

## **Debate - Rep. Paul Stam**

### **House Majority Leader**

#### Second Reading – SB 9: “No Discriminatory Purpose in Death Penalty.”

*June 16th, 2011*

*Edited for clarity and grammar*

Mr. Speaker, members of the House. Page two of the bill states what the law will be if this bill passes:

“At trial or upon a motion for appropriate relief filed pursuant to Article 89 of Chapter 15A of the General Statutes, a finding that race was the basis of the decision to seek or impose a death sentence may be established if the court finds that the State acted with discriminatory purpose in seeking the death penalty or in selecting the jury that sentenced the defendant, or one or more of the jurors acted with discriminatory purpose in the guilt-innocence or sentencing phases of the defendant's trial.”

Isn't that what you want the law to be? Isn't that what you thought the law was? Hasn't that been the law for decades? This bill seeks to return us to commonsense with regard to the death penalty.

When Senate Bill 461 was passed two years ago, the question was called without allowing the minority leader to speak just before a speech I was going to give on third reading. I did transcribe what I said on second reading and you have a copy of it before you. Many of the issues are the same and it's not because I am a great prophet. Much of what we're telling you that has come to pass we told you exactly what would happen two years ago on August 9<sup>th</sup>. It's come to pass.

We've had two years of a moratorium on the death penalty. In the case arising out of Forsyth County there has been a discovery order entered that says we'll complete this within another two years. Then you have to have the hearing and you have to have the appeals. One of the things I prophesied in this speech that you have in your hands was that it was at least a three year moratorium on the death penalty. Actually it's turning out to be about five or six years.

What is the cost of all this? Well, here's a book that I brought to the floor two years ago. I have it on a CD. I've given dozens of copies to the press. They've never reported it. These are studies that the Attorney General, Mr. Cooper, provided to me that show that the death penalty for murder has a deterrent effect. Dozens and dozens by now hundreds of innocent victims have died because of this moratorium. If anybody wants to debate deterrence, I'll do that in rebuttal. The essays and articles I have read from some professors have so many logical fallacies that I'll enjoy talking about it.

Actually executing people for murder deters. But if you don't do it and just pretend to do it, of course it does not deter. There's a real cost in innocent human lives by this moratorium—innocent human lives—and there's a cost to the families as well. Yesterday, we had a family in the gallery. They came up here at their own initiative, expense, and urgency: an African-American family who had been a victim of the murder of their seventeen year-old daughter and attempted murder of their son. They are urgent to implore you to stop using race as a reason not to execute cold-blooded murderers.

The Racial Justice Act has no more to do with racial justice than if I were to create a bill called "Sexual Justice in Murder." Overwhelmingly those prosecuted, convicted, and executed for first degree murder are men. I'm a man. Am I out there demanding equal executions of women? No. But that's the logic of the RJA. If we can't prove by statistics in another county, in another universe, in another century, that an equal number of men and women have been prosecuted, convicted, or executed, that somehow our system is wrong. I reject that idea of collective punishment.

Representative Steen and I are the only people here of Dutch descent. If one of us murdered a half a dozen people in a heinous manner would you think it right that I try to say: "oh, there's been a disproportionate number of Dutch people executed in this state. Therefore, I should not suffer that penalty."? That would be preposterous.

I read one of these studies by a professor trying to convince us that the RJA is a good idea. He talked about Union county in 1933, the things that happened there as the reason why a murderer of eight people who raped a half a dozen others, should be sentenced to life in prison without parole instead of death. Does that even make sense to you?

Two years ago Representative Womble talked a lot about the Kentucky bill. That's the only other state that has something called the Racial Justice Act. But that bill was not retroactive. It's the retroactive feature that is causing the huge financial train wreck in our state. We predicted in 2009 that every murderer on death row would raise an issue here. We were scoffed at. Now 152 out of 156 of these cold-blooded murders made that motion. Don't tell us you're surprised. We told you on the floor that's what would happen under Senate Bill 461. Their lawyers would be guilty of legal malpractice not to file.

We have extensive protections under our current death penalty laws to protect people from being executed if they are innocent. You almost have to volunteer for the death penalty or kill 6 or 8 people on video to get it. That's an exaggeration but it's practically true. Since 1996 we've had open file discovery. Before Senate Bill 461 we had an eight to fifteen year moratorium for every person. Last year's bill just lengthened that by another five or six years and added another 8 judges, at least, to the 45 judges who are already reviewing every conviction for first degree murder that involved the death penalty.

We have the innocence protection act, and the act relating to DNA. In 2001 additional discretion was given to prosecutors in deciding whether to seek the death penalty. Ironically, the opponents of the death penalty use that very discretion as a reason to criticize the death penalty. Since 1996, capital defendants have been given two attorneys at trial and post-convictions hearings, all at taxpayer expense. We have proportionality review.

Of the 43 convicts who were actually executed in the modern era not a single one had a credible claim of innocence. If anybody wants to talk about Junior Brown, I'll talk about Junior Brown.

I'll give credit to about a half dozen people who voted for the RJA innocently, who thought they were doing something about racial justice. But, the rest knew the effects of the bill would be simply to clog the courts so that nothing could happen for years.

I'd like to close with excerpts from a letter from a district attorney, I won't say which one—I'll tell you privately later if you care. This district attorney is spending all of his time working on these RJA cases from 1993, '95, and '96

“The RJA is about ending the death penalty sanction in all murder cases regardless of the circumstances. Their intention is to stop all executions. It is intentionally drafted in a way

to permit all defendants, regardless of race or the race of their victims, to challenge their death sentence based on nothing more than statistics or things that happened in a different place at a different time. It has created a quagmire of new and very complex litigation which my small office must deal with. It has forced me to reallocate resources within my office, as has every other DA in the state, and re-litigate cases that are years old.”

“That means I have fewer resources to prosecute murderers and rapists and drug traffickers whose cases are pending now and are sitting in jail now. When I tell the families of murder victims that one reason their loved one’s killer has not gone to trial yet is because I don’t have enough people to do all my work, I’m going to explain to them how three of my prosecutors and myself have spent and continue to spend nights and weekends in my office working on these cases from the mid-nineteen-nineties instead of these current cases.”

He mentions these three cases, and I’ll let you decide whether these people are subject to the death penalty because of their race.

M. R. randomly abducted and murdered a pregnant woman from the mall a few days before Christmas while she was shopping for toys for her nieces and nephews. He robbed her, raped her, stabbed her, left her to die, naked except for her socks, inside a creek. It took her fifteen to twenty minutes to die and she would have been conscious half that time but died from blood loss. He bought himself a color TV with her credit card later that night. Was he executed because of his race? We’re going to spend about five or six years to find out.

S. F, out on bond for another homicide in the same county. He got drunk and shot a man in the back with a shotgun in front of the man’s wife. The same guy had served time previously for belying a victim at gas station with a bowie knife. He cut from the back of his neck all the way down to his buttocks for no reason.

R. B., a crackhead, broke into his elderly mother’s house to steal from her and ran into his mother’s elderly boyfriend. Pistol-whipped him, robbed him, tied him to a chair, and burned the house down around him while he was still alive and conscious. He had previously served time for armed robbery.

Then the DA concludes “the RJA is about stopping all executions. It’s not about race; race is a pretext. Race is a means to an end. It’s a red-herring intended to deceive well-meaning legislators who didn’t know the truth of what they were voting for.”

I urge you to support this bill.