

The Death Penalty: Supreme Court Decision Awaited

By Religious News Service

The lives of more than 500 convicts on death row hang in the balance as the United States Supreme Court moves toward a new — and possibly historic — ruling on capital punishment.

Opponents of the death penalty hope, and its proponents fear, that the decision, expected in June, may well determine that capital punishment — in itself — is unconstitutional.

At issue is the constitutionality of new death penalty laws enacted in five states — North Carolina, Louisiana, Georgia, Texas, and Florida — following the landmark Supreme Court ruling in 1972 that struck down capital punishment as then practiced in America.

Under review are the cases of six men, three white and three black, convicted of murder under the five states' new statutes. These statutes, like those in 30 other states, were drafted to conform with what legislators perceived as guidelines established by the 1972 ruling.

By a 5 to 4 decision, the High Court held that the death penalty violated the Eighth Amendment, which prohibits "cruel and unusual punishments" because it was then

being imposed in a "freakish," "arbitrary," and "capricious" manner.

In the eyes of two justices, the uncertain application of the death penalty, rather than the penalty itself, constituted violation of the Eighth Amendment, though two other justices found the penalty "cruel and unusual" under all circumstances.

Within six months of the ruling, the National Association of Attorneys General recommended what it considered the best way around the decision: "a mandatory death penalty for specified offenses."

Since then, 35 states and the federal government enacted mandatory death penalty legislation for certain major offenses, such as the murder of policemen or prison guards.

The relative speed with which these new mandatory statutes came into being is seen as a reflection of growing popular support for capital punishment. According to a Gallup poll, this support has increased from 50 per cent in 1972 to 64 per cent in 1974.

On the other hand, according to the Rev. Dean M. Kelley, religious

and civil liberty expert on the staff of the National Council of Churches (NCC), "opposition to the death penalty as a punishment for any crime is just about unanimous among leaders of major Churches in the U.S."

Twelve religious groups have formally and jointly urged the Supreme Court to declare the death penalty as such unconstitutional because it violates the Eighth Amendment.

The 12 are: the NCC, American Friends Service Committee, the Board of Social Ministry of the Lutheran Church in America, the General Board of the Church of the Brethren, the Council for Christian Social Action of the United Church of Christ, the Department of Church in Society of the Christian Church (Disciples of Christ), and the General Board of Christian Social Concerns of the United Methodist Church.

Also, the Greek Orthodox Archdiocese of North and South America, the American Ethical Union, the United Presbyterian Church in the U.S.A., the National Catholic Conference for Interracial Justice, and the National Coalition of American Nuns.

In a brief submitted earlier to the Supreme Court, these organizations argued that "life ought not to stand forer upon human judgments. Such judgments are necessarily fallible."

Various Churches, in separate policy statements adopted at their major assemblies, have also voiced strong opposition to capital punishment.

The American Baptist Convention called attention to "the unceasing availability of God's mercy, forgiveness, and redemptive power" which, it said, "are arbitrarily canceled by execution."

The "taking of human life falls within the providence of Almighty God and not within the right of man," according to the Episcopal Church.

The United Church of Christ argued that "the disproportionate number of black and poor who occupy death row are victims of an evil which decent people of our society have too long endured and which violates categorically our Judeo-Christian ethic."

"We stand for the application of the redemptive principle in treating law offenders," declared the United Methodist Church, "and for study and action directed toward the improvement of laws, correctional facilities and services, and court procedures in order to facilitate rehabilitation."

Within the Southern Baptist Convention (SBC), the largest Protestant body in the U.S., there is a wide spectrum of opinion on the question of capital punishment. A 1969 Baptist-views poll of 600 pastors and Sunday School teachers showed that the majority of the respondents (65 per cent of the pastors, 58.5 per cent of the teachers) favored the death penalty for murder.

The SBC has not adopted an official stand on the matter of capital punishment, but the Baptist Christian Life Commission (CLC), which does not speak for the SBC, but to the SBC on moral issues — has gone on record as opposing the supreme penalty.

In a pamphlet, issued before the 1972 Supreme Court ruling and currently under revision, the CLC said Christians should affirm "that (capital punishment) is contrary to the spirit and teaching of Christ, and should work for its abolition."

Though there is some disagreement among Roman Catholic bishops in the U.S. on the issue of the death penalty, the prelates at their annual meeting in

CCD does not even begin to be an adequate substitute for Catholic schools — much less the superior replacement that some of the righteous CCD enthusiasts of the 1960s thought it would be. In fact, as far as appreciable effect on adult religious behavior, the CCD looks like a waste of time, money, and energy.

Immediately, a horde of CCD enthusiasts will stand up to say that they don't agree with me. I don't give a hoot whether they agree or not. The issue is not what one "feels" but what empirical evidence says (though that is a distinction which in the current romantic epoch in the Church seems to escape a lot of folks), and the evidence says that the CCD produces very little, if any effect on those who have participated in it — even on those who have been part of it for the past 10 years of the CCD "revival."

You can keep on having CCD if you want, but don't try to pretend that it is more than a symbolic or ritualistic exercise. It isn't accomplishing much of anything.

But whence, then, the popularity of CCD and the intensity of the moral commitment to it?

I would suggest that the sight of hordes of children pouring into a CCD classroom is a marvelous guilt reducer. The bishop who feels guilty because he lacks the courage to build more Catholic schools, the pastor who feels guilty because he is too lazy to raise the money to keep his school going, the parent who feels guilty because a bigger car is more important than parochial school tuition, the religious who feels guilty because she has fled from her community to a "religious education" apostolate — all of these can take heart when they see the kids trooping off to CCD.

The fact is that the hated and collapsing parochial schools are the best religious education system ever devised; indeed, in a time of transition and chaos in the Church, the parochial schools are more effective educational institutions than even the family — a notable change since the 1963 study. The fact is that we are rapidly phasing them out despite their effectiveness, even though we do not have any adequate substitute. We are closing down a proven educational instrument and trying to replace it with one that will not do the job. And the fact is that we're doing so despite the evidence because we have lost our nerve.

The Church 1976

Fr. Andrew Greeley

The CCD is like busing: you can't be a good liberal and oppose it.

Some of the most hostile reactions to the just published book, "Catholic Schools in a Declining Church," have come from the CCD enthusiasts who are profoundly offended at our finding that the CCD is not an adequate substitute for Catholic schools and is mostly a waste of time and money. Indeed a number of my colleagues simply avoid mentioning the subject when discussing our report. There is always an angry and self-righteous person who stands up and denounces the study — unread of course — because of its "opposition" to CCD. And that's the only thing you talk about the rest of the evening.

Like busing, CCD is a matter of pure faith. No one has ever come up with any evidence that either accomplishes a darn thing. They are both good because one knows they are good. Indeed, despite all the money, resources, hope, energy, and ideology the Church has poured into the CCD during the last 10 years, no one has even thought seriously of attempting a study of its effectiveness. When you know that something is effective you don't have to study it.

I am not particularly "for" or "against" CCD. It may well be a useful symbol of the Church's concern about those who do not go to Catholic schools (an ever-increasing number because of the hierarchy's refusal to build new ones). In some places and on some young people it may have a notable impact. It may be a useful adult educational experience for the teachers; it may protect our semiliterate younger clergy from the temptation to turn away from the TV on an evening and actually read something besides the sports page and the rock music reviews.

But the data of our research show beyond any reasonable doubt that

DAILY NEWS FINAL EDITION

FUNERALS HELD For Gray, Mrs. Snyder



In January 1928, the New York Daily News published this photograph of the execution of Ruth Snyder, who had been convicted of murdering her husband, on its front page. It remains as one of the few photos ever published of an actual electrocution.

November 1974, adopted by a vote of 108 to 63, with two abstentions, a simple statement of "opposition to capital punishment."

Roman Catholic Bishop James Niedergeses of Nashville, Tenn., has said that while he does not favor capital punishment "as carried out today," he believes the state has the moral right to apply the death penalty as a last resort — "to repair the injustice done to others."

The state has "the right and duty under God" to enforce capital punishment "to protect the common good," according to the Nashville prelate.

In sharp contrast, Roman Catholic Bishop Bernard J. Flanagan of Worcester, Mass., has declared that capital punishment is "counterproductive" to the pro-life stand of the Catholic Church.

Recent developments in criminology and society have brought a "rising swell of moral revulsion in most Christian countries to the infliction of capital punishment," wrote Bishop Flanagan in a recent issue of his diocesan paper.

Noting that the finality of the death penalty "precludes the possibility of conversion and rehabilitation," the bishop said: "Capital punishment is counterproductive to the major thrust of the Church in the world — to promote respect for the sanctity of life as a God-given gift, a right which belongs to every person, from the fetus to the aged."

Bishop Louis E. Geineau of the Roman Catholic Diocese of Providence, R.I., joined with the state's other major religious leaders in denouncing the death penalty as "an attack upon the inviolability of human life and an affront to human dignity."

Signatories of a 1,140-word statement to Rhode Island officials calling for abrogation of the state's 1973 mandatory death penalty law included Bishop Frederick H. Belden of the Rhode Island Episcopal Diocese; the Rev. James W. Webb, general secretary of the Rhode Island State Council of Churches; Rabbi Jerome S. Gurland of Temple Sinai, Cranston; and the Rev. Robert Carter, president of the

black Ministerial Alliance of Providence and Vicinity.

"We affirm that there is a higher value than that of punishment, namely, the value of all human life and society itself," said the religious leaders, adding:

"Our opposition to the death penalty is also an affirmation of the sacredness of all human life and an appeal to all for greater individual and societal efforts for a more humane and just society."

Defense attorneys for the six condemned murderers, whose cases are under review by the U.S. Supreme Court, have argued that the new "mandatory" death penalty laws operated in the same constitutionally "capricious" and "arbitrary" way that earlier "discretionary" laws had.

Stanford University Law Professor Anthony Amsterdam, who has led the National Association for the Advancement of Colored People Legal Defense Fund's long war against executions, contended that even if the new laws require neutral enforcement of the death penalty, there is inevitably "play" in the system.

Prosecutors, for example, can always decide against bringing a capital charge and juries can convict for a lesser offense. This "elaborate windowing process," said Mr. Amsterdam, means only that an "arbitrarily selected" few are sentenced to death.

Supporters of mandatory death penalties, however, have argued that the new statutes do as well as is humanly possible and that execution, in any event, is necessary to deter violent crime.

There are 529 persons under death sentence in 30 states. Whether they are eventually executed, or allowed to live, depends now on the judgment of the nine justices of the Supreme Court.

CHICKEN BARBECUE

Lyons — St. Michael's Church has scheduled a chicken barbecue for Sunday, June 6 at Firemen's field on Water St. Proceeds from the barbecue, scheduled to begin at noon, will go to the parish bus fund.

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