

Death

Judge relates penalty skepticism

Editor's note: On November 7 Oregon voters will decide whether to reinstate the death penalty for murder in certain cases. Emerald reporter Ken Haswell interviewed two judges and the district attorney on their views concerning Ballot Measure 8.

Stories by KEN HASWELL
Of the Emerald

Popular vote has twice repealed the death penalty in Oregon, once in 1914 and again in 1964. This November, Oregon voters will again decide whether to reinstate capital punishment for crimes involving homicide.

Lane County Circuit Judge George Woodrich doesn't think that capital punishment will serve as a deterrent.

"I think it has been pretty well documented that it is not a deterrent. At least everything that I've read seems to indicate this," Woodrich says.

If Oregon voters reinstate capital punishment by voting in Ballot Measure 8, Woodrich is one of eight Lane County Circuit Court judges who could give the death sentence.

Woodrich says capital punishment may deter crimes of premeditated murder or contract killings, but "certainly not as far as impulse murders are concerned." He said he hasn't seen any studies to substantiate his contention. "It would be very difficult for a study to statistically be very meaningful, anyway," he says.

When questioned about his feelings on possibly imposing the death penalty, Woodrich said that choice would put any judge in a very difficult position.

Measure 8 provides for a separate sentencing procedure by a judge for those convicted by jury trial.

This hearing would impose either life imprisonment or the death penalty. Both the prosecution and the defense would be allowed to present relevant evidence. The presiding judge would decide.

Woodrich says the death penalty decision could also be made by a committee rather than by one judge. He says that if a group is involved there may be less pressure.

"It's kind of diffuses some of the responsibility, like the firing squad we had when one of the persons who had the gun had a blank or had the real one," he says.

Woodrich says someone must take the responsibility of the penalty of death whether it be a committee or an individual. He wasn't sure, though, which method would be better. He said it might be a better system to have the wisdom of more than one judge.

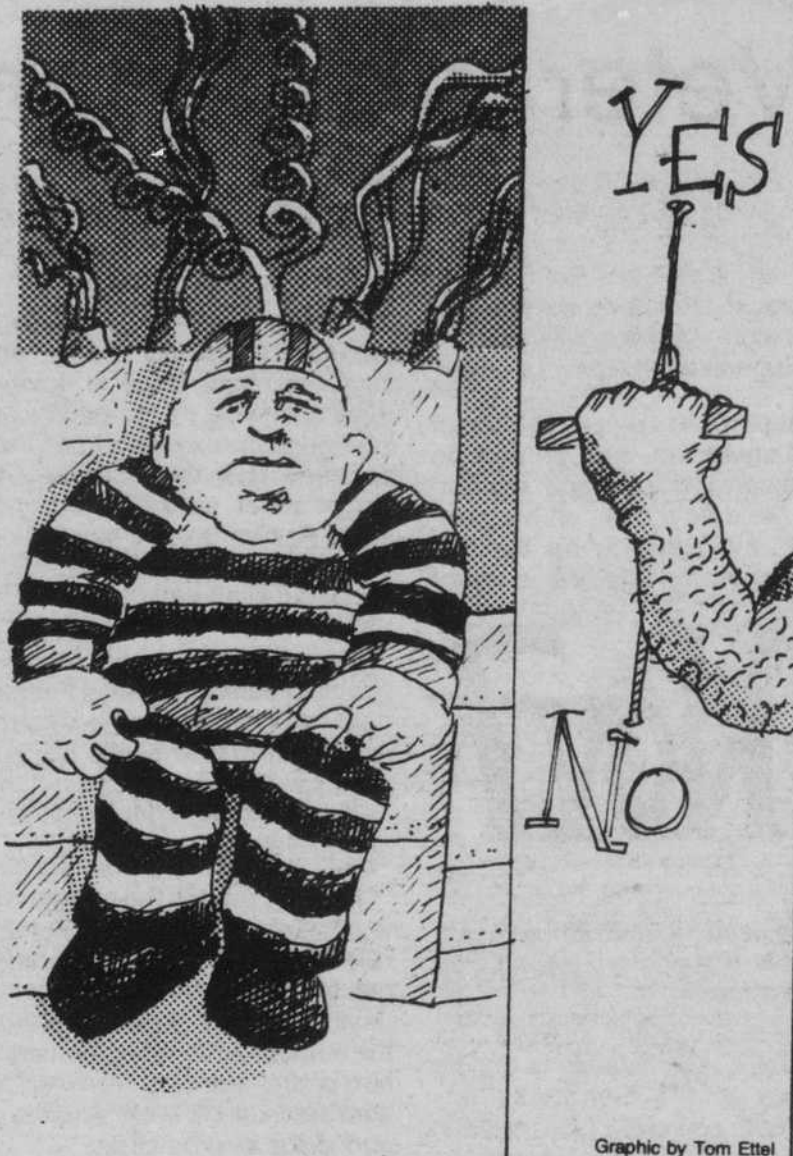
Concerning the possibilities of sentencing an innocent man to death, Woodrich said that in 99 out of 100 typical murder cases, "It's pretty clear that the defendant actually took someone else's life." The "who-dun-its" are very rare, Woodrich says.

"So, I think the only question is if the person was, say, legally insane or had at least a sanity defense of some kind that the jury did not buy," he says.

Woodrich says there are well-established standards a judge must follow in sentencing.

Woodrich says Measure 8 provides for an automatic Oregon Supreme Court review within 60 days after the certification of the entire record by the sentencing court. "Any decision I make here at the circuit court level would be reviewed by the appellate court," Woodrich says.

Woodrich says he has not yet sentenced a person to death. But if Ballot Measure 8 is adopted, he says he must follow the law where applicable.



Graphic by Tom Ettel

Allen says measure will reduce murders

Lane County District Court Judge Edwin Allen says Ballot Measure 8 will prevent further murder.

"Persons who are executed do not kill again," Allen says.

"I don't think that is a proposition that can be argued with."

Allen says that capital punishment will not solve crimes of passion when a person becomes suddenly angry and kills another human being without malice aforethought.

He says that in his 15 years on the bench he has seen many crimes of passion in which a defendant was charged with first-degree murder and the jury returned with a verdict of second-degree murder or manslaughter.

"Crimes of passion are not the crimes where the death penalty is imposed," Allen says. "You would have to make a distinction between that and a slaughter where, for some reason, a man or a woman not only has a vendetta against his spouse, but also then proceeds to kill her mother and his set of children," he says.

"For some individuals, it's a situational thing," he says. "It's the only situation that has ever happened in this person's life or will ever happen in his life," Allen says.

Allen says that he once had a man who fit well within this category. The man was charged with second degree murder and was found guilty of voluntary manslaughter. Allen says the man was 42 years old and his previous criminal record consisted of one illegal U-turn.

"For that kind of fellow, 25 years is a tragedy," Allen says referring to the mandatory 25-year imprisonment before parole contained in Ballot Measure 8.

Allen says many Oregonians would feel comfortable not reinstating the death penalty in Oregon, if they knew for certain that people involved in the classic front-page murder stories would never be allowed to re-enter society to kill again.

Allen says that if Oregon had the death penalty, "Mr. Carl Cletus Bowles would not have come down here and killed two of our Eugene citizens and Mr. Richard Marquette would not have cut up another lady."

DA says 'crimes need punishment'

Death is the appropriate punishment for murder, says Lane County District Attorney Pat Horton.

"Underlying the entire concept of criminal law is the idea that the punishment should be commensurate to the crime committed," Horton says.

"So, six years ago, when I campaigned for the decriminalization of marijuana, it was under the theory that the penalties for incidental or casual use of marijuana were extremely harsh and that they should fit the crime," Horton says.

"Now, in some of the most despicable crimes that we see here — dismemberment cases, abusing and torturing of children, the intentional, premeditated killing of a rape victim, so that the victim will not testify against the assailant — it's an appropriate penalty."

Horton says in the past Oregon's approach has been to send convicted murderers to the state penitentiary where they are soon to be released on school or work release programs or on parole.

He says the death penalty is, "in some limited number of extremely vicious homicide cases an appropriate penalty." Crimes of passion are excluded from Horton's list.

Horton says the death penalty should be given to mass murderers who are out to kill a person in a crowd, and to terrorists who kill political figures or innocent bystanders.

Part of Ballot Measure 8 provides for a manda-

tory 25-year sentence without parole. Present Oregon law allows immediate eligibility for parole for convicted murderers. No such person has ever been released upon arrival to the penitentiary.

Horton says many murderers would serve from three to seven years before release. He thinks this is an unrealistic attitude.

"People read that a horrible killer has been sentenced to life, and three years later they learn that he's on the street," Horton says.

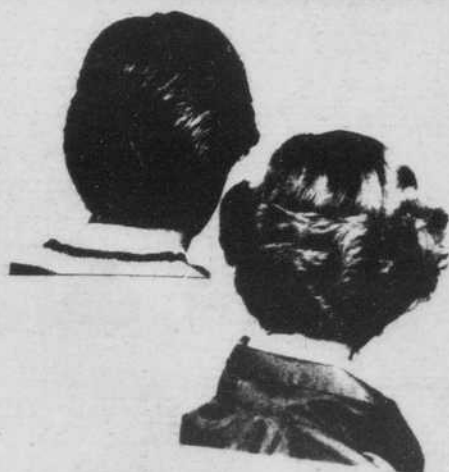
"Life doesn't mean life, life means three years. In the past that's what it meant," says the district attorney.

"So the minimum mandatory things are good. It brings some ceiling back into punishment."

Another section of the measure provides for a separate sentence hearing be performed by the trial judge after the jury has reached the verdict.

Horton says the double-edged aspect of the hearing is a constitutional requirement, and adds that without the separate hearing, the jury might feel obligated to acquit the defendant because "if we don't it's going to mean automatic death."

"So you give the jury the burden of just factually determining the guilt or innocence of the accused," Horton says. "And they are specifically instructed not to worry about the penalty aspect; then in a separate hearing the type of punishment is determined," he says.



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