

“SOME ORDERS SIMPLY MUST NOT BE OBEYED!”

MARGO SCHULTER is a native of Los Angeles who now resides in Sacramento. She is a lifelong advocate for abolition of the death penalty.

Looking back on my childhood in Los Angeles, I do not specifically recall the day of Caryl Chessman's execution. It took place when I was nine years old. But that execution would become a focus of my growing and passionate opposition to capital punishment.

Growing up in a Jewish family, it is not so surprising that my budding abolitionism should be linked to an awareness of the Shoah or Holocaust. Reading *The Rise and Fall of the Third Reich* and accounts of the Nuremberg trials, I quickly learned that there were orders which must never be followed and killing a helpless prisoner, even a Nazi war criminal, was such an order. I saw the Nuremberg hangings as fundamentally inconsistent with the Nuremberg principle that such killing is wrong, and likewise the hanging of Adolf Eichmann in Israel, which I strongly opposed. I felt tragic disappointment when that took place in May 1962.

At the same time, of course, I took an interest in legalized killings closer to home, in California's gas chamber. This "little green room" was a routine theme for playground discussions in school, and I learned about the brutal realities of carrying out executions in Warden Clinton Duffy's *88 Men and 2 Women*. A local Assembly Member, Lester McMillan, proposed televising executions to

show people what they were authorizing and why it should be abolished post haste. Also, there was a group which staged protests often carried on the local television news: Californians Against State Executions (CASE).

An event summing up my early abolitionist awareness was the 1962 gubernatorial election in California, with Richard Nixon seeking to unseat the incumbent Governor Edmund G. "Pat" Brown. Certainly I did not want to see the election of Nixon, who wanted to extend the death penalty to "big time dope peddlers." At the same time, Brown noted in one pre-election statement that although he was opposed to capital punishment, he was ready to play his appointed role in the sending of prisoners to the gas chamber: "One went at ten o'clock this morning."

Although I was not eligible to vote at the age of 11, I did take the view that I could not vote for a candidate who would carry out executions in my name — a position to which I still hold. The sad irony, of course, was that Caryl Chessman himself was one of those prisoners executed because Governor Brown felt powerless to stop the killing, as Brown himself would later commendably acknowledge in his memoirs, *Public Justice, Private Mercy*.

The prime lessons of the Chessman case for me were that some orders simply must not be obeyed, with an order to kill at the top of the list, and that freedom of speech was a vital human right for all people, including prisoners. Activists such as Assembly-person McMillan and the CASE group energized me as a child, and still energize our struggle."

“WE WALK. THAT’S OUR STATEMENT. WE JUST WALK.”

LYLE GROSJEAN is a retired Episcopal priest. He began walking 25 miles to San Quentin from San Francisco when Caryl Chessman was first called to the death chamber in 1958. Lyle has completed the same pilgrimage for every scheduled execution since then.

He remembers the 1958 General Convention of the Episcopal Church which passed a resolution against the death penalty. The original version is very brief: “The life of an individual is of infinite worth in the sight of Almighty God; and the taking of such a human life falls within the providence of Almighty God and not within the right of Man.” This resolution was reaffirmed at several subsequent Conventions.

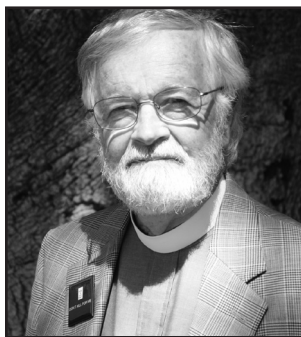
“My connection with the Caryl Chessman case started when I was at San Francisco State College, 1958-61. KPFA in Berkeley and Trevor Thomas, one of the founders of station, did a two-hour radio documentary called “The Coming Death of Caryl Chessman.” It was one of the most excellent radio documentaries I’ve ever heard, before or since. My wife-to-be and I sat on her back balcony in San Francisco and listened to it. We just listened in silence and were moved.

Finally, it got down to a day before Caryl Chessman was going to be executed. We did a little telephone stuff to the people who we knew were interested, and said “We need to do something, what should we do?” The response was “Let’s march to San Quentin!”

I was new enough to the Bay Area that I didn’t know exactly how that would work, but I said OK. There were 10 of us for that first walk: a Wobbly, Norbert Nicols – the oldest walker, a Buddhist, students from SF State and one from UC Berkeley. A few were identified as socialists, and one who was a son of an ILWU organizer.

So there were 10 of us, but there were at least 10 times the amount in media. We had Japanese media, French media, the Chronicle, KRON TV. At one point we walked over the hill from Mount Tamalpais High School to Corte Madera and KRON TV drove up the hill and greeted us. They said “Would you turn around, and walk down the hill and chant something?” This was our first occasion to think about how to handle the media. I said “No, we will not turn back. And chant we may but we will not perform for the media.”

We had developed the position along the way, that this was almost a



meditative, vigil type of a walk. A walking meditation for life, not a political demonstration.

On the day before Chessman actually was executed, you couldn’t miss the 300 of us. We were quite a visible thing coming across the Golden Gate Bridge. But we couldn’t help thinking that something wasn’t right, that some ball was being dropped. Midnight came and he had not been executed. Someone said, “Where can we do the most good?”

It worked out so remarkably because we drove to Sacramento and went to the Governors’ mansion which was the old white carpenter-gothic church on J Street. We got there around 9 a.m. and walked up to the fence with our picket signs.

Right then Governor “Pat” Brown came out. He started to get into his car, but then he saw us and came out to the fence. He said, “I can’t grant a reprieve, I can’t grant clemency, I can’t stop this execution without the permission of (what we understood to be) the parole board.” He had to get a recommendation from them before he could use his executive power. We said, “So call them and tell them that you want them to give you that recommendation! Don’t hide behind them, take action, and get this execution stopped!” That was our profound little bit of legal advice! Ahead of the May 2 execution date, I went to churches along the route and asked if it would be possible to have someone representing the congregation come out on to the steps and say a prayer or words of encouragement. There were few takers.

Since the 1990s, St. Paul’s Episcopal in San Rafael and a couple of other churches have lent us support. They give us a lunch and send us on our way, or join us from there. It’s a long day, and it can be 100 degrees out there in San Rafael. It is exhausting.

In more recent times we’ve declared that “We just walk (against the death penalty).” We walk, and that’s our statement. We carry signs, we don’t want to threaten. We don’t want to exaggerate the importance of what we’re doing. We are doing it as much for ourselves and for the individual perpetrator or victims. We’re doing it because we know there is so little we can do at the last minute but bear witness to life.”

1960-2010

FIFTY RIGHTEOUS YEARS

May 2, 2010, will mark the 50-year anniversary of Caryl Chessman’s execution, an execution that spurred many in California into action against the death penalty. Chessman, a career criminal who had been incarcerated numerous times for robberies and theft, was sentenced to death at age 27. While in San Quentin he wrote and published four best-selling books and appeared on the cover of *TIME* magazine. By alerting national and international communities of the issues surrounding capital punishment, his execution began a movement that many activists consider their awakening.

Today, the tide is turning against the death penalty in California. More and more people are convinced that permanent imprisonment ensures swift and certain punishment for those who commit the most serious crimes. Others have come to see that we can free up funds to investigate all murders and give victims’ families equal due by shifting to life in prison. Still others worry about the cost of human error and the increased risk of executing an innocent person under our current flawed and arbitrary system.

This booklet is dedicated to the many volunteers, policymakers and family members of murder victims who have called for change over the past five decades. Inside you will find stories and recollections from notable personalities from across California. We hope you will take a moment to look back — and ahead — as we look forward to a world with fairness, justice and security for all.

THANK YOU!



“I BELIEVE IN REDEMPTION.”

JOANNE BERLIN is a coordinator for the Los Angeles chapter of Death Penalty Focus.

“I was raised in northern Illinois, in the mid-west at the tail-end of the ‘50s. It was a Republican town and I was raised in a Republican home. I think I was in 9th grade when Chessman was executed. I didn’t read newspapers and I don’t know that we watched that much television at the time, but somehow, in the middle of the country, where this was not an issue for most folks--there was no activism that I was aware of that was going on there--I was very aware of the Chessman case.

Of course at that time they were still using the gas chamber. I’m sure a number of folks were saying that that is totally inhumane whether they were for the death penalty or not. The movie “I Want to Live” with Susan Hayward had just come out in 1958. And we had a debate club (and kids always do the death penalty because they can do a lot of research on it.) So I had already decided by that time that I was opposed to executing anybody. I had a strong feeling that it was not just.

I believe in redemption. I don’t think our culture does right now, I think it believes in revenge. When you take somebody who does something like this



and put them away for the rest of their lives you’re saying they can’t possibly ever change and be out in public again. I don’t believe that.

Not that going to church solves everything, but most people don’t anymore. Therefore most people don’t even hear about redemption anymore. If they ever even knew anybody who has been in prison they would have to know that people

change. Given the prison system, they probably know that most people change for the worse. If you’re on death row, or even on life without parole, you have to either change yourself somehow or you go crazy.

I don’t think such harsh sentencing is good for people in the system and I don’t think it’s good for the culture to be encouraged to think that people cannot change and grow and become somebody who can play a part in society. I just feel very strongly about it.”

“IT CAME TO ME THROUGH MY STOMACH.”

LANCE LINDSEY has been the executive director of Death Penalty Focus since 1995 and has been working for nearly 40 years to advance the causes of education, health, social justice and human rights. He has taught at Arizona State Prison in Florence and in the San Francisco County Jails. Lindsey is a co-founder of California People of Faith Working Against the Death Penalty, founder of Californians for a Moratorium on Executions, and a past member of the board of directors of the National Coalition to Abolish the Death Penalty.

When people ask me: “How did you come to work on this issue?” I say not by way of statistics and arguments for why it’s wrong. It came to me through my stomach as an unexplainable, at the time, gut reaction. As a young man I saw the news that Caryl Chessman was executed and I was completely blown over.

I was raised in an ultra-conservative fundamentalist Christian family who believed strongly in the death penalty. But with this news, I immediately had the sense that the death penalty was deeply and fundamentally wrong. At an instinctual level, I felt that something just wasn’t right about the gruesome fact of there being a gas chamber in California, and that someone was strapped to a chair and slowly, violently poisoned to death. This was close enough to the end of World War II and we were studying the horrendous use of gas chambers in Germany and to me that connected up, again not on any fine level of detail, but just in terms of governments using torture and death as a way to solve perceived social problems (they had gassed not only gays and Jews but also the mentally disabled, political dissidents, criminals, others the state deemed “defective.”). The very idea that we were doing it here bothered me, and it still does of course.

I became the anti-death penalty kid in our family. I got a bumper sticker

for my first car, a ‘52 Ford. Of course my car was egged and rocked and whatnot as a result of it. I was the only person in my very conservative small town that had a bumper sticker like that as far as I knew.

The first thing I did was read Chessman’s book, which actually I still have, this now yellowed paperback, Cell # 2455. This was a case that made a lot of us understand the death penalty in human terms, not just in political or criminal justice terms.

As we know, Governor Pat Brown made the final decision to execute Chessman, which he later regretted. He also became one of the founding board members of Death Penalty Focus. His son, Jerry Brown, also became an outspoken opponent of state-sanctioned killing — at least for most of his political career. So, one of the first things I did when I first starting working at DPF was put together an awards luncheon honoring one of our major funders, Madeline Haas Russell, and asked Jerry Brown to present the award. At this time he didn’t have a political job, he was doing a talk radio show. He used to speak very eloquently on the show about why the death penalty is so wrong.

At the end of the luncheon, as he was leaving, former Governor Brown said to me, “You know, right now I can’t help you with this, but one day I hope to be in a position where I can.” He has not been very helpful as Attorney General, but perhaps if he should become Governor again, he will keep his word. We can hope. Meanwhile, the legacy of Caryl Chessman’s execution 50 years ago continues to linger.



“IT’S TEN O’CLOCK IN THE A.M.! CARYL CHESSMAN HAS BEEN EXECUTED!”

DOROTHY EHRLICH is the Deputy Executive Director of the National ACLU and former Executive Director of the ACLU of Northern California. She is a founder of Death Penalty Focus.

“I was in elementary school. I was eight years old when Caryl Chessman was executed.

Every day there was a recess at 9:45 and then 15 minutes later the bell would ring. We were in these portable classrooms at the time and we would line up in two single file lines and they’d open the doors and we’d go back into the classrooms. The bell rang and we all lined up.

The teacher came onto the little porch and just put his arms out and yelled “It’s ten o’clock in the a.m.! Caryl Chessman has been executed!”

Everyone in the whole class started jumping up and down and cheering, other than

me. In my mind it’s kind of like a 1950’s film in black and white with all these little children jumping up in the air, it’s really a scene I can still see.

I was entirely taken aback. In my family I had learned that this was a moment of sorrow, and instead there was this extraordinary celebration that was universal on the playground except for me.

I don’t think I had any understanding that the whole world was watching. I thought it had only penetrated my household, and it wasn’t a hugely political

Fifty years after Jesse’s death a lot of his themes are quite important. I think we’ve seen a decline in the observance of our rights. I think we’re at a low point right now. We’re seeing a swing because of the so-called War on Terrorism. Whenever we get a war philosophy or war-time status or environment, we see a change in the focus of civil liberties. I don’t think probable cause is a very healthy concept these days! Jesse would not be happy with the current stage and interpretations of the 4th amendment, I can confidently say that.”

“TWO PEOPLE WALK UP TO US IN THE WILDERNESS AND BRING A COURT ORDER TO SAVE A MAN’S LIFE!”

SCOTT CARTER is California Supreme Court Justice Jesse Carter’s grandson. He is a family historian and a retired professor of history and government who taught at Shasta College for 35 years.

Caryl Chessman’s legal claims came before Justice Carter, who was known as ‘The Lone Dissenter,’ five times.

“I remember because it was such a unique event. Two people walk up to us in the wilderness and bring a court order to save a man’s life! It was July of 1954 and my grandfather was on vacation up in the Trinity Alps, his place of birth. I was fourteen years old.

The two lawyers had a tough time finding and hiking to where [California Supreme Court Justice] Jesse was at the time. They argued their case where Jesse was sitting on a tree stump and me standing there in the background, It was a simple case in his mind of procedural due process. Very simple. The process was not followed and sadly the majority of the court did not agree that the process had been flawed. So Jesse went out on a limb to sign that stay of execution.

When I was a senior in high school my grandfather came up to Redding to deliver the graduation speech at Shasta College, which was a new college at the time, a community college. So Jesse gave his speech, and the next day, I believe it was a Saturday, he said “Let’s go down to the local newspaper office, I’m expecting a Teletype. So we went down to the Redding Record Searchlight and coming off the Teletype was this decision from the United States Supreme Court agreeing with his view of denial of due process. I was old enough at the time to understand the relevance of that, and being just a youngster in Redding, California, that was a big deal! He was always kind of my hero and from then he was my hero, big time, right on the top of the list there. He passed away shortly thereafter in 1959.



“WE CAME TO BEAR WITNESS.”

JOHN BURTON has been a recognized leader in the state of California over the last 40 years. He began his career as a deputy attorney general before his election to the State Assembly in 1964. He was then elected to Congress in 1974 and returned to private life in 1983. In 1988, Burton returned to the State Assembly and then moved on to the State Senate in 1996, becoming President Pro Tempore in 1998 until his retirement in 2004. He is currently the chair of the California Democratic Party and of the John Burton Foundation for Children Without Homes.

“The day Caryl Chessman was executed, I was out front of the prison at San Quentin. I was a law student in San Francisco at the time and heard about the execution on the radio. I just got in my car and drove out to the prison—I didn’t know what was going on out front, I just knew I needed to be there. We were a small group, with candles. It was nothing fancy. We came to bear witness because it seemed like the right thing to do.

I remember being struck by the fact that we were going to execute Chessman even though he didn’t kill anyone. He had been convicted under what was

called the “Little Lindbergh Law” which provided the death penalty for kidnapping. Every other execution I knew about was for murder. I think the fact that we were killing someone who hadn’t killed anyone made the case stand out.

It was never about Chessman the person. No one liked Chessman, he was his own worst enemy. In fact, if he had been a nicer person, I don’t think he would have been executed. It was always about what we were doing, we the people of California.

It was an important lesson for me about the power of the criminal justice system. Later in my career, when people advocated making it easier to convict people accused of crimes or to make prison sentences harsher, I would talk about the Chessman case and what happens when we let our hate for a person cloud our judgment about policy.

I have been in favor of replacing the death penalty with more effective alternatives for my entire political career, when it was popular and when it was not. I have never paid a political price for sticking with my beliefs. It’s just the right thing to do.”

