

ASSEMBLYMAN JOSEPH R. LENTOL
9TH ANNUAL KEYNOTE ADDRESS
THURGOOD MARSHALL JOURNALISM AWARDS
DEATH PENALTY INFORMATION CENTER
NATIONAL PRESS CLUB
JULY 25, 2005

Thank you. It is a great honor to be here today, to congratulate the awardees, and to meet each of you. I feel particularly honored in your company because I have just lately become an advocate for the issue, whereas most of you have been leading the way, changing and challenging death penalty laws throughout the nation, for many decades. I know that like Thurgood Marshall, most of you have never wavered or changed your position on the death penalty.

As I thought about what to tell you today, I came to the conclusion that you probably want to know what prompted me to change my position. Perhaps my story will benefit other state elected officials who seek the opportunity to reconsider the death penalty in their states. To understand my story, I'll give you some history:

I come from a family that has been involved in New York State government for almost a century. My grandfather was an Assembly Member, my father served as Assemblyman, State Senator and NYS Supreme Court Judge. While he was an assemblyman and state senator, my father worked tirelessly to abolish the death penalty. Like me, my father was a lawyer who initially supported the death penalty. But he changed his views after a personal experience with an innocent client.

He represented a man who told him how his uncle was framing him for a murder he didn't commit. He told a story about his uncle conspiring with the mob to kill the uncle's wife for the insurance and that he was the fall guy. All the evidence, however pointed to the nephew. My father didn't believe him. His story was really far-fetched. So he convinced his client to take a plea to murder in the second degree, that carried a twenty-five to life sentence, rather than risk the electric chair.

A few years later, the famous story about Murder Incorporated hit the newspapers. Murder Incorporated was a conspiracy which, among other things,

-1-

arranged to kill people for profit. Usually victims who were heavily insured were chosen, and the operatives of murder incorporated would share in the insurance payout with a family member who arranged the hit. Not an unusual story today, but very strange in 1940. My father was flabbergasted. The bizarre story his client had told him was the truth, and that the man was lucky his lawyer didn't believe him, otherwise he might have already been executed. Instead he was released after a few years in prison. That case had a profound effect on my father's life. It persuaded him to change his position and oppose the death penalty. Twenty five years later in 1965 Senator Edward S. Lentol passed the bill that abolished capital punishment in New York State.

About ten years later, Judge Edward Lentol's son has become the Assemblyman. I was a young lawyer, a former assistant district attorney, educated in the best new trial and criminal practice techniques and a general all around know it all. And having prosecuted many heinous criminals and having ridden many homicide cases throughout the county of Kings as an ADA, I disagreed with my father on this issue.

We debated it often, my father using his experiences while I used my knowledge of how trial procedures had improved to ensure that no longer would the system wrongly convict an innocent party. Safeguards had been implemented.

I felt very strongly that the system protected the innocent. I proceeded for the next twenty years to vote in favor of the death penalty when it came before the Assembly each year. It never seemed to be a tough vote however, since I knew that, even when the bill passed both houses, it would be vetoed by either Governor Carey or Governor Cuomo who opposed it. Nonetheless I voted for it.

When newly elected Governor George Pataki took office in 1995, I took what I considered a real vote on the issue, because we knew that Pataki supported the death penalty. The result was that New York State enacted a death penalty into law.

Now, fast-forward another ten years, to June 2004. I find myself at the center of this debate as Chairman of the NYS Assembly Committee on Codes which considers legislation affecting all criminal statutes. The NYS Court of Appeals has struck down the death penalty. The Judges believed a jury could be coerced into a death verdict because of an unconstitutional deadlock jury instruction required ^{by law} to be given by the trial court judge. The Court of Appeals' decision stunned all sides.

At this point, Governor Pataki rushed to repair the law and reinstate the death penalty. Remember, he was the architect of it and made it the cornerstone of his gubernatorial campaign against Mario Cuomo. Fixing the problem quickly was important to his platform. With the legislature approaching an election year and about to adjourn, the Governor came on full force exerting pressure on us by criticizing the Assembly's inaction on this issue. Everyone feared it would become the campaign focus that year.

The press attention the Governor was able to bring to bear on the issue caused our Assembly speaker to convene a Democratic conference on the death penalty sometime in early July. For that conference, I was expected to discuss how to fix -- emphasis on fix -- the death penalty law. The objective was to convince the democratic members to pass a bill that would make the death penalty constitutional and get out of town. I was fully prepared to lead the effort so that it played to the best politics for the Assembly. I am a thirty three year veteran in elected politics. I was expecting a quick and simple fix.

Never in my wildest dreams could I have foreseen what would happen. The conference didn't proceed the way I expected it to. To my surprise, the Democratic conference was dominated by many members who said that we shouldn't rush to fix the problem. Instead, we should take the time to re-examine the issue. After all, the death penalty had been enacted without any public hearings or public debate.

The discussion with my colleagues was intelligent and thoughtful. I was impressed by the persuasiveness of many comments. It was at that point that I decided to open my mind and give the issue new consideration. I am thankful that I did.

As a result of the July conference, Assembly leadership agreed to hold hearings on the Death Penalty beginning in December 2004. The hearings lasted many hours and produced hundreds of pages of testimony. We conducted four hearings in all.

Statements from experts in diverse occupations, with different life experiences, and very different points of view told our committees that the system I believed defended the innocent quite often fails, despite the safeguards and great advances in technology. So many of the current stories I heard reflected arguments I heard from my father so many years ago.

Superintendent Dalsheim, formerly of Sing Sing prison in upstate NY gave eloquent witness to the unreliability in sentencing. He said that only in prison can you see what is never visible in court - who is really dangerous and who is not.

He also spoke about the individuals who administer death. Most drank excessively after executions. Others have committed suicide. His comments said to me that it's easy to impose death from afar in Albany NY - enacting it into our state law books - but what happens to the individuals who carry out the law is another story.

I learned that despite DNA evidence and new technologies, that I was sure had improved our system by preventing wrong convictions --- innocent people were and are on death row in spite of the best scientific advances.

As I listened to testimony from individuals who themselves were falsely convicted, I realized that my former views were being eclipsed. One individual wrongly executed is too many - especially when life without parole is an option. I read hundreds of pages of testimony and listened to over a hundred witnesses. My sense that I have been on the wrong side of the debate grew stronger every day.

At this point, the media took on a very important role in the process. Sister Helen Prejean's book "The Death of Innocence^{te}", television news and documentaries highlighting the issue, and of course newspaper reports outlining the pros and cons of the issue were part of my daily exposure. All of you know politicians; we scour the papers - especially if our name is in them. On an issue this substantial, there isn't a media outlet that isn't important.

While I was thinking about today's event, it struck me that it was the media - both local and out-of-state newspaper reporters - who got me to begin saying what I was feeling inside: that I had changed my position on the death penalty.

So, although a combination of events moved me to reassess my views, what forced me out of the death penalty closet - was the continued media coverage of the issue in New York. I needed to respond to questions about what I was reading, hearing, and learning.

In March of 2005, after the hearings were concluded and an extensive report was issued by the committees, pressure was again applied by the governor and the assembly republicans to stop the stalling tactics (you know like public hearings and

other democratic forums) and get the death penalty bill on a codes agenda and to the floor of the assembly for a vote. A motion to discharge was threatened if we failed to act.

On April 12th of this year, I chaired a ~~codes committee~~ meeting that looked more like a contentious congressional hearing than a meeting of the NYS Assembly Codes Committee. After a long debate the members of the Committee refused to report the death penalty fix to the floor. The renewal of a death penalty in New York had been stopped, and I had cast my first vote against capital punishment in my political life.

The 2005 legislative session has been one of the best in my career. It has been liberating to remove the "firewalls" that we elected officials often erect after taking a stand on an issue. Too often we won't reexamine that issue because we believe it will make us look weak.

Well, the opposite has been true for me. I believe I have become stronger, more mature and certainly more respected for what we have accomplished this year on the death penalty issue. Political strength always comes from strong conviction and thoughtful deliberation. I might add that I can sleep a lot better at night as well.

Thank you.