

OUR VIEW

Oregon still grappling with death penalty

Oregon’s history tells story of a populace’s fickle approach to the death penalty.

Initially adopted in 1864, capital punishment has since twice been abolished and three times reinstated by a popular vote of the people. The one time the state’s Judicial Branch stepped in — holding it unconstitutional in 1981 — was not well received by the voters, who in turn amended the Constitution to reinstate it just three years later.

There are plenty of reasons why the outdated practice of capital punishment is not only unnecessary, but also unwise. And as a practical matter, Oregon hasn’t executed an individual since 1997—our court system makes it nearly impossible to accomplish.

It would seem that the Oregon Legislature is attempting to carve out some middle ground. While technically not abolishing the death penalty, House Bill 3268 effectively does just that by only allowing capital punishment in cases involving terrorism-related killing of more than one person. If history lends any perspective, the independent spirit of Oregon voters will not appreciate being dictated to by the courts or the Leg-



The execution room at the Oregon State Penitentiary.

AP Photo/Rick Bowmer

islature, the bill’s nominal effect notwithstanding.

Rather than use valuable political capital pushing through legislation with little foreseeable benefit, Oregon’s politicians should engage in a campaign to educate the public on the folly of death row but allow Oregonians the ultimate say.

Developments in the social sciences, fiscal impact studies and our society’s capacity to protect itself from violent criminals speak volumes. The harsh nature of the death penalty has never proven to be a deterrent. Taxpayers actually save money when the state doesn’t

engage in capital punishment. And most importantly, too many people are convicted and sentenced, only to find out later the verdict was incorrect.

In fact, the only rational support for capital punishment boils down to a human impulse for revenge. But contemporary psychology prescribes that any perceived gratification that one derives from revenge is not just short-lived, but often leaves an individual feeling worse than before. Revenge in the place of justice does not fill the void left when we lose a loved one.

Mrs. Coretta Scott King, the widow of Martin Luther King Jr., knows as well as anyone the pain and heartbreak of the senseless murder of a loved one. And perhaps she says it best: “An evil deed is not redeemed by an evil deed in retaliation.”

Even more, perhaps Oregon’s ambivalence surrounding this highly controversial act lends insight. The state’s history of fluid value judgments regarding the death penalty provides a narrative of clashing interests, pitting the impulse for revenge against the instinctive squeamishness that tells us the government has the right and obligation to protect and to punish, but not to kill. The collective body ought to always set the bar high, and should never stoop to dangerously emotional impulses.

Until the people of Oregon come to this conclusion themselves, any legislative attempt to dictate value judgments appears futile and costly.

The death penalty is a societal agreement that warrants careful assessment. Oregonians have never backed down from that debate, and the time is right to have it again.

OTHER VIEWS

Selected editorials from Oregon newspapers

Bend Bulletin, on Oregon motorists not pumping their own gas

In almost every other place in the country, people have the freedom to pump their own gas. In Oregon, not so much.

A bill in the Legislature, House Bill 3194, would loosen Oregon’s rules. It would allow self-service at gas stations, as long as it is not at more than 25 percent of the pumps.

The bill should pass, but there must be a good reason why the state of Oregon has been so reluctant to allow people to pump their own. Right? Perhaps Oregonians are less gifted than people in other states. Or maybe Oregonians are more flammable?

We looked it up. Oregon actually has 17 official reasons enshrined in state law to oppose self-serve gas. Here are some highlights:

In Oregon Revised Statutes 480.235, the solons in our Legislature have declared Oregon’s weather to be “uniquely adverse.” The ice in this state is presumably more slippery. The rain is more wet. The sun is shinier. The clouds are cloudier. It can feel like it some days — that’s for sure. But the Legislature has declared the weather here is uniquely adverse, so it must be a bona fide, scrupulously researched fact.

The law explains Oregon’s uniquely adverse weather causes “wet pavement and reduced visibility.” And there is “the increased risk of personal injury resulting from slipping on slick surfaces.”

Somehow, people in other states are able to deal with wet pavement and reduced visibility when pumping their own. Thank you oh wise Legislature, for protecting us.

The state also warns that self-service may lead to exposure to gas fumes, representing a health hazard to customers. We suppose it’s much healthier for attendants to be exposed to gas fumes repeatedly, all the work-day long than for customers to get an occasional whiff when they fill up.

There are some other reasons the

state lists that do make some sense. For instance, there are other safety issues, though, once again, people in other states manage just fine. Self-service pumps may also cost more to insure and that could be passed on to consumers. Of course, gas stations would not need as many attendants, so that may reduce costs to consumers. It is further undeniable that people who are disabled or elderly could find it difficult to pump their own gas. Surely legislators can put their heads together and come up with a regulation to deal with that. Here’s a hint: full serve.

One last thought about Oregon’s “uniquely adverse” weather: If the weather in Oregon is really so bad, why on earth is the state not including “uniquely adverse” weather warnings in ads luring tourists to Oregon? Somebody tell Visit Bend.

Corvallis Gazette-Times, on high court possibly defusing jury issue

The U.S. Supreme Court last week said it will consider overturning a criminal conviction by a 10-2 jury vote in Louisiana — potentially a big step toward eliminating the use of nonunanimous verdicts in criminal cases in the only state where they’re currently allowed.

That state would be Oregon. Not even Louisiana allows them anymore; the state’s voters last year approved a constitutional amendment that eliminated split-verdict convictions. (The Louisiana case involves a man, Evangelisto Ramos, who was convicted in 2016 of second-degree murder in the killing of a woman in New Orleans. Ramos is serving a life sentence with no chance of parole; the change in Louisiana’s constitution took effect in January, too late to help Ramos without court action.)

The court will hear Ramos’ case as part of its fall term, with a ruling presumably coming late this year or early next year.

It’s possible that the court’s ruling in the case could render moot any efforts by this session of the Oregon Legislature to eliminate nonunanimous verdicts. It’s also possible that the Legislature could act first, and a couple of bills to that end are pending before the



House Judiciary Committee.

But regardless of the path we use — either through legislative action, a vote of the people on a constitutional amendment or via a Supreme Court decision — it’s well past time for Oregon to set aside this shameful relic of its past.

Oregon’s nonunanimous jury practice was born out of prejudice against immigrants and dates back to a Columbia County murder case in 1933 that paved the way for a constitutional amendment allowing juries to decide most felony cases on 10-2 votes. (A conviction for murder or aggravated murder still requires a unanimous verdict.)

Legal scholars (notably, Aliza Kaplan of the Lewis & Clark Law School) have written about the 1933 case, which involved a Jewish suspect, Jake Silverman, on trial for murder. One juror held out against conviction, and the jury eventually reached a compromise guilty verdict on a lesser charge of manslaughter. Silverman got three years in prison. The backlash was considerable. The Morning Oregonian, for example, railed against the verdict on its editorial pages, in language that was — well, not even borderline racist, but you can be the judge. Consider this excerpt from a November 1933 editorial: “This newspaper’s opinion is that the increased urbanization of American life ... and the vast immigration into America from southern and eastern Europe, of people untrained in the jury system, have

combined to make the jury of twelve increasingly unwieldy and unsatisfactory.” (To be fair, The Oregonian recently recanted this 1933 editorial position.)

The Legislature, responding to the outcry, voted to place a constitutional amendment on the May 1934 ballot to allow nonunanimous juries. The measure was approved by 58 percent of voters.

Since then, a number of attempts have been made to amend the constitution on this point — including a recent effort by the Oregon District Attorneys Association — but none has gained much traction.

Since the effort requires amending the constitution, it would require a public vote. Rep. Jennifer Williamson, D-Portland, has introduced one measure, House Joint Resolution 10, which would refer to voters in 2020 a constitutional amendment to do away with nonunanimous verdicts. She’s also introduced another measure, House Bill 2615, to repeal the statutory authority for nonunanimous verdicts in criminal trials; it’s essentially a holding measure for the 2020 election.

It could be that the Supreme Court will beat Oregon voters to the punch by declaring these nonunanimous verdicts unconstitutional. That would be fine. Even though Oregon residents love to brag about the state’s independence, here’s a case where that independent streak has become not just an embarrassment, but an affront to justice.