

Death penalty challenged in the United States

by Anita Gallagher

Thanks to growing international pressures and a domestic backlash against the pace of executions, a fight is being waged against the death penalty which could save the lives of two prisoners facing the electric chair in Virginia and Texas. The issue in these cases is not only the lives of two men, but the question of whether the United States will return to the community of advanced civilized nations, in which the death penalty has long been abolished.

That is the view of political prisoner Lyndon LaRouche, who is running for the Democratic nomination for President of the United States. He stated on Jan. 7: "What I plan to do, in addressing the present state of the justice system of the United States, with particular emphasis on the criminal justice system, is to hold up as a horrible example of that which I wish to eradicate from the justice system of the United States, a woman fairly described as the Ilse Koch of the United States, Mary Sue Terry, Attorney General of the Commonwealth of Virginia. . . . Ilse Koch was the famous Nazi who made lampshades out of the skins of prisoners, known as the beast, or the bitch, of Bergen-Belsen.

"Mary Sue Terry has a propensity," said LaRouche, "for celebrating something or other by frying people in her state's electric chair. She seems to delight in frying little retarded black boys, but does not stop there, and is perfectly willing to fry others just as well. What horrifies us in particular, is that a number of these people scheduled for the electric chair are obviously either innocent, or were railroaded to their sentences by aid of either oversight or suppression of relevant exculpatory evidence which might have exonerated them; that Mary Sue Terry wants to rush them into the electric chair, without having this exculpatory evidence weighed. That is a butcher. That is not a man; that is not a woman; that is a monster."

Demand clemency for Herbert Bassette

A fight is being waged to save the life of Terry's next victim, Herbert Bassette, scheduled to die in Virginia's electric chair on Jan. 23. Bassette's case fits the profile of Mary Sue Terry's victims that LaRouche describes above. Bassette has steadfastly maintained his innocence of the killing of 16-year-old Albert Burwell in Richmond in 1979. Bassette is the first person in Virginia ever to be convicted *solely* on the basis of testimony of three so-called "accomplices," two of whom received no jail time, and one of whom was jailed for 12 months.

New evidence of Bassette's innocence has been presented in eleventh-hour *habeas corpus* appeals filed in federal and state courts in Richmond on Jan. 10. A key prosecution witness now says she always believed another man who confessed to killing Burwell, contrary to her testimony at Bassette's trial. The witness says she testified falsely at Bassette's trial because she was afraid, and because *the prosecutor told her to do so*.

A second *habeas corpus* petition asserts that Bassette is "innocent of the death penalty"—in other words, ineligible for it. New interviews with the jurors and the trial judge who sentenced Bassette to death instead of life imprisonment in 1981, confirm that they all decided on the death penalty because they were told that Bassette was convicted of armed robbery in 1966. They were convinced, they said, that if released, Bassette "would do the same thing again." Bassette's lawyers have now located an individual whom they believe is guilty of that 1966 armed robbery for which Bassette was wrongly convicted. Now 45 years old and an employee of the City of Richmond, he has not denied his guilt in meetings with Bassette's attorneys, but says only that he is now too old to go to prison for something that happened in 1966.

Bassette's attorneys have called on Attorney General Mary Sue Terry "to deal leniently with a man who came forward at great cost to himself" in the interest of justice.

Botched executions

An action which will shock almost every nation in the world has been filed by attorneys for Herbert Bassette under U.S. Code Section 1983, a "civil rights" action, challenging Virginia's operation of its electric chair as "cruel and unusual punishment" prohibited by the Eighth Amendment to the U.S. Constitution. The action is based on the botched executions of Wilbert Evans in 1990 and Derek Petersen in 1991. Both these victims bled profusely from the nose and mouth, and repeated electric jolts had to be administered to kill them over a span of up to 20 minutes. Ironically, Wilbert Evans was a hero who acted to save the lives of inmates and guards in a prison riot, but his own request for clemency, which cited his change of character, was denied by Virginia Gov. Doug Wilder. The civil rights petition correctly states that "more dignity is accorded the death of a stray dog" than one of Mary Sue Terry's victims in Virginia. "Death by electrocution is tantamount to being burned or cooked alive, and this is . . . barbaric," the appeal states.

Federal Judge Robert R. Mehri, Jr. denied Mary Sue Terry's request to dismiss the civil rights action on Jan. 14, and has scheduled a hearing on the merits for Jan. 17. Judge Mehri has also ordered Virginia and Terry to turn over the engineering drawings of the electric chair, after Bassette's attorneys argued that they would have "a difficult time proceeding unless we can see the engineering drawings." While Terry's representative, Linwood Wells, told Associated Press, "I'm not even sure we have what they want," Terry's office told Bassette's lawyers a different story—that the drawings were exempt from discovery under Virginia's Freedom of Information Act because of "security reasons."

If all these remedies fail, Bassette's attorneys have filed a petition for executive clemency to Governor Wilder, asking him to commute Bassette's sentence to life imprisonment. The nation's only black governor will ponder the black inmate's request over the weekend dedicated to the remembrance of Martin Luther King's martyrdom for justice. In February 1991, an international political mobilization forced Wilder to grant executive clemency to white death row inmate Joe Giarratano. Oliver Stone, the producer of the movie "JFK" depicting the coverup of the Kennedy assassination which has rocked the U.S. establishment, confirmed on Jan. 8 that he had signed a contract for the rights to Giarratano's story. Their movie, to be entitled "Reasonable Doubt," will explore, among other things, how prosecutors control and manipulate the imposition of the death penalty in the United States today.

Execution stayed in Texas, battle joined

In Texas, Gov. Ann Richards granted a 30-day stay of execution on Jan. 7, the day he was sentenced to die, to

Johnny Frank Garrett, for the murder and rape of a 76-year-old nun, Sister Tadea Benz. Unlike the Bassette case, Garrett has no claim of innocence.

All the more striking was His Holiness Pope John Paul II's plea for clemency to Governor Richards, which stated, "Motivated by a profound respect for the God-given dignity and value of each human life and aware of those who have presented a plea in favor of Mr. Garrett, the Holy Father prays that the sentence will be commuted through your magnanimity and mercy." The pope was joined by the bishops of Texas, and the provincial of Sister Tadea Benz's religious order in that plea.

In her proclamation, Governor Richards states, "I am granting this 30-day reprieve so that defense counsel for Johnny Frank Garrett may fully develop any unresolved issues related to mitigating circumstances surrounding the crime or his background." Though Richards ran on a tough law-and-order platform, this rational action stands in stark contrast to the rush to execution of Virginia's Mary Sue Terry who, for the second time in less than a year, is on the brink of executing a man very possibly innocent.

Though Garrett has now been found by three psychiatrists to be insane and appeals are now in progress, a new execution date of Feb. 11 has been set. His attorney, Warren Clark, told *EIR*, "the propriety of the death penalty is called into question because the individual is insane, and doesn't understand why the supreme punishment should be imposed upon him." According to Bishop Leroy T. Matthiesen of Amarillo, Texas, the chaplain of Sister Tadea Benz and her convent, who also lived across the street from the Garrett family (see interview): "Justice would not be served by executing a man who not only was juvenile at the time of the crime, but also had been raped repeatedly, given to men by one of his five step-fathers, physically abused, and introduced to drugs, all by age of 10." Though extreme, Garrett's circumstances of abuse typify the entire death row population of the United States, 94% of whom were abused as children. In Mary Sue Terry's Virginia, innocence is no obstacle to execution. In Texas, which ranks first in executions in the U.S., a commutation of a death sentence is being sought in an uncontested, heinous murder, on the basis of the dignity of human life.

Governor Richards's office says that a majority vote of the 18-member Texas Board of Pardons and Paroles alone has the power to commute Garrett's death sentence. Garrett's attorney, Warren Clark, disagrees, saying the board relies on the recommendation of the governor, and that as Texas's chief executive, Richards has the power of commutation.

Readers are urged to take this opportunity to change the axioms according to which Americans think. Write Texas Gov. Ann Richards, P.O. Box 12428, Austin, Tex. 78711, and Jack Kyle, chairman of the Texas Board of Pardons and Paroles, P.O. Box 13401, Austin, Tex. 78711, and urge the commutation of Garrett's sentence—a moral action that could turn the tide to abolish the death penalty in the United States.