOR GENERAL.

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

M.J. O'GRADY.

DATE November 2, 1967.

FROM  
De

SUBJECT  
Sujet

RECENT NEW YORK STATE LEGISLATION ON  
CAPITAL PUNISHMENT.

RECEIVED  
OFFICE OF THE DEPUTY  
SOLICITOR GENERAL

NOV 2 1967

R.O.P.

As requested, I attach a copy of the recent New York legislation relating to murder, and the penalty for it.

The New York penal code was amended throughout in 1965, and certain sections (including the murder sections) were further amended in 1967. The attached material includes the 1967 amendments. Additions and deletions in the most recent amendments are indicated by underlinings and strikeouts.

The highlights of the new legislation appear to be:

1. The homicide is "murder" if:
  - (a) there was intention to cause death (except that "extreme emotional disturbance" may result in a prosecution for first-degree manslaughter; and assisting in a suicide may result in a conviction for second-degree manslaughter;) OR
  - (b) death was caused by "reckless" conduct which indicates "depraved indifference to human life"; OR
  - (c) death occurred in the course of commission of a felony such as robbery, kidnapping, arson, rape, etc. Defences to a "felony murder" conviction include showing that the defendant was not armed; had no reason to believe a weapon was present; had no reason to believe that any companion intended to cause harm to anyone; and did not in fact share in the causing of harm.

2. Capital punishment. The penalty for a murder conviction is death if the jury finds, on a further hearing, that:

2.

- (a) the victim was a peace officer performing his performing his official duties; or
- (b) the murderer was serving a sentence of life imprisonment; or a sentence of fifteen years to life indeterminate; or was in immediate flight from custody for such sentences; and
- (c) the killer was over eighteen;
- (d) Apparently, even if the above facts are shown, the jury can waive the death penalty if "substantial mitigating circumstances" are shown on the second hearing.

For death to be imposed, the jury must unanimously agree on it. If it is unable to agree, the trial judge has the discretion either to impose life imprisonment or empanel a new jury.

**§ 125.25 Murder**

A person is guilty of murder when:

1. With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution under this subdivision, it is an affirmative defense that:

(a) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime; or

deletions by strikeouts

1313

## Ch. 791 LAWS OF NEW YORK 1967

(b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime; or

2. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or

3. Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, sodomy in the first degree, sexual abuse in the first degree, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and

(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and

(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and

(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

Murder is a class A felony.

§ 10. Section 125.30 of such law is hereby repealed, and a new section 125.30 is hereby inserted, to read as follows:

### § 125.30 Murder; sentence

1. When a defendant has been convicted by a jury verdict of murder as defined in subdivision one or two of section 125.25, the court shall, as promptly as practicable, conduct a further proceeding, pursuant to section 125.35, in order to determine whether the defendant shall be sentenced to death in lieu of being sentenced to the term of imprisonment for a class A felony prescribed in section 70.00, if it is satisfied that:

(a) Either:

(i) the victim of the crime was a peace officer who was killed in the course of performing his official duties, or

(ii) at the time of the commission of the crime the defendant was confined in a state prison or was otherwise in custody upon a sentence for the term of his natural life, or upon a sentence commuted to one of natural life, or upon a sentence for an indeterminate term the minimum of which was at least fifteen years and the maximum of which was natural life, or having escaped from such confinement or custody the defendant was in immediate flight therefrom; and

(b) The defendant was more than eighteen years old at the time of the commission of the crime; and

1967 REGULAR SESSION

Ch. 791

(c) There are no substantial mitigating circumstances which render sentence of death unwarranted.

2. If the court conducts such a further proceeding with respect to a sentence, the jury verdict of murder recorded upon the minutes shall not be subject to jury reconsideration therein.

§ 11. Section 125.35 of such law is hereby amended to read as follows:

§ 125.35 Murder; proceeding to determine sentence; appeal

1. When a defendant has been found guilty after trial of murder, and such verdict has been recorded upon the minutes, it shall not thereafter be subject to jury reconsideration. Any further proceeding authorized by section 125.30 with respect to a sentence for murder shall be conducted in the manner provided in this section.

2. Unless the court sentences the defendant as for a class A felony as provided in subdivision two or three of section 125.30, it shall, as promptly as practicable, conduct a proceeding to determine whether defendant should be sentenced as for a class A felony or to death. Such proceeding shall be conducted before the court sitting with the jury that found defendant guilty unless the court for good cause discharges that jury and impanels a new jury for that purpose.

3. In such proceeding, evidence may be presented by either party on any matter relevant to sentence including, but not limited to, the nature and circumstances of the crime, defendant's background and history, and any aggravating or mitigating circumstances. Any relevant evidence, not legally privileged, shall be received regardless of its admissibility under the exclusionary rules of evidence.

4. The court shall charge the jury on any matters appropriate in the circumstances, including the law relating to the maximum and possible minimum terms of imprisonment and to the possible release on parole of a person sentenced as to a term of imprisonment for a class A felony.

5. The jury shall then retire to consider the penalty to be imposed. If the jury report unanimous agreement on the imposition of the penalty of death, the court shall discharge the jury and shall impose the sentence of death. If the jury report unanimous agreement on the imposition of the class A felony sentence of imprisonment, the court shall discharge the jury and shall impose such sentence. If, after the lapse of such time as the court deems reasonable, the jury report themselves unable to agree, the court shall discharge the jury and shall, in its discretion, either impanel a new jury to determine the sentence or impose the sentence for a class A felony of imprisonment.

6. On an appeal by the defendant where the judgment is of death, the court of appeals, if it finds substantial error only in the sentencing proceeding, may set aside the sentence of death and remand the case to the trial court, in which event the trial court shall impose the sentence for a class A felony of imprisonment.



File Away

141-206 000609

# MEMORANDUM

CLASSIFICATION

TO  
A

SOLICITOR GENERAL.

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

M.J. O'GRADY.

DATE November 2, 1967.

SUBJECT  
Sujet

MENTAL CONDITION OF PERSONS COMMUTED AND  
EXECUTED SINCE 1957.

1. The 98 cases synopsisized in the Table "Leading Characteristics of Capital Cases Occuring since January, 1957", appearing in the Department of Justice booklet Capital Punishment, break down as follows:

Mentally disturbed and commuted	46
Not mentally disturbed and commuted	24
Some mental disturbance and executed	5
No mental disturbance and executed	6
No independent psychiatrist's report available to Cabinet (5 executed, 12 commuted).	<u>17</u>
	98

2. The 46 cases in which there was some mental disturbance and a commutation were made up as follows:

Depression. One case (#15).

Alcoholism. Three cases (#16, 75, 87).

Emotional stress. Two cases (#22, 39).

Low intelligence. Ten cases (#23, 24, 25, 36, 38, 60,  
63, 69, 79, 84).

Hysterical. One case. (#26).

Compulsive sex drive. One case (#27).

2.

Schizophrenia. Eight cases. (#30, 34, 42, 48, 49, 59, 90, 98).

Psychotic. Five cases. (#57, 61, 72, 88, 89).

Psychopathic. Five cases. (#71, 73, 77, 80, 92).

Emotionally unstable, sociopathic, neurotic. Seven cases. (#55, 85, 91, 93, 95, 96, 97).

Pedophilia. One case. (#82).

Abnormally aggressive. One case (#78).

Doubtful mental abnormality. One case. (#74).

3. There have been five cases of execution of persons whose mental stability was questionable:

Case #35. Described as "not psychotic but possibility of D.T.'s and accompanying hallucinations".

Case #45. "Below average mentality".

Case #46. "Psychopathic personality with paranoid manifestations of a neurotic order".

Case #56. "Below normal intelligence".

Case #67. "Low intelligence".

4. Thirteen of the 98 cases of murder have had as their probable motive "sexual assault", as follows:

No. 1 - by a 29-year old man on his nine year old stepdaughter. Blows by fists. Executed.

No. 6 - by a 50-year old man on an eight year old girl. Tire iron. Executed.

3.

- No. 8 - A 29-year old man on a thirteen year old girl.  
Strangled with clothing. Executed.
- No. 23 - By a 26-year old man on a eight year old girl.  
Stone and hands. "No apparent motive, possibly  
sex". Commuted.
- No. 27 - By a 20-year old man on a sixteen year old girl.  
Hunting knife. Commuted.
- No. 36 - By an 18-year old man on a female stranger.  
Hands. Commuted.
- No. 44 - By a 14-year old boy on his female classmate.  
Strangled with blouse. Commuted.
- No. 49 - By a 25-year old man on a ten year old girl.  
Pop bottle. Commuted.
- No. 69 - By a 19-year old man on two young boys. Hands.  
Commuted.
- No. 72 - By a 23-year old man on an eighty three year old  
woman. Hands. Rdbery and sex. Commuted.
- No. 79 - By a 30-year old man on twelve year old girl.  
Hands and rope. Commuted.
- No. 84 - By a 26-year old man on fourteen year old girl.  
Hunting knife. Commuted.
- No. 88 - By a 43-year old man on a thirteen year old  
boy. Hands. Commuted.

It will be seen that ten of these murderers were  
commuted; three were executed.

As for their mental condition, the descriptions  
are as follows:

Normal	1 (44)	
Low		
intelligence	5 (23, 36, 69, 79, 84)	
Psychotic	2 (72, 88)	
Schizophrenic	1 (49)	
Compulsive sex drive	1 (27)	
No psychiatrist's report available	3 (1, 6, 8 - these are/three who were executed).	the

M.F.O.



141-206 000613

# MEMORANDUM

CLASSIFICATION

TO  
A

SOLICITOR GENERAL

CC: Deputy Minister  
Mr O'Grady

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

G.C.Koz

DATE 20 Oct.1967

SUBJECT  
Sujet

Press Review -- re: CAPITAL PUNISHMENT  
The Christian Science Monitor, Oct-19,1967

The attached article from The Christian Science Monitor repeats the previously reported comments in "The Economist", but expands on the attitudes of the judges of the U.S. Supreme Courts.

The map of the USA was drawn from a small sketch in the Monitor (not reproduced), as the individual States that are contemplating constitutional challenge to the death penalty are not listed in the article:

Alabama	North Carolina
California	New Hampshire
Colorado	Louisiana
Florida	Massachusetts
Georgia	Tennessee
Illinois	Texas
	Virginia

(13 States)

In 13 other States, the death penalty has been either abolished completely (9) or partially abolished (4) that is, retained for the murder of law-enforcement officers and/or second murder by inmates-serving life.

*Eck*

## Appeal to the courts

THE CHRISTIAN SCIENCE MONITOR

Thursday, October 12, 1967

# Capital-punishment ruling sought

By David England

Staff writer of The Christian Science Monitor

Boston

Initial steps are being taken toward what may become one of the most significant decisions in criminal justice—the abolition of capital punishment by judicial decree.

In at least six states, attorneys are appealing to the courts to halt all scheduled executions. If the sentences are carried out, they contend, it will violate the Eighth Amendment of the United States Constitution by subjecting their clients to cruel and unusual punishment.

In three states—California, Florida, and Utah—all scheduled executions have been suspended until the courts can consolidate the appeals of all affected prisoners into one case. More than 100 inmates are affected.

In 13 other states, appeals are just beginning. More than 400 prisoners in the United States are awaiting execution.

### Executions postponed

In Massachusetts, a three-judge federal court has not acted yet because Gov. John A. Volpe has postponed all executions until after Nov. 1. He is awaiting action on a bill in the Legislature to set up a study of the deterrent effects of capital punishment.

If the bill passes, the Governor is expected to ask his Executive Council to approve suspension of all executions in Massachusetts until after the study is completed and the Legislature has had an opportunity to act on its recommendations.

Meanwhile, the federal court will hear arguments in Boston on the appeal of John J. Kerrigan, sentenced for the killing of a policeman during a robbery.

Kerrigan's attorney, Ronald J. Chisholm, said: "The Eighth Amendment says no cruel and unusual punishment shall be imposed. In the past this issue has been raised, but nobody has gotten very far with it. But this is the second half of the 20th century." Not too many years ago, pickpockets and horse thieves were hanged, he said, an unthinkable sentence today.

The argument that capital punishment is unconstitutional is based on four contentions:

- That the states, although they may provide a condemned man with counsel at his trial, do not provide counsel for him if he wants to appeal.
- That potential jurors who are opposed to capital punishment are excluded from juries that will hear a capital case.
- That there are no guidelines for juries to follow in recommending capital punishment, and that this is a violation of due process of law.
- That capital punishment is cruel and unusual punishment.

The argument that a condemned man should have a lawyer on appeal is being made in Florida, where the right to counsel is limited to the trial courts. It is contended there that when a man's life is at stake every effort should be made to assist him in his defense.

### Guidelines missing

In California, a convicted criminal has the right to one appeal, and the right to counsel on that appeal. But in that state's multitiered judicial system, there is no right to counsel on a man's ultimate appeal to the state Supreme Court.

"In Massachusetts, all men in death row have counsel," Mr. Chisholm said.

To assure competent counsel, the Massachusetts Superior Court Rules provide that "no person shall be assigned as counsel in a murder case unless he has been a member of the bar for more than 10 years, and the court has satisfied itself that he is fully qualified by training, experience, reputation and character to discharge the responsibility imposed on him."

Many believe that in capital-crime trials the jury is stacked against the defendant. The Supreme Judicial Court of Massachusetts, in a 1965 case, held that a potential juror who was "conscientiously opposed to the death penalty should be excused for cause."

The wisdom of this decision will be argued in the Kerrigan case. "There is no cross-section in the jury if opponents of the death penalty are excluded," Mr. Chisholm said.

Juries in most states don't have any guidelines for recommending capital punishment. In Massachusetts, the penalty for first-degree murder is execution unless the jury unanimously recommends life imprisonment instead, but the jury is given no instructions on what the criteria is for making that decision. If the offense is murder in connection with rape or attempted rape, the jury does not have this discretion. The judge decides.

Finally, there is the argument that capital punishment violates the Eighth Amendment. Mr. Chisholm commented, "Obviously the death penalty is cruel and unusual punishment, and it is obvious that it will be abolished, maybe this year or next."

The term "cruel and unusual punishment" has never been precisely defined, and the courts have given no indication that it will be. In 1958, the Supreme Court of the United States said "the Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society. . . . The basic concept under-

lying the Eighth Amendment is nothing less than the dignity of man. While the state has the power to punish, the Amendment stands to assure that this limit be exercised within the limits of civilized standards."

### Court may be ready

There are signs that the United States Supreme Court is ready to hear arguments on the application of the Eighth Amendment to capital punishment. In 1963, Associate Justices Arthur J. Goldberg, William O. Douglas, and William J. Brennan Jr. voted to review rape convictions that resulted in capital sentences.

At that time, Mr. Justice Goldberg asked whether the Eighth and 14th Amendments "permit the imposition of the death penalty on a convicted rapist who has neither taken nor endangered human life."




He noted that only 17 states had the capital penalty for rape and that a United Nations survey reported that only Nationalist China, Northern Rhodesia, Nyasaland, South Africa, and the United States punished rape by capital punishment. Mr. Justice Goldberg said the court should consider "whether the taking of a human life to protect a value other than human life" is punishment disproportionate to the offense charged.

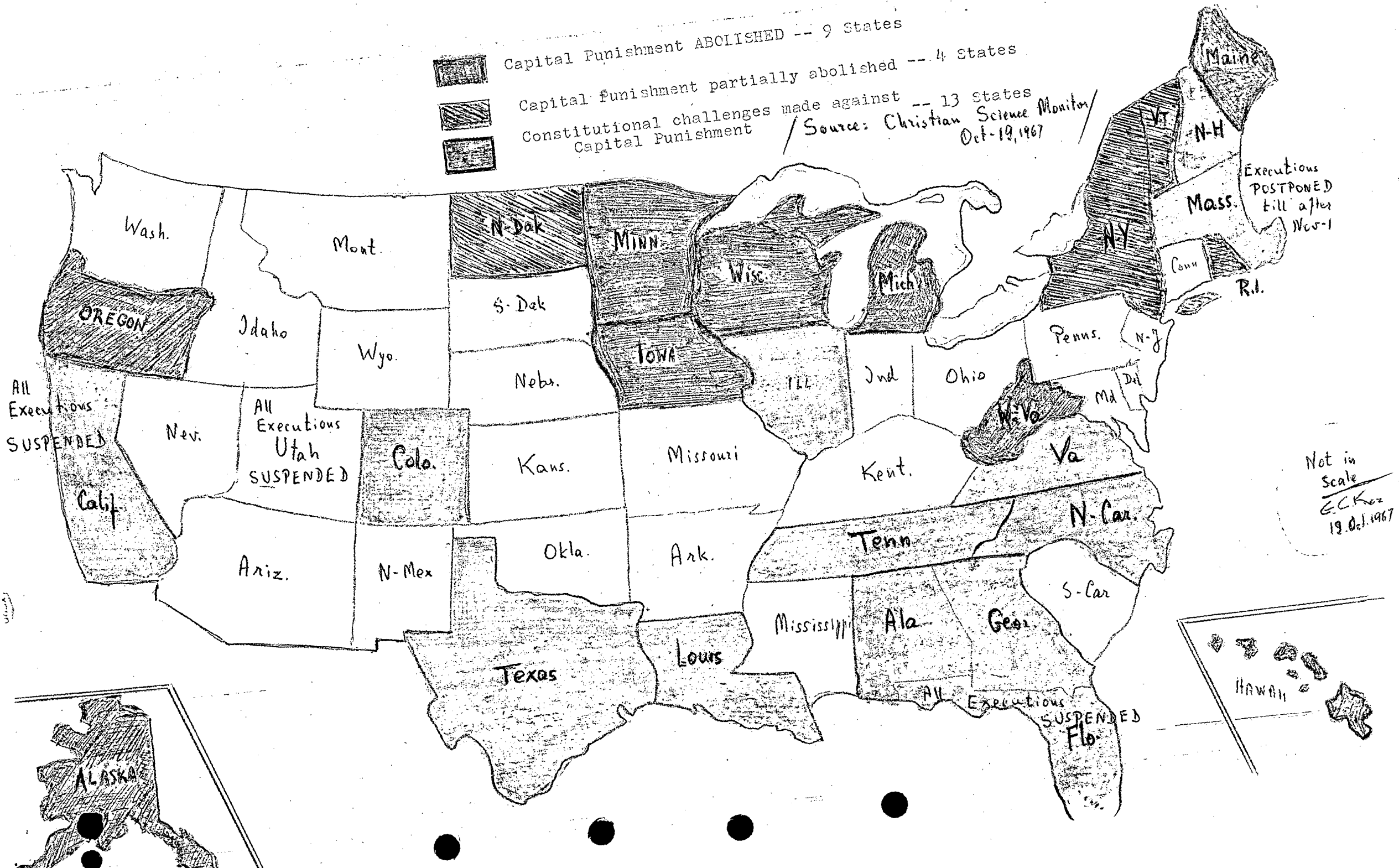
Under the rules of the Supreme Court, four justices must vote to hear a case before it can be argued before the entire bench. In 1963, Mr. Justice Goldberg was short one vote. Since then, he has stepped down, replaced by Abe Fortas, and Mr. Justice Clark has been replaced by Thurgood Marshall. Both the new justices are well known for their civil libertarian activities, and could bring the question up for argument.

Mr. Justice Goldberg's question was directed only at one use of capital punishment: cases involving rape in which no life was taken or endangered. His opinion indicated the three associate justices were ready to

consider whether capital punishment should be abolished, but only in that instance. But they said nothing about completely abolishing capital punishment.

The court could retain capital punishment and set standards for its use, leaving for later the opportunity to completely abolish it.

 Capital Punishment ABOLISHED -- 9 States  
 Capital Punishment partially abolished -- 4 States  
 Constitutional challenges made against Capital Punishment -- 13 States  
 / Source: Christian Science Monitor /  
 Oct-19, 1967





BEST AVAILABLE COPY

MEMORANDUM

CLASSIFICATION

TO  
A

SOLICITOR GENERAL

YOUR FILE No.  
Votre dossier

CC: Deputy Minister  
Mr O'Grady

OUR FILE No.  
Notre dossier

FROM  
De

G.C. Koz

DATE 20 Oct. 1967

SUBJECT  
Sujet

re: CAPITAL PUNISHMENT  
Uniform Crime Reports, U.S.A., January-June 1967

Following the previous report on crime trends in the U.S.A. during 1966, the following highlights are taken from quarterly publication, Uniform Crime Reporting, released on September 15, 1967:

--- Crime in the USA as measured by the Crime Index rose 17% during the first six months of this year over the same period in 1966.

The violent crimes as a group increased 18%, of which group the category of MURDER went up 20% (being exceeded only by robbery, which increased by 30%)

--- The breakdown of MURDER figures indicates that the increase was 25% in larger cities (over 25,000), with 13% in the suburban areas and only 2% up in rural areas.

Cities over 1,000,000 population showed an increase of 30%; those in size 1-1 million showed increase 33%; and the smaller large cities showed between 20-25% increase in murder.

--- Crime Index Trend by Geographic Regions (please refer to the map attached to Christian Science Monitor article) indicates that the greatest increase in the incidence of MURDERS, 36%, was in the North Central States (the abolitionists states), while the next high, 25%, was in the Northeastern States (half-abolitionist states).

The lowest increase, 13%, was in the Southern States; followed by 15% in the Western States. Of 406 persons awaiting executions in all USA, 161 persons or 25% are concentrated in the two states: California and Florida.

--- As in 1966 annual report, J.E. Hoover emphasizes that "crime is a social problem and, therefore, a concern of the entire community" (i.e. not only of the law enforcement agencies). This appears to have definite overtones to the debate on capital punishment: - a social problem must be treated by methods other than the judicial process alone.

CK



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# MEMORANDUM

CLASSIFICATION

TO  
A

Deputy Solicitor General

YOUR FILE No.  
Votre dossier

CC: Solicitor General  
Mr O'Grady

OUR FILE No.  
Notre dossier

FROM  
De

G.C. Koz

DATE 20 Oct. 1967

SUBJECT  
Sujet

Incidence of HOMICIDE in New York State

As requested, I obtained up-to-date figures on the incidence of Murders and Non-negligent Manslaughters in New York State, including the first half of this year:

Year	<u>ALL Offences, New York</u>		<u>MURDER etc. New York</u>		<u>Murder etc all U.S.A.</u>
	Number	Rate per 100,000	Number	Rate per 100,000	Rate per 100,000
1958	152,896	942.1	461	2.8	4.7
1959	159,764	962.6	497	3.0	4.8
1960	175,029	1042.9	479	2.9	5.0
1961	181,566	1066.0	603	3.5	4.7
1962	199,617	1147.1	628	3.6	4.5
1963	228,385	1289.7	669	3.8	4.5
1964	268,120	1496.6	833	4.6	4.8 +6.6%
(X) → 1965	406,792	2250.9	833 *)	4.6	5.1 +6.3%
1966	438,136	2399.6	879 *)	4.8	5.6 +9.8%
1967 (first 6 months)			448 **)	Est: 4.8	

Remarks: (X) -- partial abolition became effective on 1 July 1965

\*) 2 policemen were murdered in each year, 1965 and 1966

\*\*) 1 policeman was murdered up to June 30, 1967.

141-206

Ottawa 4, October 17, 1967.

Dear Mr. Grossman:

I wish to acknowledge your letter of September 28, 1967 in which you ask that, in the event that existing legislation regarding capital punishment is not repealed, you may be assured that legislation will be considered to establish a number of centrally located facilities wherein condemned persons may be incarcerated and the sentence of death carried out.

I respectfully suggest that such legislation is unnecessary and that your colleague, the Attorney General, will support me in this view. Section 644 of the Criminal Code provides that a person who is sentenced to death shall be confined in a safe place within a prison apart from all other prisoners. Section 645 provides that a sentence of death shall be executed within the walls of a prison. I am informed that for some time it was the practice in several of the provinces to have executions carried out, in the light of these provisions, at one central location within the province.

Yours sincerely,

Original Signed by,  
L. T. PENNELL

The Honourable Allan Grossman,  
Minister of Reform Institutions,  
Province of Ontario,  
Parliament Buildings,  
Toronto 5, Ontario.

D. S. C.

OFFICE OF  
THE SOLICITOR GENERAL

Date

Oct 2/67

Forward to

T. O. Macdonald

Perusal and Return with Draft reply for my

Signature.....

Please see me re this.....

Attention.....

Information.....

Perusal and Return.....

Perusal and Return with File.....

Perusal and Return with Recommendation.....

Perusal and Return with Comments.....

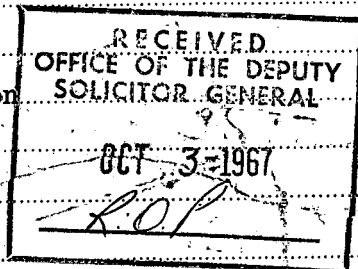
Let me have material asked for herein.....

Approval or Revision before Mailing.....

Please Fill in Blanks and Return.....

Special Instructions:

Will you call me  
on this matter please



E. R. GRIFFITHS 000620

Executive Assistant to  
Solicitor General



DEPARTMENT OF REFORM INSTITUTIONS  
OFFICE OF THE MINISTER

RECEIVED  
OFFICE OF THE  
SOLICITOR GENERAL

OCT 2 9 24 AM '67

Parliament Buildings,  
Toronto 5, Ontario.

September 28, 1967.

The Honourable Lawrence T. Pennell,  
Solicitor General,  
Parliament Buildings,  
OTTAWA, Ontario.

Dear Mr. Minister:

My Department is presently engaged in an extensive programme to replace existing County Jails with Regional Detention Centres.

In the planning of these Centres, we are concerned about the necessity to provide facilities to carry out any death sentence as ordered by the Courts in accordance with sections 642 to 653, Criminal Code of Canada (1962). To provide such facilities in each Centre would add considerably to the capital costs, which of course may be entirely unnecessary in view of proposed forthcoming legislation.

At the present time a sentence of death is carried out within the walls of a prison within the County where the crime was committed, and the Sheriff of the County is responsible that the orders of the Court are carried out.

In the event that existing legislation regarding capital punishment is not repealed, may we be assured that legislation will be considered to establish a number of centrally located facilities wherein condemned persons may be incarcerated and the sentence of death carried out?

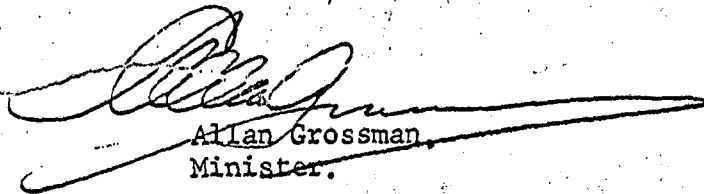
- 2 -

The Honourable Lawrence T. Pennell September 28, 1967.

Such assurance at this time will result in considerable savings to the taxpayers.

Your early attention to this request would be appreciated.

Yours sincerely,



Allan Grossman,  
Minister.

Document disclosed under the *Access to Information Act*  
Document divulgué en vertu de la *Loi sur l'accès à l'information*



141-206000623

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# MEMORANDUM

CLASSIFICATION

SOLICITOR GENERAL

CC: Deputy Minister  
Mr O'Grady

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

G.C. Koz

DATE 19 Oct. 1967

Correctional Press Review: Crime in the U.S.A., 1966

The latest publication of the F.B.I. was issued in August 1967. This brief synopsis is made primarily with reference to the forthcoming debate on the proposed bill re: Capital Punishment.

1. "Crime Capsule":

- Almost  $3\frac{1}{2}$  million serious crimes reported in 1966; an increase of 11% over 1965
- Risk of becoming a victim of serious crime increased 10% over 1965, with almost 2 victims per each 100 inhabitants
- Daytime burglaries rose 140% over 6 years, 1960-66
- Arrest of juvenils for serious crimes rose 54% for 1960-66, while the number of persons in the young group age, 10-17, increased by only 19% during the same period
- Arrests for narcotic drugs offences rose 82% for 1960-66, while the increase for last year, 1965-66 was 23%
- 57 law-enforcement officers were murdered in 1966

2. Crime Index and Crime Rate for 6 years, 1960-66:

The Index of Crime rose 62%, the crime Rate per 100,000 was up 48% (for 6 years); while the population increased by 9% only.

Violent crimes went up 49% while the rate/100,000 was up 37%  
Property crimes " " 64% " " " " " " 50%

3. Crime Index and Crime Rate, for last year, 1965-66:

Serious crime (all offences): up 11.4%; rate/100,000 up 10.2%  
M u r d e r . . . . . increase 10.8% " " " 9.8%

4. M u r d e r:

quoted from page 6:

"... the police are powerless to prevent a large number of murders... as most murders are committed by relatives of the victim or persons acquainted with the victim..."  
"It also becomes obvious, based on these facts, that criminal homicide is, to a major extent, a social problem"

2.

000624



.../ 2

(MURDER Cont'd)

There were estimated 10,920 murders in 1966 as compared to 9,850 reported in 1965.

— 1966 murders increased 11% in volume of offences known to the police, since 1965; while they increased over 6 years was 21%.

— 1966 murder rate/100,000 was 5.6 victims:  
— up from 5.1 in 1965  
— or: a 10% increase since 1965

5. Recidivism:

The study of recidivism disclosed the following results:

- 55% of inmates released in 1963 were re-arrested within 30 months
- 67% of those inmates who were released in 1963 after earning "good time" were re-arrested, within 30 months
- 83% of those who were acquitted or dismissed in 1963 were re-arrested within 30 months
- 72% of those granted probation in 1963 for auto theft repeated again
- 65% of young offenders released 1963, repeated again

/Comment: It would appear that those released on parole would have correspondingly lower rate of recidivism than those released with statutory remission; and that imprisonment and parole were more successful than "no-sentence"/

6. Comments on Statistics:

In the Preface, J.E. Hoover said as follows: (page v)

"Criminal statistics are one essential form of information for management purposes. Law enforcement must know where it has been, before it can reasonably decide where it is going. Statistics provide necessary data to identify crime problems and to evaluate action programs.... The National Crime Information Center, instituted by the FBI in cooperation with local and state law enforcement agencies, began in January, 1967. This is a computerized index of documented operational information on crime and criminals... " ....this will be of benefit not only for operational purposes (police) but will also provide valuable data for management.

File Away

141-206

000626

BEST AVAILABLE COPY



TO  
A

# MEMORANDUM

CLASSIFICATION

CC: For CIRCULATION

SOLICITOR GENERAL

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

FROM  
De

G.C.Koz

DATE 16 Oct.1967

OLD

SUBJECT  
Sujet

re: Capital Punishment

Press Review -- The Economist, September 30, 1967

The following is a resumé of an article: "Death in Court" by a San Francisco correspondent of the Economist (page 1199):

"...(the recent review) has brought to a temporary halt executions threatening over 400 men and may signal a turning point in American criminal justice. For the first time there is a long range, carefully financed and strongly supported drive to eradicate capital punishment as unconstitutional because it is a "cruel and unusual" penalty which falls with especial weight upon the poor.

The court manoeuvres are the work of the Legal Defence Fund of the National Association for the Advancement of Coloured Peoples and of the American Civil Liberties Union.

.....Though juries continue to order capital punishment, their orders are seldom carried out. In Florida (51 men awaiting executions) and California (60) in recent years the courts and Governors opposed to death penalty have stayed the executions. ....With ordinary people frightened by the increase in crime, State Legislatures have been incapable of abolishing capital punishment....

...Petitions were filed in Florida and California and have been accepted by federal judges in both states, at least to the point of ordering certain facts to be examined, a process which appears to ensure a halt to all executions until the two suits are settled.

(Arguments raised): "...the main ones are that people who favour the death penalty are allowed to serve on juries without being challenged while those who oppose it are subject to dismissal by the prosecutor; that legal aid is not available to conduct appeals after a man is convicted; that at present the law sets no standards for arriving at the death penalty, apart from the unguided judgement of a judge or jury. It all boils down to the assertion that the death penalty is "cruel and unusual" punishment of the kind forbidden by the Constitution. Unusual it has certainly become: so far this year there has been only one execution (in California); in 1966 there was only one. "

*ECK*

# Books

## IN THE MARGINS

Diaries and Letters, 1939-1945

by Harold Nicolson. Edited by Nigel Nicolson.

Collins. 511 pages, illustrated. 45s.

"So we went downstairs and dined with Diana, Lord Rothschild, Noel Coward and Mr Attlee." The date was March 11th, the place was liberated Paris, Diana was the British Ambassador's wife and part of the social past in her own beautiful right. Earlier in the day at Dieppe, Harold Nicolson had "bent down and touched the soil of France with a sacerdotal gesture."

"Monsieur a laissé tomber quelque chose?" asked my porter. "Non," I replied, "j'ai retrouvé quelque chose."

Here is the essence of the diarist: the wide-ranging friendship and connection he had with all the personal facets of British diplomatic, literary, artistic and political society as it entered, and survived, the war; and the passionate sentiment for France, shown in his best Parliamentary speeches, that nobody, and certainly not Churchill, found a way of using.

Lord Reith wanted to be "stretched" during the war, and never was; he really meant he wanted to help Churchill to run it. Harold Nicolson simply wanted the chance and the recognition to show that, though he might be "a national figure of the second degree," he was capable of promotion to the first degree. His dutiful if somewhat individual stint in junior office at the Ministry of Information, cut short to make room for Mr Ernest Thurtle, proved nothing. On the board of governors of the BBC, to which he was then exiled, he was intermittently happy and frustrated, and always busy in meetings before going off to mull it all over at the House of Commons or the Beefsteak with those who were in or near the know.

Reading through this abridged version of the vast diaries he wrote when each busy, often disappointing day was over, one is tempted to say that, almost invariably, his judgments and prognostications of what was going on were wrong. In fact, what this means is that during these years the private judgments and prognostications of almost everybody near, if not in, the know were wrong—right from the earliest pre-Churchill days of the war when Nicolson's most intelligent friends were, understandably perhaps, most defeatist. This is in its way a social document; it is fascinating to speculate from it what would have happened if this country, like France, had been occupied by the Germans.

But the misjudgments do not stop at the war. They stray into Nicolson's own real field of culture and letters. His snap judgment (abetted then, it seems, by Lady Violet Bonham Carter) that "a man called Haley," from the *Manchester Evening News*, who they thought was being wished on, them, was "not at all suited to the cultural job" the two of them had in mind for the BBC, is a classic blob. When they drew up a general knowledge list of names that the right candidate ought to know, the test was exactly one, as Ivor Brown tried to tell them, that William Haley, from his compulsive reading, would have passed with the top honours that took him to the editorship of *The Times* and now the *Encyclopaedia Britannica*.

There is a sense of waste in this honest self-conscious story, with his comical National Labour party uncomfortably in the wings. But the implication is not that Harold Nicolson ought to have been lifted, like a lesser Reith, to help more in running the war. It is that this civilised, compassionate man—with his respectfully loving and respectfully loved wife and artist in her own right—ought not to have spent himself repining about the political (still less administrative) opportunities he probably could not have taken. He was a compulsive writer, as well as talker and friend. That was his metier, as the third volume of the diaries will surely show. But he girded during the war for a good reason; he was a patriot, as well as a sentimentalist.

## THE OTHER NICHOLSON

*The System: The Misgovernment of Modern Britain*

By Max Nicholson.

Hodder and Stoughton. 540 pages. 50s.

This swinging tirade found immediate front-page favour on its publication day last Monday in the swinging *Daily Mirror*, which thereupon instituted a four-day tirade itself. All the established culprits are in the dock again: the cabinet (which Mr Nicholson wants to cut to 12); the Treasury (to be abolished), civil service recruitment (to be opened to the lads outside Oxbridge), the overcentralisation of power, (to be devolved), and the public (to be stirred up and informed). It is very with-it. Mr Nicholson writes with a civil service background and with lengthy

experience at the Nature Conservancy.

But it is a muddled book: everything is in it from the racial mixing of the original settlers in these islands to the ending of the special relationship with the United States which *The Times's* man in Washington identified on January 4th this year. This is a real pity. For a number of Mr Nicholson's causes are ones to which this paper has long been sympathetic. There is a case for slimming the cabinet. But Mr Nicholson keeps the nationalised industries, especially power and transport, with a Paymaster-General and out of the economic, planning and Board of Trade portfolio. So things are just as complicated as ever.

Then there is to be a Secretary of State for English Affairs, rubbing shoulders with the great overlords and bossing (at York) a whole agglomeration of relatively powerless departments. Nothing wrong with York, if the whole machinery of government were there; but to separate is to duplicate. Nothing wrong with giving the English a sense of self-government if they really want it, provided everyone realises that it is a very different matter coping with 45 million people than with the 5 million Scots now partly governed by a Secretary of State from St Andrew's House (and Dover House). Then the Scots are to be elevated to Northern Ireland's semi-independent status. Some of them would like that. But has Mr Nicholson noticed what has happened to the Scottish economy, tied to England, in the past five years? Its performance is streets ahead of Ulster's.

Mr Nicholson despises the Treasury's dead hand on growth. *The Economist* would not argue that the Treasury's advice has been an outstandingly successful influence on the conduct of affairs. How the nature of the advice has come about may be a matter of generations, of the bright ideas of 25 years before staying in cold storage until their instigators finally reach the top; this is worth looking into. Still, it is only advice—powerful, pervasive and all the rest, but the decisions are taken elsewhere. Can it really be argued that the new Labour government of 1964, coming into power after 13 years, was so immediately under the Treasury's thumb that on Treasury advice alone, it resisted all thought of devaluation?

Again, it would be good to see the Civil Service Commissioners casting their net wider in the annual intake of intelligences, especially to get more people with scientific training and industrial experience. They have tried harder lately: indeed, on one notorious occasion, they travelled down to a redbrick university to find one embarrassed girl who was looking for another meeting anyway. If this country is going to get experienced people in from outside, especially people who can look forward to lucrative jobs in industry or research, it will have to start paying them real money. Who will start a swinging campaign for that?

continued on page 1201

found guilty could be declared "off-limits" to all servicemen. But until this year the department had not used this sanction against discriminatory landlords. Perhaps it was worried about the impact on white military families, who make up four-fifths of the total. Perhaps it was waiting to see if Congress would outlaw discrimination in the sale and letting of houses. Last year Congress made it clear that it would not do so and the department apparently decided to act itself.

The first step was a country-wide census of flats and houses for rent near major military installations to determine the proportion open to Negro servicemen or their families. Then in April came a series of meetings with landlords in the Washington area, in an effort to persuade them to desegregate their properties voluntarily. High officials reminded the audiences of the Negroes' record in Vietnam, of the difficulty of retaining men in service when they are unable to provide a decent life for their families and of the cost to the government of high turnover of service personnel. They cited the statistics of the problem: the government can house only one-third of all military families. Twice as many Negro servicemen as white ones live twenty miles or more from their duty stations and over half of the Negroes are dissatisfied with their homes, as well as with the quality of nearby schools.

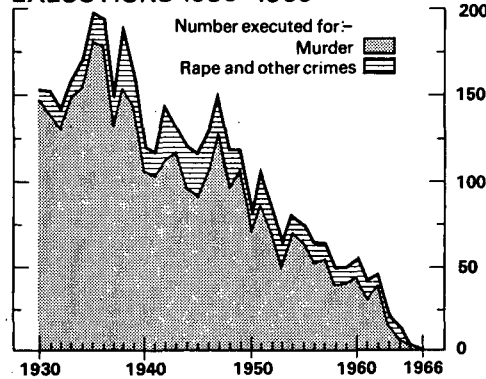
In June the department began placing the properties of discriminatory landlords near major installations in Maryland off-limits to all servicemen seeking homes. This worked wonders. The number of houses and flats offered without any racial restrictions shot up from 4,580 to 19,500 during the summer. The landlords affected began to demand effective state and local open occupancy laws to get at their colleagues who are free of Defence Department pressure. The next target for the full treatment is California, where open housing is a very lively political issue. Meanwhile persuasion is being tried at selected bases in southern, middle-western and western states. But Virginia, which contains the Department of Defence itself and half a dozen military installations, has a worse record in this respect than any state except Louisiana.

## Death in court

FROM A CORRESPONDENT IN SAN FRANCISCO

With extraordinary frequency these days the soft shuffle of a man condemned to death is heard along the concrete corridors in San Quentin prison which lead to the double-locked visitors' room where lawyers may be consulted. It is a special sound, this tread of the all-but-dead, because in California these men wear felt slippers. But their footfalls are stirring up echoes in the courts which are likely to reach the Supreme Court itself. They have brought to a temporary

## EXECUTIONS 1930-1966



halt executions threatening over a hundred men and may signal a turning point in American criminal justice. For the first time there is a long range, carefully financed and strongly supported drive to eradicate capital punishment as unconstitutional because it is a "cruel and unusual" penalty which falls with especial weight upon the poor.

The court manoeuvres are the work of the Legal Defence Fund of the National Association for the Advancement of Coloured Peoples and of the American Civil Liberties Union. They have mustered an array of eager young lawyers, including one of America's most brilliant trial lawyers, Professor Anthony Amsterdam of the University of Pennsylvania. For funds the crusaders can draw on a generous grant given to the NAACP by the Ford Foundation for the legal defence of the poor. Though Negroes believe that in certain states black men are more likely than white men to be sentenced to death, the NAACP's Legal Defence Division is acting for all the poor, irrespective of race.

Florida and California are the states with the largest number of men under sentence of death—51 in Florida, 60 in California—out of a total of about 400 in the whole country. Though juries continue to order capital punishment, their orders are seldom carried out. In both states in recent years the courts and Governors opposed to the death penalty have stayed the executions. But this year new Governors were sworn in who declared themselves willing to let the death penalty be exacted—Governor Kirk in Florida, Governor Reagan in California, both Republicans who replaced Democrats. With ordinary people frightened by the increase in crime, State Legislatures have been incapable of abolishing capital punishment. "It was the prospect of wholesale slaughter which stirred us to act", said one NAACP lawyer.

Petitions were filed in Florida in March and in California in July and have been accepted by federal judges in both states, at least to the point of ordering certain facts to be examined, a process which appears to ensure a halt to all executions until the two suits are settled. Like most momentous constitutional controversies this promises to take years and is full of fine points which are hard for the layman to understand. But the main ones are

that people who favour the death penalty are allowed to serve on juries without being challenged while those who oppose it are subject to dismissal by the prosecutor; that legal aid is not available to conduct appeals after a man is convicted; and that at present the law sets no standards for arriving at the death penalty, apart from the unguided judgment of a judge or jury. It all boils down to the assertion that the death penalty is "cruel and unusual" punishment of the kind forbidden by the Constitution. Unusual it has certainly become. So far this year there has been only one execution (in California); last year there was only one.

## Votes for Britain

Americans living abroad enjoy a new freedom: if the foreign country lets them vote, they may do so without risking the loss of their American passports and their citizenship, a punishment suffered by over 5,000 Americans in the past. Although the State Department feels strongly that it is inappropriate for Americans to participate in foreign politics, new instructions have arrived at consulates making it clear that voting abroad is no longer grounds for expatriation. Americans who have lost their citizenship on these grounds are to be invited to apply to have it restored. Other punitive provisions in the nationality laws, withdrawing the citizenship of Americans who serve a foreign government, either in its armed forces or in a civilian capacity, also seem destined for the dustbin, though whether by administrative action or a series of court cases is still uncertain. It is taken for granted that the Supreme Court would knock these provisions down one by one after its ruling in May that Congress does not have the power to withdraw any American's citizenship against his will. It is even possible that the decision may lead to the easing of the rules on the use of foreign passports by Americans with a second nationality and the limitations imposed on the citizenship of children born abroad who have one American parent.

What is least likely to go, however, is the provision that citizenship is lost if an American takes an oath of allegiance to a foreign power. It is this which must make Americans living abroad hesitate before they throw their caps in the air and start for the polling booth. In Britain, for example, American women who married Britons before 1949 and had British nationality thrust upon them have nothing to worry about. But since January, 1949, American wives have had to make formal application if they wish to be considered British—and the making of such an application may well remain, in American eyes, equivalent to a voluntary renunciation of American citizenship. Yet to vote in a British election without possessing British nationality is an offence under British law.



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

LAW BRANCH  
DIVISION DES LOIS

OTTAWA, 16th October, 1967.

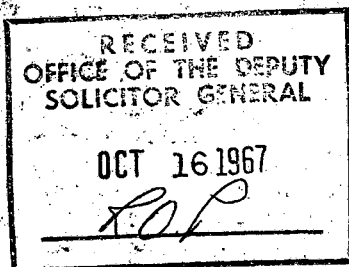
Dear Mr. MacDonald,

As requested by Mr. D. S. Thorson,  
Associate Deputy Minister of Justice, enclosed  
are six copies of a Bill to amend the Criminal  
Code.

Yours truly,

*M. Ollivier*  
for Maurice Ollivier,  
Parliamentary Counsel.

Mr. T. D. MacDonald,  
Deputy Solicitor General,  
Room 444 Justice Building,  
OTTAWA, Ont.



**CONFIDENTIAL**

**C-**

---

Second Session, Twenty-Seventh Parliament, 16 Elizabeth II, 1967

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**THE HOUSE OF COMMONS OF CANADA**

**BILL C-**

An Act to amend the Criminal Code

---

First reading,

---

1967

**THE SOLICITOR GENERAL OF CANADA**

---

ROGER DUHAMEL *Queen's Printer*  
OTTAWA, 1967

27112

000631



2nd Session, 27th Parliament, 16 Elizabeth II, 1967

THE HOUSE OF COMMONS OF CANADA

BILL C-

An Act to amend the Criminal Code

1953-54, c. 51;  
1955, cc. 2, 45;  
1956, c. 48;  
1957-58, c. 28;  
1958, c. 18;  
1959, cc. 40,  
41;  
1960, cc. 37,  
45;  
1960-61,  
cc. 21,  
42, 43, 44;  
1962-63, c. 4;  
1963, c. 8;  
1964-65,  
cc. 22, 35, 53;  
1966-67, cc.  
23, 25, 96,  
s. 64

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1960-61, c. 44,  
s. 1

1. Subsection (2) of section 202A of the *Criminal Code* is repealed and the following substituted therefor: 5

Capital  
murder  
defined

“(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other 10 person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent 15 employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death.”

1960-61,  
c. 44 s. 15

2. Subsection (3) of section 656 of the said Act 20 is repealed and the following substituted therefor:

Approval by  
Governor in  
Council of  
release after  
commutation  
of sentence

“(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of 25 imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council.”



### EXPLANATORY NOTE

The purpose of this Bill is to confine the imposition of the death penalty in relation to murder to the murder of police officers and others employed for the maintenance of the public peace, acting in the course of their duties, and to the murder of prison guards and other officers or permanent employees of prisons, acting in the course of their duties, for an experimental period of five years.

#### *Clause 1: Section 202A at present reads as follows:*

- "202A. (1) Murder is capital murder or non-capital murder.  
(2) Murder is capital murder, in respect of any person, where  
(a) *it is planned and deliberate on the part of such person,*  
(b) *it is within section 202 and such person*  
    (i) *by his own act caused or assisted in causing the bodily harm from which the death ensued,*  
    (ii) *by his own act administered or assisted in administering the stupefying or over-powering thing from which the death ensued,*  
    (iii) *by his own act stopped or assisted in the stopping of the breath from which the death ensued,*  
    (iv) *himself used or had upon his person the weapon as a consequence of which the death ensued, or*  
    (v) *counselled or procured another person to do any act mentioned in subparagraph (i), (ii) or (iii) or to use any weapon mentioned in subparagraph (iv), or*  
(c) *such person by his own act caused or assisted in causing the death of*  
    (i) *a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or*  
    (ii) *a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,*  
    *or counselled or procured another person to do any act causing or assisting in causing the death.*  
(3) All murder other than capital murder is non-capital murder."

#### *Clause 2: Subsection (3) of section 656 at present reads as follows:*

"(3) *If the Governor in Council so directs in the instrument of commutation, a person in respect of whom a sentence of death is commuted to imprisonment for life or a term of imprisonment, shall, notwithstanding any other law or authority, not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council.*"



Trans-  
sitional

**3.** (1) Where proceedings in respect of an offence that, under the provisions of the *Criminal Code* existing immediately prior to the coming into force of this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, 5  
namely:

- (a) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and 10
- (b) where a new trial of a person for the offence has been ordered and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court 15 before which the accused is to be tried, and thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after 20 the coming into force of this Act.

Idem

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence 25 shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed. 30

When  
proceedings  
deemed to  
have  
commenced

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced upon the preferring of an indictment pursuant to the provisions of Part XVII of the *Criminal Code*.

Duration  
and expira-  
tion of Act

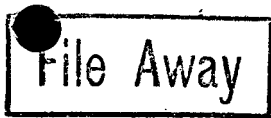
**4.** (1) Subject to subsection (2), this Act shall 35 continue in force for a period of five years from the day fixed by proclamation pursuant to section 5, and shall then expire unless before the end of that period Parliament, by joint resolution of both Houses, directs that it shall continue in force. 40

Effect of  
expiration

(2) Upon the expiration of this Act, the law existing immediately prior to the coming into force of this Act, in so far as it is altered by this Act, shall again operate except in respect of any offence alleged by an indictment to have been committed on, or on or about, 45 a day prior to the expiration of this Act, or between two days the earlier of which is prior to the expiration of this Act, in respect of which offence this Act shall continue in force.

Coming into  
force

**5.** This Act shall come into force on a day to be fixed by proclamation. 50



141-206

000635

RECEIVED  
OFFICE OF THE DEPUTY  
SOLICITOR GENERAL  
WITH THE COMPLIMENTS OF  
OCT 19 1967  
THE UNDER-SECRETARY OF STATE  
\_\_\_\_\_  
FOR EXTERNAL AFFAIRS

J.A. Beesley, Legal Division.

OTTAWA

CANADA  
000636

Please copy to  
Dep. Sol. Sol. T.O.  
wardened & pt JH

L

~~ACTION COPY~~

FM LDN OCT16/67 RESTR  
TO EXTER 5313 IMMED  
REF YOURTEL L980 OCT13  
UK MURDER STATISTICS

HOME OFFICE OFFICIALS HAVE ADVISED US THAT LATEST FIGURES  
AVAILABLE RELATING TO MURDER STATISTICS ARE CONTAINED IN HANSARD  
OF JUN14/67 IN REPLY TO QUESTION BY EVAN LUARD MP AND IN  
REPLIES TO TWO QUESTIONS IN HANSARD OF JUL20/67. AT PAGE 297.

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OTT49

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PP OTT

DE NYK

P 161000Z

FM PR NY 00118/07

TO ENTER CASE FILE NY

RENYOURTIN. LOSS HOME

CAPITAL PUNISHMENT

NO RPT TO INFO. CAPITAL PUNISHMENT WILL BE ISSUED FROM US  
SOURCES SUBJECTIVE TO UN STUDY. CAPITAL PUNISHMENT IN 1962.

*Mr. Pelsky*

*Substantive  
Info received as to  
how would not be used  
by other*

*Please refer copy  
to Dir. of the  
(F.B. McDonald)  
1/5*

ENCL.

14-206

Ottawa 4, October 17, 1967.

Dear Mr. Grossman:

I wish to acknowledge your letter of September 28, 1967 in which you ask that, in the event that existing legislation regarding capital punishment is not repealed, you may be assured that legislation will be considered to establish a number of centrally located facilities wherein condemned persons may be incarcerated and the sentence of death carried out.

I respectfully suggest that such legislation is unnecessary and that your colleague, the Attorney General, will support me in this view. Section 644 of the Criminal Code provides that a person who is sentenced to death shall be confined in a safe place within a prison apart from all other prisoners. Section 645 provides that a sentence of death shall be executed within the walls of a prison. I am informed that for some time it was the practice in several of the provinces to have executions carried out, in the light of these provisions, at one central location within the province.

Yours sincerely,


Original Signed By  
L. T. PENNELL

The Honourable Allan Grossman,  
Minister of Reform Institutions,  
Province of Ontario,  
Parliament Buildings,  
Toronto 5, Ontario.

Notes for the Solicitor General in Explaining Bill C-168

1. The first clause simply restricts capital murder, involving the death penalty, to the murder of police officers and others employed in the maintenance of the public peace, acting in the course of their duties, and to the murder of prison guards and other officers or permanent employees of prisons, acting in the course of their duties. It thus adds to the category of non-capital murder all murders which are planned and deliberate and which occur in the course of crimes of violence unless they affect the persons I have mentioned.
2. Clause 2 of the Bill provides in effect that a person in respect of whom a death sentence has been commuted to life imprisonment or a person who has been sentenced to life imprisonment for murder shall not be released on parole without the prior approval of the Governor-in-Council.
3. Clause 3 is transitional. It provides in effect that where a capital murder trial has commenced before the coming into force of the amendments the trial shall proceed and, upon conviction the death penalty shall be imposed notwithstanding the murder would under the amendments be non-capital murder; but if a new trial is ordered by the Court of Appeal the accused will then be charged with capital or non-capital murder in accordance with the definitions brought about by the amendments. It also provides that where a trial has commenced after the coming into force of the amendments, the accused shall be charged with capital or non-capital murder in accordance with the definitions brought about by the amendments.
4. Clause 4 provides that the amendments shall continue in force for a period of five years, after which we will revert to the present law unless, before the end of that period, there is a joint resolution of both Houses of Parliament directing the amendments to continue in force.
5. Clause 5 provides that the amendments shall come into force upon proclamation.

TDM/ROP  
November 1, 1967





Notes for the Solicitor General in Explaining Bill C-168

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5. Clause 5 provides that the amendments shall come into force upon proclamation.

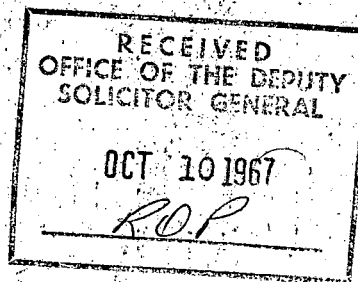
TDM/ROP  
November 1, 1967

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141-206

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Solicitor General.



M.J. O'Grady.

October 10, 1967.

Capital Punishment Bill.

1. Persons Who Have Committed Murder After Having Served a Previous Sentence for Murder.

1. A check with the Department of Justice indicates that only two persons have ever been convicted of murder, after having served a sentence of imprisonment for a previous conviction of murder. One of these involved murder of a fellow inmate by a convicted murderer who was still serving his commuted death sentence.

(a) One case involved ALBERT VICTOR WESTGATE, of Winnipeg, Manitoba.

On March 22, 1929, he was convicted at Winnipeg of having murdered Charlotte C. Adams, a married woman at St. Vital, Manitoba. Westgate was 31 at the time. The deceased woman was no relation to him, and no motive was ever proven. The victim died from a bullet wound in the head. Westgate's death sentence was commuted to life imprisonment by a decision of June 1, 1929, partly because in the Manitoba Court of Appeal, one judge had felt that on the evidence, Westgate should have been acquitted. He was released from penitentiary on ticket of leave on May 21, 1943.

He was subsequently convicted of having murdered Grace Edith Cook, an unmarried girl of sixteen and a half years of age. Her death occurred on May 8, 1944 in a Winnipeg hotel room, where Westgate had apparently been living with her. The circumstances were that Westgate was to pay her way to Vancouver, where she was to visit Westgate's wife. On the day she was scheduled to leave, he apparently strangled her to death. Westgate was convicted of the crime, and was executed July 24, 1944.

2.

(b) The second case involved one JOHN BOYKO (or BOYPKO).

He was convicted on February 25, 1947 at Montreal of having murdered Mrs. Tessy Oliansky, his common-law wife. Boyko was 52 at the time. Mrs. Oliansky had apparently told Boyko to get out, and had planned on replacing him with a younger man. She was killed by a hammer blow to the head. Boyko's death sentence was commuted on May 29, 1947, apparently because of the provocation involved (a quarrel between them).

Boyko was then consigned to St. Vincent de Paul penitentiary to serve his life sentence. There, he killed a fellow-inmate, Dominic Tedesco, by stabbing him in the back with a pair of scissors in the prison carpentry shop where Tedesco was employed. The motive was apparently a grudge, relating to Tedesco's failure to repay some favours Boyko had done him (gifts of tobacco tokens). Boyko claimed self-defence was involved, since he had received a threatening note. He was convicted of murder on May 6, 1949 and executed on August 26, 1949.

## 2. Persons Involved in Two Murder Trials.

There are two known cases of persons who have been involved in two murder trials during their lives, with a conviction being registered at one of the trials in each case. Both cases involved Indians.

ALBERT MCDUGALL, 25, half-breed, was convicted on May 17, 1912 of having murdered his cousin, David McDougall, 24, half-breed, on March 2, 1912. No motive was established, and both were apparently intoxicated at the time. McDougall's death sentence was commuted to life imprisonment on July 27, 1912, and he was released from penitentiary on ticket of leave in September, 1925. Then, in November 1935, he was tried for the murder of another person, but on this occasion was acquitted. He died from natural causes on July 10, 1955, after having had his ticket of leave revoked and then reinstated.

STEPHEN KIYOSHK, 22, was convicted on April 4, 1912

3.

at Sarnia, Ontario of having murdered Adam Johns, 35, at Sarnia on January 1, 1912. Both were Indians. On October 29, 1912, a new trial was ordered, and on this occasion Kiyoshk was tried for the murder of a second victim of the incident, one NANDEE, also an Indian. On this occasion, Kiyoshk was acquitted.

Then, on September 19, 1940, Kiyoshk, then 49, was convicted of murdering Jerry Blackbird, Indian, at Sarnia, Ontario. The two had been living together, and apparently were drinking heavily on the day in question. There was a fight, and Blackbird's skull was fractured in several places. Kiyoshk was executed on January 3, 1941.

Original Signed by  
M. J. O'GRADY

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# MEMORANDUM

CLASSIFICATION



TO  
A

The SOLICITOR GENERAL

*CC: Deputy Minister  
Mr. O'Grady*

YOUR FILE No.  
Votre dossier

OUR FILE No.  
Notre dossier

DATE 10 Oct. 1967

FROM  
De

G.C.Koz

FOLD

SUBJECT  
Sujet

Press Review -- U.S. publication "Executions 193-1966"

The following are the highlights of the publication  
National Prisoners Statistics, bulletin No. 41, "Executions":

- (i) Only one execution was carried out (by civil authorities) during the calendar year 1966: in the state of Oklahoma.

There has been a definite decline of executions during the period 1930-1966: from a high of 199 in 1935 to the ever-time low of one in 1966.

The number of executions during the last 7 years:

1960	1961	1962	1963	1964	1965	1966
56	42	47	21	15	7	1

} page 120  
"Capital Punishment"

- (ii) On the other hand, the number of persons sentenced to death during 1966 nearly doubled the corresponding figure from 1965:

1965.....67	
1966....114	: for murder 88
	" rape 20
	" kidnapping 2
	" robbery 3
	" assault 1

- (iii) Also, the year 1966 marked the highest year-end population of persons awaiting execution (highest since 1953 when statistics on this subject first became available):

at the close of:	1959	1960	1961	1962	1963	1964	1965	1966
	189	212	273	275	300	333	346	406

- (iv) No additional State abolished death penalty during 1966, and at the close of 1966 capital punishment was illegal in 13 States (except for certain exceptional crimes)

*G.C.K.*



DEPARTMENT OF THE SOLICITOR GENERAL - MINISTÈRE DU SOLICITEUR GÉNÉRAL

REFERENCES CROISEES

Administration & Organization  
Acts & Legislation - Federal  
Criminal Code - Capital Punishment

CRIMINAL CODE

CAPITAL PUNISHMENT

GENERAL ENTRIES CIRCULATION DU DOSSIER				B.F. AND P.A. ENTRIES INSTRUCTIONS AU CLASSIER				INSP.
REFERRED TO DESTINATAIRE	PURPOSE OBJET	DATE	INIT.	DATE P.A. À CLASSER	INIT.	DATE B.F. À RENVoyer	CANC. B.F. RENV. ANN.	
MR Braithwaite	mail	mar. 26/70	14/4/70 JR					
DSG	memo	Apr 24/70	24/4/70 JR	27/5/70 JR				
DM	mail	Sept. 14/70	23/9 JR					
Mr. Braithwaite		23/9/70	SD					
Mr. O'Brien	BF	6/10	SK	7/10	SK			
Mr. O'Brien	BF	12/10	13/10					
DM	top memo, pbe	13/10	JR					
Mr. Braithwaite	to see + discuss	21/10	JR					
Dr. Ciale	top folios	22/10	JR					
Mr. Braithwaite	memo	13/11	16/11	BC				
Mr. Hollies	mail	Dec 15/70	22/12 JR					
Barbara	BF	23/12	SK					
Mr. Hollies	BF	30/12	JR	26 Jan 71				
Mr. Mosley	mail	18/1	27/1	SK				
Mr. Reddick	memo 2 p	27/1	JR	3/2/71	RL			
Mr. Hollies	request	4/2	JR	10/2/71	JB			
Dr. Ciale	Request	11/2	SK					
Mr. Hollies	see flag "A" please	11/2	BC	11/2/71	BC			
Mr. Hollies	memo	01/3	1/3	BC	3/3	JB		
Mr. Hollies	mail	29/3	29/3	SK	30/3/71	JB		
Min	As Act	30/3	SK	31 Mar 71	CL			
Mr. Hollies	request	6/4	JR	6/4	JB			
Mr. Labrosse	Request	5/5/71	SK	5/5	JP			
Mr. Labrosse	request	18/5/71	GW	18/5	JP			
DM	req	7/7	GW	7/7/71	ROP			
DM	mail	Feb 1/71	3/8/71	SK	2/8/71	JR		
Mr. Koz	Reg	23/10/71	BC	24/10/71	Koz			
Mr. Hollies	Reg	28/11/71	SK	28/11/71	JP			