

State Supreme Court kills death penalty

SALEM (AP) — The Oregon Supreme Court on Tuesday ruled that a death penalty law adopted by voters in 1978 is unconstitutional.

The unanimous decision overturned death sentences imposed on John Quinn and Edward Warren, the first two people sentenced under the law, and returned their cases to trial courts for resentencing.

The decision also affects two other convicted killers who have been sentenced to death under the law.

State law requires that murder convictions carry life prison terms if no death sentence is handed down.

Republican legislators said following the ruling that they plan to propose a new death penalty measure meeting the court's objections.

But they said it will be difficult to get a bill approved by the Democrat-controlled Legislature.

The capital punishment law was put on the ballot by initiative petition after the 1977 Legislature failed to approve a death penalty measure.

The Supreme Court attacked a provision of the law requiring judges instead of juries to decide whether capital punishment should be imposed.

The justices said the requirement, done during a separate hearing following a jury conviction of murder, violates defendants' rights under the Oregon Constitution to a trial by jury on all aspects of criminal charges.

The ruling involves a change in murder laws made by the 1971 Legislature.

The lawmakers eliminated degrees of murder and enacted a single statute defining murder as killing done intentionally "without any consideration or deliberation," the court said.

By indirectly re-establishing a crime of deliberate murder punishable by death, the court said in an opinion by Justice Jacob Tanzer, "The initiative proposal impermissibly places responsibility for finding the fact of the greater mental state (deliberation) with the judge and not with the jury."

For that reason the law violates the Oregon Constitution's provision "that a criminal defendant is entitled to a trial by jury of all of the facts constituting the crime for which he has been put in jeopardy," Tanzer said.

He said the initiative measure "was drafted in apparent disregard of the amendments to Oregon's murder statutes made when there was no death penalty."

"Simply put, the resulting statutory scheme is a constitutionally insufficient basis for imposition of an enhanced penalty" for murder, Tanzer said in the 6-0 ruling.

Justice J.R. Campbell didn't take part in the decision because he was appointed to

the court after it heard oral arguments in the case.

Justice Thomas Tongue said in a separate opinion that while he agreed with the court's ruling, he would have held the death penalty law violates federal constitutional requirements handed down by the U.S. Supreme Court.

In another separate opinion, Justice Edwin Peterson said no law is enforceable that limits the right to trial by jury in criminal cases.

"The right of a jury trial as to every element of a criminal prosecution is an important right — in some person's lives, it is their most important right, Peterson said."

Quinn, 21, was convicted of the 1979 strangling death of

Matilda Strong, a 68-year-old Portland woman.

Warren, 27, confessed last year to killing two teen-agers in Curry County. The victims were 19-year-old Coast Guardsman Ricky Hemphill of Riverside, Calif., and his girlfriend, Charla Toma, 18, of Lincoln City.

The other State Penitentiary inmates who are under death sentences are Richard Bird, 21, and Dennis Brooks, 27.

Bird was found guilty of the September 1979 strangulation death of 3-year-old Jessica Clark of Scappoose.

Brooks was convicted of the October 1979 killing of Kitty Coy of Chico, Calif., who had been tied to a tree in the Mount Hood National Forest and shot several times in the head.

Film series previews war, social protest

Social responsibility and alternative energy sources highlight this term's Environmental Film Series sponsored by the Survival Center.

"War Without Winners" will be shown tonight in the EMU Forum Room. The controversial film includes interviews with retired government officials, bomb assemblers and others.

The following Wednesday, Jan. 28, physician John Burkhardt, a member of Physicians for Social Responsibility, will discuss his recent trips to the Pentagon. The slideshow and discussion will deal with the Pentagon's programs and Burkhardt's protests.

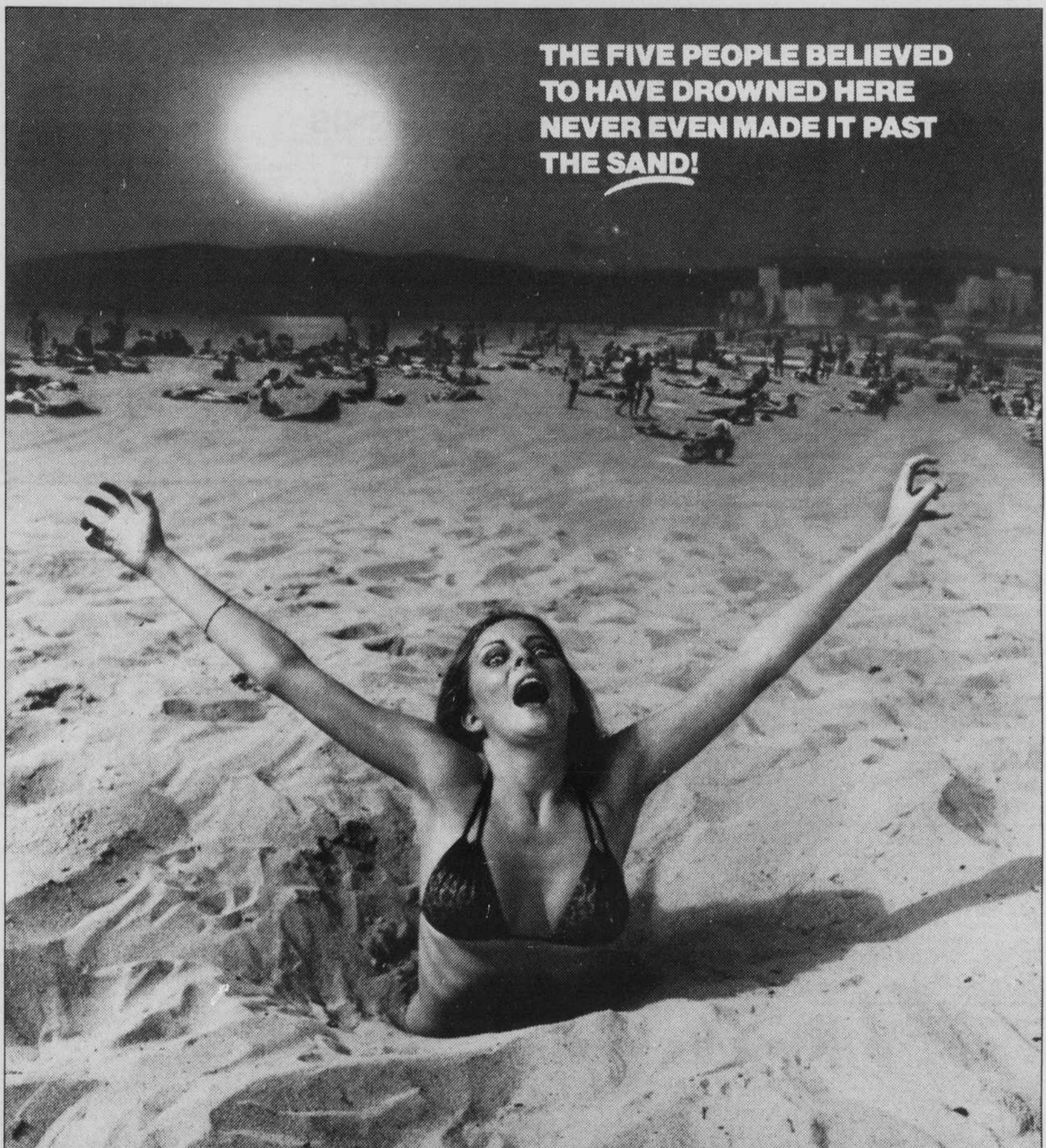
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