

## **CAPITAL PUNISHMENT and the FUTILITY of REFERENDA**

By Lester Jackson

***With time growing short and the abolition of capital punishment guaranteed if Hillary Clinton is elected to place justices on the U.S. Supreme Court, death penalty supporters are wasting their energy and resources.***

Despite the fact that substantial majorities of the American people have consistently favored capital punishment, it is on the verge of complete abolition (a 100% certainty if Hillary Clinton is elected). In June and July, I [posted](#) and [re-posted](#) a book-length article explaining why the United States is about to avoidably become more of a murderers' paradise than it already is.

That article also provided a detailed proposal for reversing the trend. But, as I have tried to create an educational and political organization for this purpose, I have been frustrated by dog-ate-my-homework excuses from those whom I had expected to welcome a path back to effective and meaningful capital punishment. Repeatedly, when not altogether ignored, I have been told by professed capital punishment supporters that they have more important things to do.

High on the list of "important things" are the California and Nebraska referenda touted as bringing back capital punishment. For example, it would have lent enormous credibility to my undertaking to have the participation or at least endorsement of Michael A. Ramos, who is not only the San Bernardino County District Attorney but also [President](#) of the National District Attorneys Association. However, Mr. Ramos informed me that he was too busy attempting to "Mend" California's Death Penalty. He sent me this [link](#) to "No62Yes66." At the same time, someone invited me to "like" the [Facebook site](#) of that ostensible reform effort.

Wealthy Nebraska Governor Pete Ricketts has [donated](#) heavily to [Nebraska's referendum](#) campaign to repeal his Legislature's defiant death penalty repeal. When I asked someone who personally knows Gov. Ricketts to put me in touch with him, the response was that the referendum took top priority and to wait until after the election.

At the risk of being a skunk at the death penalty garden party, I view these referenda as counterproductive and actually likely to undermine capital punishment. They encapsulate [everything wrong](#) with the tactics of those who purport to favor capital punishment or even actually believe that they do. These are the reasons why:

**First**, I have a question for the "pro-death penalty" people who repeat what has been tried and failed rather than innovate what cannot succeed unless tried. How long do you think it is going to be before federal judges undo any referendum advertised as pro-death penalty? Californians, of all people, should be quite familiar with the likes of [Thelton Henderson](#) and [Stephen Reinhardt](#). But the most powerful and "worst of the worst" federal judges are rabidly pro-murderer U.S. Supreme Court Justices Kennedy, Ginsburg, Breyer, Sotomayor and Kagan? (A note for bad faith distorters: the term is [pro-murderer](#), not pro-murder. These people do not want law-abiding innocents to be

murdered. They just show [no sign of caring](#) about murder victims or their survivors; they show no sign of caring (other than **pro forma** denials of responsibility) that the lives of convicted intentional murderers [cannot be spared without sacrificing](#) the lives of those never convicted of anything.)

Referenda will be feel-good shams — unless and until these cruel anti-victim authoritarians are subjected to public exposure of their [complete contempt](#) for murder victims, the Constitution, the law and [self-government](#).

**Second**, it is a virtual cliché among those who study government that good government requires good people. The first objective of those who really favor capital punishment should not be the adoption of referenda that will be ignored by bad people, but, instead, the election of good people who will not require referenda for them to do what they should do without referenda.

Nearly 300 years ago, Alexander Pope [wrote](#): “For forms of government let fools contest; Whate’er is best administer’d is best.” A century after Pope, Alexis de Tocqueville [warned](#) of the danger of “imprudent or bad” justices. And a century after that, in 1944, the great Judge Learned Hand eloquently [pointed out](#): “Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to save it.”

In other words, those who follow the Pied Pipers of Referenda are relying on what Hand called “false hopes.” It is pointless to rely on laws without doing something about “bad” judges who will surely emasculate those laws. ***The main objective of death penalty supporters who seek success rather than to feel good about themselves must be to change government personnel (bad judges and elected officials who put them in office).***

**Third**, some may say that it is improper to label the named justices “imprudent or bad.” If so, what is the appropriate characterization for justices who: [blatantly lie](#) about the law to save convicted brutal murderers; turn loose violent criminals [knowing](#) that they will [prey upon the law-abiding](#); [distinguish](#) between harmful and “unharmful” rape; free convicted murderers [knowing](#) that decent human beings [will](#) be [murdered](#) by them; have [contempt for the people](#) and the laws their representatives enact; and who have [contempt](#) for [victims](#) while [shedding tears](#) for murderers? (Limited space precludes listing more than a few of countless available examples.)

**Fourth**, informed advocates surely cannot be unaware of the futility of referenda. I truly wonder if leading advocates are, in fact, charlatan politicians who don’t really support capital punishment at all but, instead, are trying to fool voters into believing the opposite. (Mr. Ramos [aspires](#) to be Attorney General of California. The pursuit of that office requires not so much being tough on crime as appearing to be tough on crime.)

I was recently informed, by the still-pained mother of a beautiful and talented murder victim, that prosecutors rejected a unanimous plea by left-behind loved ones to seek a

death sentence for her clearly guilty murderer. They were forced to endure a trial despite overwhelming evidence of guilt. Although a well-known argument is that capital punishment forces plea-bargained life sentences to avoid the victim agony of sitting through trials, this prosecutor compelled the grieving family to suffer a trial just to get a life sentence. (This does not attenuate [strong evidence](#) that guaranteed life without parole is itself a [fraud](#).)

**Fifth**, referenda and their internet sites give less knowledgeable so-called capital punishment “supporters” an easy way to feel good about themselves — a feeling of “doing something” without actually achieving anything. Hence, many are enabled to convince themselves on the cheap that they support capital punishment. But the grim reality is that, unless these “supporters” get really serious, they are going to suffer total defeat.

**Sixth**, getting serious means doing hard work and making sacrifices for a cause. It means organizing to educate voters as to why their views have been disregarded and why they should base their votes on capital punishment. It means strenuous informational advocacy to explain why respect for arrogant, dishonest federal judges is undeserved and unwarranted; and why their major decisions are not legitimate. Unless those who refused my request for help become willing to enlist in a major [political war](#) effort, a war waiting to be won — will be lost.

**Seventh**, these referenda will divert critical resources from one of the most critical presidential elections in American history. Referenda also afford the many still turned off by Donald Trump an opportunity to feel they have done their part, while not voting for either Trump or Clinton. But one of them will win. Clinton will appoint justices guaranteed to finish the job of abolishing capital punishment. No referendum will mean anything if she is elected. Murderers will be turned loose to prey upon a law-abiding unsuspecting population.

Anyone who does anything to enable her election has no moral right to claim to be a death penalty supporter.

**Finally**, in my youth, a song contained this tautology: “Nothing difficult ever comes easy.” Too many professed capital punishment supporters attempt to achieve self-gratification and not actual real world results. To them, I say: you cannot obtain easily what is going to require a massive effort.

Not gonna happen folks!

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**Copyright © 2016 by Lester Jackson, Ph.D., a former college Political Science teacher, who views mainstream media [suppression](#) of the truth as essential to harmful judicial activism. His recent articles are collected [here](#), [here](#) and [here](#). He is currently establishing a pro-death penalty advocacy and educational organization, Equal Justice for Victims. The foregoing views are his alone and are not expressed on behalf of Equal Justice for Victims.**