

MARTHA BARNETT:

I think most people in this room believe that we're now at one of those times in political history, or maybe even in the history of our country, where people from both political parties, from various disciplines and professions, have got to stand up and take a stand on something that's hard. And at this moment, it's the **death penalty**. We're at that point in this country where it's time for people to take a stand on the **death penalty**. But it's hard. And we have with us today a person who has been willing to do that.

On January 31st of this year, as you all know, Governor George Ryan of Illinois made a courageous and monumental statement when he declared that there would be a **moratorium** in Illinois on executions. He did that in part because he learned that Illinois exonerated more people than it executed, and those numbers simply were incomprehensible to him. As a Republican Governor and supporter of the **death penalty**, his announcement took many people by surprise, but his message was clear--that while there were still strong opinions regarding the **death penalty** itself, that in the state of Illinois, there was going to be zero tolerance for executing people who were innocent.

Governor Ryan, on behalf of the **American Bar Association's** 400,000 lawyers--I commend you for your action. It's hard enough to stand up for something. It's even harder when you stand alone.

You remind me of a great Governor of the state of Florida. I want to tell you a story about Governor Leroy Collins. He wrote a book called Florida's Courageous--I don't even know if it's in print any more. But it's a history of Florida. And in there, one of the vignettes he talked about in that book was the interesting things you could see as you walked on the beaches. And he was talking about the beaches of North Florida, which are still remote and still have high sand dunes. He said that on one of those walks down the beach, he noticed back up on the hills an isolated pine tree. And there was not another tree within hundreds of yards of that pine. And to Governor Collins, it seemed brave, standing there with its small cluster of limbs, taking all the pressure the wind could offer year in and year out. Governor Collins thought if this tree can grow there, why aren't there others in that area. A tree expert told him that some species of pines depend on a long taproot which goes straight down about as far as the tree is tall, and that it's nourished by a pool of water that the root finally gets to. That lonesome pine tree reminded Governor Collins of some people he knew--people who have something special about them that enables them to stand high and alone against the wind; people who draw on a deep pool of something that gives them substance and sustains them.

It's now my honor to introduce you to a man who reminds me of that lonesome pine tree, a man who can stand straight, alone against the wind, and draw on a pool of principles that sustains him and inspires --the Governor of Illinois, Governor Ryan.

GOVERNOR GEORGE RYAN:

Mrs. Carter, not only did you and your husband serve your country with honor and distinction, but you have continued with unsurpassed careers of public service since you

left the White House.

Of course, one of your most noteworthy labors of love has been your efforts with Habitat for Humanity. Your work with Habitat for Humanity is just one example of the outstanding contributions you have both made to make the world a better place.

Earlier this year, my wife Lura Lynn helped to build a house for Habitat for Humanity in Springfield. She worked with all the volunteers who followed your example of giving of their time to work with a family to help build them a home and have a chance to live the American dream.

You've continued your good works long after you left the White House. You've been a mental health advocate, and President Carter has continued putting his considerable talents to work to promote peace efforts throughout the world. You and President Carter have made this nation and this world a better place, and my wife and I salute you and wish you the very best in health. We join with the American people in their admiration for all that you've done for our country. Thank you.

Ten months ago, I don't think any of us thought we would be together here today in Atlanta to talk about the **death penalty**. Today, I stand before one of the most influential assemblies of men and women in American to do just that: talk about the **death penalty**. I've been in elective office for more than 30 years. During that time, as a county board member, legislator and executive office holder, I was a staunch **death penalty** supporter. Like many other elected officials, I have believed there are crimes that are so heinous that the death sentence is the only proper, societal response for the criminals convicted of those crimes in a court of law.

I supported the **death penalty**. I spoke for it. I voted for it. I believed in it. I was part of that great body of Americans who saw a nation in the grip of increasing crime rates, inner cities becoming armed camps and ever-growing violence in our streets, schools and even places of worship. Tough sentences, longer prison terms, more jails and strict imposition of the **death penalty** - those were the answers we saw. Catch them, convict them, lock them up and throw away the key. That is what people wanted, and that is what we got all across America. But at what price?

As a member of the Illinois General Assembly, I vividly remember voting for the **death penalty**. During the debate, an opponent of the **death penalty** asked if any of us who supported it would be willing to 'throw the switch'. It was a sobering question, and I wish now that I could swallow the words of unqualified support for the **death penalty** that I offered.

The fact is that now, as Governor, the responsibility is mine. I do 'throw the switch.' Since the time that I voted for the **death penalty**, a lot has happened to shake my faith in the **death penalty** system. I know a lot more about the administration of the **death penalty** in Illinois--and the more I learn, the more troubled I've become. You may not know that earlier this year, in addition to declaring the **death penalty**

moratorium, I established a commission to do a complete reevaluation of the 40-year-old Illinois Criminal Code. Over the years, there has been a crazy patchwork of amendments and new laws. The Illinois Criminal Code has become contradictory and duplicative. Our sentences in many ways have been bent and twisted beyond what was originally conceived, beyond what simple justice requires. A study of the imposition of sentences can certainly lead any reasonable person to see the discriminatory disparities in the system.

I may be a recent convert, but I have committed myself and my administration to the development and establishment of a system of justice that is truly just. I wanted you to know this so that you would know my concern with the **death penalty** is not just a singular issue. My concern is with our entire system of justice.

Earlier this year, I declared what is, in effect, a **moratorium** on executions in Illinois. I said that until I can be sure, with moral certainty, that no innocent person would be put to death, no one would meet that fate while I was Governor. I have appointed a commission to deliberate on this issue and bring me their recommendations. I will not sign off on an execution until I can be morally certain that the individual is in fact guilty and all rights have been preserved and safeguarded. Until then, no individual will be executed in Illinois. I will not sign off on an execution until the special commission I appointed can report to me on if and, if so how, the administration of the **death penalty** in Illinois can be reformed.

Today, I am going to tell you how we got to this point.

I know the ABA is now renewing its longstanding call for a nationwide **moratorium** on executions until reforms can be made to the system. I have never felt it was my place to tell other Governors, other elected leaders, what to do on this very difficult issue--so I will not break that practice today.

What I want to do is talk about the Illinois experience with capital punishment and how I reacted to the evidence before me about how well the system has worked--and how fair it is to the people whose lives hang in the balance.

We have to go back to the fall of 1998. I was running for Governor of Illinois then. At the same time, a death row inmate was filing a last ditch appeal--an appeal that over time would set in motion events that would change the way I viewed the system of capital punishment.

In September of 1998, a fellow by the name of Anthony Porter was on death row. He was scheduled to be executed on September 23. He had ordered his last meal and been fitted for his burial clothes. Mr. Porter had been convicted in the 1982 shooting death of a man and woman in a South Side Chicago park. Two days before he was to die, his lawyers won a last minute, temporary reprieve based on his IQ, which his lawyers said was 51. There were questions about whether Mr. Porter was competent to understand what was happening to him, whether he could help in his appeals--let alone face the **death penalty**.

With that delay, some journalism students from Northwestern University and their professor, David Protess, a powerful champion for justice, had the time to start their own investigation into the then 16-year-old case. With the help of a 'private eye', the students picked apart the prosecution of Anthony Porter. Key witnesses, like one who claimed he saw Porter at the crime scene, recanted their testimony. Now those witnesses were saying Anthony Porter didn't do it. The students then followed their leads to Milwaukee, where a private detective obtained a videotaped confession from a man named Alstory (All-story) Simon. Simon told the private eye that he shot the two victims in an argument over drug money. With that new evidence, the charges against Mr. Porter were dropped and the innocent Mr. Porter was freed in February 1999. The charges against him were wrong, yet he nearly went to his death for them.

I had just been inaugurated into my first term of office as Governor, and quite frankly, I was caught off guard. I didn't know how bad our system was. I couldn't believe the system that I had believed in could come that close to executing an innocent man--to come within two days of killing a man for a crime he did not commit. But for the efforts of those highly motivated journalism students and Professor Protess, Anthony Porter might be dead, killed by the state for a crime that he did not commit.

I was stunned. I believed in the **death penalty**. I felt myself being jolted into a reexamination of all I believed in.

If those young people never write or report another story again, they will have performed the highest order of their profession. They helped to save the life of an innocent man. Shortly after Porter's case, another death row inmate was exonerated--this time by the courts. The Illinois Supreme Court ruled that the prosecution's case against a man by the name of Steven Smith hinged on the testimony of a drug-addicted witness whose testimony had been contradicted by other witnesses. Smith was exonerated.

At the same time, the case of Andrew Kokoraleis came to my desk. Andrew Kokoraleis had been charged with the brutal rape and mutilation murder of a 21-year-old woman. After the mistakes the system made, especially in the Porter case, I agonized. I thoroughly reviewed the case files, consulted with staff and with veteran former prosecutors. I requested additional information from the Prisoner Review Board. I double-checked and then I triple-checked. I wanted to be absolutely sure, and in the end, I was sure beyond any doubt that Kokoraleis was guilty of a monstrous, unspeakable crime.

But it was a gut-wrenching, exhausting experience. I would not wish that experience on anyone. It all came down to me.

I am a pharmacist from Kankakee, Illinois who had the good fortune to be elected by the people of Illinois to be their Governor. But it could be a lawyer from Chicago or a doctor from Peoria. Whoever wins the highest office in the state has to make the final decision about death row inmates: should they live or should they be executed by the state? The Governor has to decide if he will throw the switch. Quite frankly, that might be too much

to ask of one person to decide, whether you owned a drug store or you had been a law professor or a judge.

But that experience was only the beginning of my questioning of the capital punishment system in Illinois and a torrent of revelations.

In May of 1999, DNA tests exonerated death row inmate Ronald Jones of being involved in a rape and murder. DNA cleared him. DNA is a powerful tool for everyone involved in the criminal justice system: to clear an innocent man and to convict the guilty.

After the Porter case, I worked with the Illinois General Assembly to pass into law the Capital Litigation Fund to provide more money for public defenders and prosecutors to handle capital cases, and more money for defense attorneys and prosecutors to hire experts to make available to them DNA testing and other emerging technologies. To date, I have put \$21 million into that fund.

While helping provide more resources for lawyers and prosecutors was a good start, it became clear, later that fall, that it was a mere band-aid for a capital punishment system that was badly broken.

Last November, the Chicago Tribune conducted an in-depth investigation of the **death penalty** cases in Illinois that was startling. Half of the nearly 300 capital cases in Illinois had been reversed for a new trial or sentencing hearing. Thirty-three of the death row inmates were represented, at trial, by an attorney who has been disbarred or suspended from practicing law. I don't know how that happens. Thirty-five African-American death row inmates had been convicted or condemned by an all-white jury. In fact, 2 out of 3 of our 160 Illinois death row inmates are African-American. Prosecutors used jailhouse informants to convict or condemn 46 death row inmates.

It was clear there were major questions about the system - questions that I alone could not answer.

In January of this year, the thirteenth death row inmate was found wrongfully convicted of the murder for which he had been sentenced to die. Steven Manning was no angel. He was an ex-cop who had been accused of corruption in the past, and he had been convicted in Missouri of unrelated kidnapping charges. But in Illinois, he had been sentenced to die for the murder of his former business partner--a conviction secured by the testimony of a jailhouse informant.

The Illinois Supreme Court was troubled by the jailhouse informant***185** testimony and sent his case back for a retrial. Without that testimony, the prosecutors dropped their charges against him.

At that point, I was looking at a shameful scorecard: since the **death penalty** had been reinstated in Illinois in 1977, 12 death row inmates had been executed, and 13 had been exonerated.

Up until then, with each remarkable, complex and sometimes confusing development, I had resisted calls by some to declare a **moratorium** on executions. I can remember meeting with some of my staff shortly after the thirteenth inmate was exonerated. We were discussing the latest developments when I received a call from our Attorney General, who informed me that soon his office would have to request an execution date from the state supreme court for an inmate who had exhausted his appeals. Although I discussed what to do for several more days, I probably made the decision then. I knew that call would be the first of many such calls I would receive in the next year as inmates exhausted their appeals.

How could I go forward with so many unanswerable questions about the fairness of the administration of the **death penalty** in Illinois? In my heart, I knew I could not go forward. I couldn't live with myself. How on earth could we have come so close--- again, and again, and again, 13 times--to putting fatal doses of poison into the bodies of innocent people strapped to gurneys in our state's death chamber? It was clear to me that when it came to the **death penalty** in Illinois, there was no justice in the justice system.

On January 31, 2000, I told the citizens of Illinois that I was imposing a **moratorium** because of grave concerns about our state's shameful record of convicting innocent people and putting them on death row. I cannot support a system which, in its administration, has proven to be so fraught with error and has come so close to the ultimate nightmare: the state's taking of innocent life.

How do you prevent another Anthony Porter situation? How do you prevent innocent people from paying the ultimate penalty for a crime that they did not commit? I said then, and I say today, I cannot answer that question.

What I do know is that there is no margin for error when it comes to putting a person to death. I said that a public dialogue must begin on the question of the fairness of the application of the **death penalty**. That, surely, has taken place since I announced my decision.

In March of this year I empanelled a commission of 14 concerned, smart, honorable people. The committee includes fine legal minds like distinguished former U.S. District Court Chief Judge Frank McGarr, former U. S. Attorney Thomas Sullivan, and Cook County Public Defender Rita Fry. I called upon author and accomplished attorney Scott Turow. I named citizens like Roberto Ramirez, a first generation immigrant from Mexico who came to Chicago as a boy after his father was murdered. Roberto is a concerned, compassionate citizen and successful businessman. And I pressed back into public service my old friend, former United States Senator Paul Simon, a man of unquestioned integrity. Speaking of unquestioned integrity, I was delighted when Judge William Webster agreed to serve as our special counsel.

My instructions to the commission were simple: Tell me what has gone wrong. Tell me if it can be fixed, and if so, how.

Until I can be sure that everyone sentenced to death in Illinois is truly guilty, until I can be sure with moral certainty that no innocent person is facing a lethal injection, no one will meet that fate. Not on my watch.

All of us in the political arena want to be tough on crime. I am a strong proponent of tough criminal penalties, of supporting laws and programs to help police and prosecutors keep drug dealers, gun runners, and dangerous criminals off the streets. We must ensure the public safety of our citizens. But, in doing so, we must ensure that the ends of justice are served. This concept is fundamental to the American system of justice. It is a question of fairness.

It is easy to be an ardent **death penalty** supporter when you don't have to make the final decision about who will live or die. But when you sit in judgment, when you have the power to decide who will live and who will die, it is an awesome responsibility. In this country, Governors have to make that ultimate decision. They must shoulder that awesome burden.

Since I made the decision to impose the **moratorium** on executions, I have endured my share of attacks from people who don't agree with me--who in some ways think I have betrayed them. That hasn't deterred me one bit. I would make the same decision again. I am comfortable knowing that I did the right thing. I am concerned and saddened that in the debate that has followed, some **death penalty** proponents have clamored for state-imposed death regardless of innocence.

As I said at the outset, I will not tell other Governors or elected officials what to do. Each of us must be comfortable with our own systems. All I can do is share what we have done in Illinois. We recognized that there were questions, far too many questions. I recognized that we didn't have all the answers. But it is clear that we need answers.

I am honored, I am humbled by your invitation to speak to you today.

Many of the people in this room--lawyers, judges, professors--men and women of character, of integrity, of commitment--are the heroes. It is you and people like you in courtrooms, law schools, and newsrooms across the country whose passionate search for the truth has overtaken those guided by a passionate quest for execution--no matter what the truth might be. Long before this pharmacist from Kankakee, Illinois was given the power to just say no, your voices were being heard. I salute you for blazing the trail. I thank you for leading the way.

Together, guided by honesty, decency and a passion for justice--we will ensure that no innocent person will be executed by the state.