



Canary Lecture: Death: The Ultimate Run-On Sentence

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and unusual because so few convicted murderers are actually executed. These arguments will persuade only those who are already

there is a concerted effort effort to slow it down and because our

measure of caution before the state may take human life. While this conclusion may not be required by the constitutional text, it surely is permitted, and as we learned a few terms back in *Planned Parenthood v. Casey*,¹³⁵ conservative justices are reluctant to revisit major constitutional judgments reached by earlier Courts. The established application of the Eighth Amendment to the administration of the death penalty will continue to give opponents a legitimate platform from which to impede even the most determined efforts to carry out the death penalty on a routine basis.

The political solution is, perhaps, equally difficult to achieve, but it's really all we have left. Any hope that death penalty opponents will just go away (thus allowing the death penalty to be carried out in an assembly-line fashion) is surely unrealistic. Driven

to stay. If we must have a death penalty, we will have to carry it out over their sustained and vigorous opposition.

The key to a solution, if there is to be one, lies in the hands of the majority, precisely those substantial numbers in our midst who strive for the application of the death penalty to an ever-widening circle of crimes. The majority must come to realize that this is a self-defeating tactic. Increasing the number of crimes punishable by death, widening the circumstances under which death may be imposed, obtaining more guilty verdicts, and expanding the population of death rows will not do a single thing to accomplish the objective, namely to ensure that the very worst members of our society—those who, by their heinous and depraved conduct have relinquished all claim to human compassion—are put to death.¹³⁶

