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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE JUDICIARY COMMITTEE

Testimony on Behalf of
the American Civil Liberties Union of Pennsylvania
on Senate Bill 637
November 7, 1990

The American Civil Liberties Union does not have a stake in the means that are used to execute people in Pennsylvania. Most certainly, the ACLU is not appearing this morning to argue for the retention of the electric chair. Rather, the ACLU appears to reiterate its opposition to the death penalty and its belief that the adoption of lethal injection as a more "humane" method of execution only avoids the fundamental legal and moral issues.

Everyone on this committee is familiar with the recent history of the death penalty in the United States, which can be said to begin in the mid-1960's, when executions had virtually halted. With the Supreme Court's decision in Gregg v. Georgia in 1976, states have been free to design death penalty statutes. While a dozen states in the midwest and northeast have either declined to adopt post-Gregg death penalty statutes or have specifically abolished the death penalty, some 37 states now have death penalty statutes, Pennsylvania among them. More than 2,000 people are on "death row" today, more than 100 of them in Pennsylvania.

No executions have been conducted in Pennsylvania for more than 20 years and, because legal challenges to the death penalty are in early stages, no executions are likely within the next several years. In that sense, a public debate about the

means of execution appears academic. Yet, that debate should lead us to consider once again whether a death penalty ought to be sanctioned at all in this Commonwealth. My appearance here today is a modest expression of a persistent hope that debate on the death penalty will continue until it is outlawed.

Lethal injection statutes, like that proposed in senate bill 673, are presumed to offer a more humane means of execution, implicitly arguing that prior "more humane" means of execution, from the guillotine through the electric chair, have imposed considerable individual suffering. The medical and legal literature is full of the gruesome details of botched executions and, one may presume, senate bill 637 is meant to prevent such occurrences. The smell of burning flesh, or the sight of a man writhing on a gurney as prison officials struggle to reinsert the needle while avoiding the spray of lethal chemicals, have caused many to see the imposition of the death penalty as a state-sanctioned barbarity. Compelling as those images are, we must have the moral imagination to perceive that the execution itself is indefensible.

I hope that your consideration of senate bill 637 prompts you to consider that more fundamental question. When in 1980 the American Medical Association adopted a resolution stating that "a physician, as a member of a profession dedicated to the preservation life when there is hope of doing so, should not be a participant in a legally authorized execution," it honored the oath taken by physicians for thousands of years: to do no harm. The vision of a just and compassionate human society

embodied in that oath should bind all of us. The penalty of death is a perversion of that vision. Viewed from this perspective, changing the technology of executions is only a tawdry deception.

Thank you for inviting the ACLU to offer this limited testimony on senate bill 637.