

The invention of lethal injection: Confessions of a former legislator

by [William J. Wiseman Jr.](#) in the [June 20, 2001](#) issue

From 1974 to 1980, William J. Wiseman Jr. served three terms in the Oklahoma state legislature as Republican representative of Tulsa's district 69. During his tenure he was the architect of what became known as the lethal-injection bill, which was introduced and passed in 1977. The bill made Oklahoma the first governmental body in the world to adopt lethal injection as the means of executing capital offenders. According to Bureau of Justice data for 1999, of 98 persons executed that year in 20 states, 94 were killed by lethal injection, three by electrocution and one by lethal gas. In the following article Wiseman reflects on his role in the legislative process.

It was a long time ago but doesn't really seem like it. Perhaps because the years since I left the Oklahoma legislature in 1980 have been a kind of "anti-time," a period that has contained many good things, but that has never been the same as those days when I was wheeling through the halls of legislative history. I was bold and happy and sure that I was doing the Lord's work.

I had found what seemed to be my own voice and identity, a role which was a pure delight to me, at least in memory. For six years I was always sorry to go home, and eager to return to my work the next day or next week or next session. The only fear I had in those days was that something might snatch it all away, and thus take away the identity and purpose and pleasure in life that I thought I had found.

In other words, I was no different than any other legislator I've ever known: my highest priority was retaining my seat. Everything else was in a different category of regard and concern.

I didn't even sense approaching danger in 1976, when the news carried reports that the U.S. Supreme Court had struck down the death penalties of several states in *Furman v. Georgia*. In that case, the court held that juries would need to make separate decisions about guilt and punishment, and would need a clear list of factors on which to base their decision to execute a prisoner. The word soon got around that

our Oklahoma death penalty was “belly up” and we’d need to do something to reenact our flawed death penalty.

I hated the idea. I’d been educated by Philadelphia Quakers as a child and majored in philosophy as an undergraduate. I knew better. The death penalty was at best unjustified. Moreover, I instinctively hated the moral cowardice I felt welling up in my gut.

Since the vote on capital punishment would come before my first filing period as an incumbent in early July, there was no question that I would vote yes. I was certain that my district would never forgive me otherwise, and I was having far too much fun to run any avoidable risks. So, in order to justify a vote that I knew would be wrong, I sent out a survey to the district to gauge constituents’ views on capital punishment. The results were predictable. Well in excess of 90 percent of those responding were strongly in favor of capital punishment. At least I could rationalize to myself that I was reflecting the will of the people.

Yet when it came to the actual vote, the polling was small comfort. David Riggs, who represented blue-collar west Tulsa, stood bravely and almost alone to argue against the capital-punishment measure, and offered amendments to blunt and delay its effect. I voted for his amendments.

But I felt like Thomas Cranmer, who, when tried for heresy by Queen Mary, feared the stake so much that he recanted his earlier views, only to recant his recantation and get burned anyway. I took Cranmer’s switching a step further. I feared political defeat so much that I planned to vote for something that I knew was wrong. But first I would flirt with the notion of standing briefly and uselessly for what I believed by supporting moral amendments, even though I knew all along that I would dart back to the Yes column when the final vote came. Cranmer died in the flames, terrified. I ran from the flames, terrified. But I was close enough to feel them.

One of the amendments that David Riggs offered, and for which 20 or so of us voted (out of 101 members), was to provide for a more humane method of execution than electrocution. At the time, the only other methods in use in this country were the gas chamber, firing squad and gallows.

The notion of Riggs’s amendment became the basis for my rationalization. For although I voted in favor of capital punishment, along with 97 other House members, I adopted an issue I could focus on to mask the fact that I hadn’t joined Cranmer at

the stake: I would make the death penalty more humane by eliminating the brutality and violence of electrocution.

I made my first inquiry during a routine physical examination the following autumn. My personal physician, C. S. Lewis Jr., was also the president of the Oklahoma Medical Association (OMA) that year. I assumed he could be helpful in devising a humane, nonviolent method of execution. When I asked him about it, he nodded and said yes, there probably ought to be a better way, and he would talk to some people.

But this noble notion didn't fly at first. Lewis called me after meeting with the OMA board, and reported that the board felt that any participation by its organization or by any licensed physician was impossible. Their reasoning was that, since the Hippocratic Oath's first mandate was to "do no harm," physicians could never assist, even intellectually, in devising a means of execution. And while I recognized the legitimacy of their position, it rankled because it spoiled my plan. I muttered to colleagues that it looked as if I would need to find a veterinarian to tell me how to "put down" condemned prisoners.

Gradually, the word got around that Wiseman was looking for someone to tell him how to kill people without a lot of fuss. I got the call sometime in February. "Representative Wiseman? This is Jay Chapman. I'm the state medical examiner and I heard you were looking for some technical help." Chapman came to my office in the capitol the next afternoon, told me that he thought the OMA's refusal to assist me was silly, and said that he'd be happy to be my technical adviser. He'd been the medical officer in Colorado charged with the responsibility of declaring electrocution victims dead, and he was eager to help anyone who would step forward to stop the horrors of electrocution.

A prisoner who is to be electrocuted is fitted with metal contact plates on the shaved surfaces of his inner thighs and the back of his skull. When the lever is pulled, the body twists and shudders violently, cooks and sizzles obscenely, and emits horrible noises from the nose, mouth and anus. The smell of cooking flesh mingles wretchedly with the reek of voided bowels and bladder. It is a scene of horror and outrage against human dignity, and the efficacy of the voltage is uncertain and far from immediate. Chapman said it was the ghastliest mode of death he could have conjured, short of slow torture, and that no sane person who witnessed it could possibly oppose its replacement by a less violent means of execution.

I didn't want Chapman to jeopardize his professional status recklessly, and reminded him of the OMA's refusal to help and its assertion that to do so would be a violation of a physician's license to practice medicine. He said, in effect, "To hell with them; let's do this."

So we did. I got out a legal pad and began to write as Chapman dictated: "An intravenous saline drip shall be started in the prisoner's arm, into which shall be introduced a lethal injection consisting of an ultra-short-acting barbiturate in combination with a chemical paralytic." That was it. It was specific enough but allowed for changing materials. Chapman imagined that the barbiturate would be sodium pentiathol and that the chemical paralytic would be chloral hydrate. The former would cause immediate drowsiness, unconsciousness within three seconds. The latter would stop both heart and lung function within 30 seconds. No pain, no spasms, no smells or sounds—just sleep, then death.

I had prepared a background piece on the concept, which I referred to as "lethal injection," not knowing what else to call it. I never held a formal news conference on the subject, but did dozens of hallway interviews as the topic gradually became an item. I had privately met with both the House speaker and the Senate pro tem, to make sure I wouldn't have leadership problems, and I had an intermediary smooth things out with Governor David Boren. The story gradually gathered momentum and finally made the "A" wire, whereby the Associated Press distributed it nationally.

I was giving noble statements as if I were some angel of mercy, but my conscience was pricked in a small way when Rick Tapscott, a reporter for the now-defunct *Tulsa Tribune*, told me "as a friend" that he had serious qualms about my bill. Rick said he was afraid that the horror of executions done the old way might sometimes keep jurors from voting for it, whereas my nice, clean, painless exit plan would fail to give "even Granny" a second thought as she voted for the death penalty. He thought it would make for more executions. Could I live with that?

A second moment of discomfort came at the hands of an internationally respected British expert on crime and punishment. Norvel Morris was lecturing in Oklahoma and I attended with some friends. One of them asked Morris what he thought of the Wiseman lethal-injection bill. Not knowing that the author of the legislation was in the audience, he answered bluntly and candidly, "It's a notion worthy of Nuremberg." Most of the audience didn't get the reference to Hitler's Nuremberg laws, which led to the Final Solution and the Holocaust in Europe, but I did, and I

“went away sorrowful.” But not so sorrowful that I withdrew the bill; I had gone too far to turn back. I was enjoying the ride. Everywhere else I was regarded as a bright young leader, a creative thinker, an innovator, a comer.

When the final debate on my bill arrived on the House floor, one of my colleagues alleged that we were being soft on crime, that a good hemp rope was all we’d need, and that using a needle to kill criminals would make little children afraid to go to the doctor. Meanwhile, I distributed color photographs that Chapman had taken of postelectrocution autopsies. They were horrible, unsettling, obscene. Very few members were able to look at those ghastly, charred remains of scalps and thighs without agreeing to a less grizzly method of execution.

The bill passed easily and Governor Boren signed it without comment. Oklahoma had reinvented capital punishment for the nation and the world. Almost immediately, Texas and more than 30 other states copied our language, as did the federal government.

For a while, I felt that I had a moral responsibility to attend an execution carried out in the manner I had devised. But I never did. In the more than 20 years since I “invented” lethal injection, hundreds and hundreds of human beings have been killed under my “patent.” With each passing year, I enjoy the dwindling notoriety less, and feel responsibility and guilt more. I can rationalize, of course, knowing that this technique is far preferable to any alternative, but in 2,400 years we haven’t come very far from hemlock. For there is still terrible violence in taking a life, no matter how gently it is done, and for those takings I am responsible.

The dramatic irony of my action as a legislator is that what purported to be a means of reducing violence became instead a means of increasing it. The moral burden I carry is that, if it were not for my palatable technique of death, many who have now been executed would likely have been spared by squeamish juries. Many would still be alive. They would have time to wonder, as I do, what it all means.