

(The following are the Court's remarks on sentencing in the case of State of Maryland v. Stull, Cr. No. 5993, on June 23, 1965)

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THE COURT: Rather than have the defendant stand now the Court will call upon him to stand in a moment or so.

As counsel and defendant know the Court has had this matter under consideration for some six or seven weeks; almost two months. The Court is aware of the awesome responsibility it has in capital cases. I agree with Mr. Miller that the punishment has to fit the defendant, but you must take into consideration, also, the crime; and this is a crime, in my mind, that practically calls to Heaven for vengeance, a wanton, deliberate premeditated killing of a sixty-seven year old man who was in perfect health. I read the exhibit of the coroner's report, and this man was at the peak of health, according to the post-mortem examination. How long he had to live none of us know. He might have lived to the age that one of our elder statesman lived to that died this past week. How long any of us are going to live we do not know, but certainly we are entitled to our life -- as he was. It is the most precious possession that we have next to our soul.

If in this case the jury had come in with guilty without capital punishment the Court would not have had to consider, as

it has this almost two months, what is just and proper and right for the people of this State; people of this community, and for the defendant.

The pre-sentence investigation report has been extremely helpful, and I compliment Mr. McHargue on his fairness and objectivity in writing it. The Court is also helped by the psychiatric evaluation by Dr. Saraduke.

In attempting to reach a decision in this case I considered many volumes of works on capital punishment and on punishment. I was reminded that we have come a long way in the last four or five hundred years, come a long way from the common law that we now invoke in many of our crimes today -- assault and battery is still a common law crime -- and in England when they hung a person for picking pockets the greatest incident of pocket picking was at the hanging. They would cut off a man's wrists for stealing; they would take out his tongue for perjury; place men in stocks to be ridiculed for the commission of a misdemeanor. They would dunk a woman for the crime of adultery, and emblazon her chest with a scarlet letter. We like to believe that we have come a long way from those days, from the horrors of the punishment of crime in a legal way, the horrors of the Spanish inquisition.

Now life is regarded by all thinking persons as something that should be preserved under all circumstances, if at all

possible. Today in hospitals in this County and in this State teams of medical men are striving to sustain life in a person who has a hopeless disease -- I have seen this myself -- you pause and wonder if it would not be best if they would let the patient die in a dignified manner. But this is not our way. We are all mindful of the wonderful feat that occurred this month; the two astronauts who went into space and the care and thought that went into their flight. Everything was done under the sun that could be done to see that they would return safely to earth. Most of us feel this way. For what reason, completely not understandable, I don't believe, to anyone in this courtroom, would be your action in shooting a man who had done nothing to you? We cannot understand persons who commit murder, let alone while stealing for a few cents.

The question before us is: Should we be swayed by our emotions, or horror of this crime, to the point that we will take your life?

You will recall that each juror, as he was brought into the box, was asked a question as to whether or not he had any conscientious scruples against capital punishment. Those that did were excused. The Court of Appeals has held that they are not competent jurors. When the jury came in with the verdict they understood, because I explained to them, I believe, after argument of counsel at the closing of the case, that they were

not to assume that if they brought in a verdict of guilty that the Court would believe that the jury desired that the maximum punishment be imposed; that it was in the sound discretion of the Court, and the Court had many things to consider before it took this step.

Our Chief Judge of the Court of Appeals of Maryland has spoken out against the law that provides that the juries in Maryland shall be the judges of the law and the fact. He has called this an archaic law -- and, indeed, it is -- and I know he has done what he could to persuade the legislature to act. I believe we are now the only State in the United States where the jury is the judge of the law and the fact. I believe it was right and proper for him to speak out against this law, and I hope that one day the legislature will take the steps that are necessary to repeal it.

In considering the punishment to impose here today I have consulted with many eminent jurists, and have previously indicated studied a number of books on punishment and deterrents of crime, and I have concluded that the time has come when I must speak out. I have been advised against doing this; for reason that will be obvious to lawyers, but I feel the time has come when someone has to speak out in Maryland on the subject and, perhaps, it is just as well that I do it: No one has ever asked me, as a jurist, if I have conscientious scruples against capital

punishment, and if they had up until about a month ago I wouldn't have known, because I have imposed capital punishment sitting with other jurists. But at this point in my life I have determined that I do have conscientious scruples against capital punishment; so knowing this I will proceed to sentence you.

Stand up, Charles Stanley Stull.

Do you have any reason to assign why the Court should not now proceed to sentence you in Criminals Number 5992 and 5993 of which you have been found guilty?

(No response)

The Court has considered you as a farm boy, I know now. I didn't want you standing up wondering whether you were going to get life or death. You are a farm boy, or, at least, you are a boy that was brought up in a rural area. You told the doctor, the psychiatrist who examined you in the detention center, that if you were to spend your life in prison you would kill yourself by hanging with the bed sheet. You realize, I know, from that statement, the terrible life that you have ahead of you in confinement. You will be in the Maryland Penitentiary in the middle of a big city. You will miss, I know, the beauties of spring time; the winter; summer and fall that you enjoyed in your boyhood in rural Montgomery County. I believe with the help of persons in the prison, with Reverend Mullholland, that you might still live

a useful life within those prison walls -- it is up to you, of course. It might be you could be a good influence to some boys, some young men who aren't going to be there their life. This is, maybe, an opportunity for you to serve. Of course your mother and father will be able to see you. So I am only saying this to you because of what I read in the doctor's report. Your life isn't over. There are many useful things that you can do, and it is going to take probably a complete change of your mental attitude to do it, and only those persons that are interested in you are going to care.

It is the sentence of this Court that you be confined in the Maryland Penitentiary for the period of your natural life.

Sheriff, you may remove the prisoner.

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