

Keeping time

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Marty Trillhaase, Lewiston Tribune

JEERS ... to U.S. District Court Judge Edward J. Lodge. What's so important about the Constitution when there's a schedule to keep?

Last month, Idaho news groups, including this newspaper, petitioned Lodge on a matter of grave importance: Why, they asked, does the state of Idaho exclude witnesses from the first 20 minutes of an execution?

That's not some morbid or trivial question. It's during this period that the condemned person is led into the execution chamber and strapped down to a gurney. It's when a medical team enters the room, applies the intravenous catheters and then leaves.

Only after that point does Idaho permit witnesses and journalists acting as the public's proxy to watch what follows - the reading of the death warrant, the inmate's final words and the injection of the fatal chemicals. One witness to a 1994 execution called it antiseptic.

All of which means the public must take it on faith that the state Department of Correction is performing this most solemn of tasks humanely and correctly.

Where is that in Idaho tradition? Until lethal injection became prevalent, witnesses saw the entire execution.

And where is that in the law? The 9th Circuit Court of Appeals ruled that in order to hold government accountable, prisons must allow witnesses to view the whole event. Not last month. Not last year. This was in 2002.

Yet, the correction department ignored the ruling when it executed Paul Ezra Rhoades last year.

So far, it has refused to make any changes in Tuesday's scheduled execution of Richard Albert Leavitt.

Last month, media representatives appealed to Lodge to intervene. Lodge agreed the law was on their side: "Plaintiffs correctly cite (the 9th Circuit decision) for the proposition that 'the public enjoys a First Amendment right to view executions from the moment the condemned is escorted into the execution chamber, including those "initial procedures" that are inextricably intertwined with the process of putting the condemned inmate to death.' "

But, says Lodge, enforcing the law would disrupt, possibly delay, Leavitt's execution. And for that, he blames the media for waiting so long to complain. Come back for the next Idaho execution and settle the question in a more timely setting, he offers.

Wait a minute. Who's obligated to follow the law here? Why doesn't Lodge compel the state to show it complies with the federal court rulings? And why did it take a lawsuit to get the state's attention? It has been aware of this issue for at least six months.

If following the law forces Idaho to delay Leavitt's execution, so what? He's been on death row almost 28 years? What's the rush?

JEERS ... to Washington State Liquor Control Board Chairwoman Sharon Foster and members Ruthann Kurose and Chris Marr.

You can't blame the state liquor board entirely for the sticker shock customers suffered last week when liquor sales moved into the private sector. In order to avoid nailing cash-strapped state and local governments, Initiative 1183 ratcheted up taxes on booze. It also imposed a \$150 million balloon payment on distributors, which is being passed on to consumers.

But at every turn, that board has made the situation worse. As written, I-1183 was designed to expand competition. A key innovation was to allow businesses to get around distributors in order to get a lower price for the product.

Instead, the liquor control board has protected the distributors. Here's how:

- It froze retailers out of the market for restaurants and bars that buy in bulk.
- Restaurants and bars will pay more taxes on booze purchased from retailers than from distributors.
- If a retailer buys direct from a distillery, it must pay a fee that is the equivalent of a 10 percent distributor license fee, thereby diminishing the incentive to bypass the middle man.

CHEERS ... to north central Idaho voters. Last month's primary election set an all-time low for turnout - 24.44 percent of registered voters. But in four of the region's five counties, turnout beat the average:

- Clearwater County - 26.75 percent.
- Idaho County - 48.89 percent.
- Latah County - 25.18 percent.
- Lewis County - 42.04 percent.

Turnout in Nez Perce County, however, dipped to 17.84 percent.

JEERS ... to U.S. Sens. Mike Crapo and Jim Risch, both R-Idaho. Along with their Republican colleagues Tuesday, they blocked a Democratic plan calling for equal pay for

women. Republicans dismissed it as a campaign year stunt because Democrats gave them a take-it-or-leave-it vote.

That's small comfort to Idaho women, who earn 74 percent of the rate paid men. Idaho ranks below 41 states and the District of Columbia.

A separate study said Boise is the eighth-worst city in the nation for the disparity between what women and men earn.

In Washington state, the gap is 77 percent - putting it in 27th place.

CHEERS ... to George Washington University law professor Jonathan Turley. You can now purchase the provocatively labeled Five Wives vodka on special order from Idaho's liquor division, and for that you can thank Turley.

Last week, liquor division administrator Jeff Anderson was holding firm. No Five Wives in Idaho. The reference to polygamy was offensive to Mormons, Anderson said. Never mind the product is manufactured and sold in Utah.

Representing Ogden's Own Distillery, which bottles the boutique vodka, Turley said Anderson was violating the U.S. Constitution's Commerce Clause, Establishment Clause (no state religion), the First Amendment (free speech) and the 14th Amendment (due process and equal protection under the law).

He could go on, Turley said, but that "impressive list of constitutional violations should serve to concentrate the mind of state officials ..."

It did. Turley gave Anderson 10 days to respond.

Anderson waited only a few hours. - M.T.