

We are saying, and the minister is saying, that if symbolic punishment exemplified by the means of the whip is no longer acceptable in our federal institutions or as a sentence from the courts, then surely we must say that punishment as a criterion and goal for our federal institutions is as well no longer acceptable. What we have to say is that any institution that oppresses, dehumanizes, brutalizes and torments the inmate is in itself a form of corporal punishment perhaps far more hideous than a whack with a cat-o-nine-tails. What we have to establish is that as long as prison exists to confine as opposed to broaden, to punish rather than to reform and to torment rather than educate, we are administering corporal punishment of the worst variety to almost every single inmate. I think that the government has opened the door, through abolition of corporal punishment, to the recognition of the need to reform our entire penal system.

Of course, I realize that there are never many votes to be gained on the issue of penal reform. It touches far too few of our citizens; it is not a major issue, and so it is probable that this government, like so many in the past, will do little. Nevertheless, the task remains undone and barely begun unless we are prepared to go further along the road of major penal reform. I happen to believe that the deterrent for those who would perform criminal and violent acts, inasmuch as a deterrent exists at all, is the assumption that a person will be detected. I think that any degree of investigation into this area will bring us to the same conclusion. But I think also that there is something totally misplaced in the minds of those who try to judge this in a rational way when they assume that people who commit these criminal acts are acting rationally in the first place. In most cases, if the act is one of a particularly repugnant nature, we are obviously dealing with an irrational act and with a person who, to some degree or other, is acting in a way which we would certainly not describe as normal.

We are concerned, then, about two things. We are concerned that this person should be prevented from performing this act again, and therefore we remove him from society for a time. But tied to that psychology has been the concept of punishment. Now, we are saying that the time has come to regard the recognition of a second, and perhaps even more important priority, and that is the long term interest of society and the individual. We must ensure by all possible means that when an individual comes back into society, he comes back as a different individual. This makes obvious sense, both for his own welfare and for the rehabilitation of his own dignity. Also, it makes sense in terms of society as a whole, because if we release on a daily or weekly basis people into our society who are still sick, who are still on the verge of some kind of violent or criminal act, in what way have we provided protection for the innocent in our society? We have not, and therefore we must admit that to that extent we have failed. I think we must realize that in the change that is being made with respect to corporal punishment we are making a fundamental change with respect to the whole concept of punishment, rehabilitation and protection of society. I hope that many will consider this bill in terms of the improvements that we will be making to society in general.

Criminal Law Amendment Act, 1972

• (1520)

Before I take my seat, I should like to refer to one final matter dealt with in the legislation which I think is quite important, both in itself and by implication. It has to do with the recognition of the right of men and women to participate in jury duty in this country. I think it has been one of the continuing sex anomalies that, at least until this bill was presented, it has not been possible in all cases for women to participate in jury duty. We have continued to embrace, through that anachronism, a kind of second class citizenship for the feminine members of society. I think that the minister and his officials should be congratulated for taking the step they have. Also included in the bill is the change regarding soliciting, which recognizes that the converse of women soliciting for men can be equally true.

I mention these two changes simply to point out that this is but the tip of an iceberg. Increasingly, reports are being placed before us which indicate that in our society there has been a definite, perhaps altogether too subtle at times, discrimination against women. I think that we should treat each and every piece of legislation that is brought before this House with great care so as to make sure that we recognize each individual in his own right and do not discriminate, be it on the basis of race, class, religion or sex.

I trust that we shall have many further opportunities to discuss this legislation, and in particular the provisions I mentioned having to do with some presumption of guilt which I hope will be elaborated upon by the minister when he appears before the committee.

Mr. John L. Skoberg (Moose Jaw): Mr. Speaker, I should like to say a few words on the bill as a layman, not a person with legal talent but rather as one who becomes concerned with the type of treatment many people in our society are receiving today. All too often we in this House and those in the courts of the land pass and deal with legislation when all we are doing is using our direct judgment of the moment. Unless some realistic and humane consideration is given the legislation that we pass, then nothing is going to be resolved so far as the amendments before us are concerned. If we are to be consistent in this House of Commons we should give consideration to those people who, in the last resort, will make the final judgment on those who are covered by the legislation.

It appears to me that all too often those who have to make that final decision let their bigotry get the best of them. All of us remember what happened in Toronto not long ago when a justice of the peace deliberately let his bigotry get the better of him and some people suffered in the process. No doubt the minister will look at this situation and will carefully scrutinize those who in future are appointed to a position where they make a final judgment on others, to ensure that they are themselves able and capable of appreciating the social consequences of any sentence they may impose.

My colleague, the hon. member for Broadview (Mr. Gilbert), dealt at length with the various sections of the bill and I have no intention of recovering that ground at this time as a layman. Let me deal, as did the speaker before me, with some of the provisions in the hijacking section. I