

Responses of Gershwin A. Drain
Nominee to be United States District Judge for the Eastern District of Michigan
to the Written Questions of Senator Jeff Sessions

1. **In a 1985 Letter to the Editor of the *Detroit News* entitled “Death Penalty Brands Society,” you wrote: “The death penalty is primitive punishment that is brutal and barbaric. Advanced, mature societies should engage in punishment and not vengeance as a way of dealing with crime.” When asked about these statements at your hearing, you testified: “It would not affect my being a judge. The article was written over 30 years ago. I no longer hold to that position. My views about the death penalty have been evolving and changing. I no longer believe that. I was a pretty young zealous defense lawyer in those days and am now older and more mature and no longer subscribe to that.” Senator Lee then asked, “So, your views have evolved?”, and you answered “Yes.” What are your views of the death penalty today?**

Response: I believe that the death penalty is an acceptable and appropriate form of punishment. The United States Supreme Court has so held and I would faithfully apply that precedent.

2. **Do you believe that the death penalty constitutes cruel and unusual punishment under the Constitution? Please explain your answer.**

Response: No. Again the United States Supreme Court has held that it is not and I have no problem following and abiding by that law.

3. **Do you believe that the death penalty is an acceptable form of punishment? Please explain your answer.**

Response: Yes. The federal government and most of the states have decided through their legislatures and constitutions that the death penalty is an acceptable form of punishment, and the Supreme Court has agreed that it is constitutional.

4. **Do you believe that the death penalty is a deterrent? Please explain your answer.**

Response: Yes. I believe it is a deterrent. When people see the severity of the punishment inflicted and know of its existence it will serve to deter and prevent conduct that would bring the death penalty.

5. **Please describe with particularity the process by which these questions were answered.**

Response: I first prepared my answers, then discussed them with an attorney with the Department of Justice and then submitted them.

6. **Do these answers reflect your true and personal views?**

Response: Yes.