

Capital Punishment

The Hon. Member has already mentioned a number of problems with capital punishment.

● (1540)

[*English*]

I would like to ask the Hon. Member to reflect on a very serious concern which I have with respect to the application of the death penalty, that being the fact that it is applied not to the rich and powerful in societies where it exists, but rather to those who are poor and, in many cases, are racial minorities.

A study was conducted by Professor Kenneth Avio at the University of Victoria which showed that native Indians, Ukrainians and French Canadians, interestingly enough, were executed in disproportionate numbers to English Canadians while the death penalty was in effect in Canada.

The warden of Sing Sing prison said this:

Not only does capital punishment fail in its justification, but no punishment could be invented with so many inherent defects.

It is an unequal punishment in the way it is applied to the rich and to the poor. The defendant of wealth and position never goes to the electric chair or to the gallows.

Juries do not intentionally favour the rich, the law is theoretically impartial, but the defendant with ample means is able to have his case presented with every favourable aspect while the poor defendant often has a lawyer assigned by the court—with no experience.

Similarly, the former Governor of Ohio, Michael Di Salle said this:

During my experience as Governor of Ohio, I found that the men on death row had one thing in common, they were penniless—the fact that they had no money was a principal factor in their being condemned to death.

I would like to ask the Hon. Member, who has spoken with great conviction against the death penalty and outlined a number of arguments, to comment as well on the unequal application of the death penalty in Canadian society.

[*Translation*]

Mr. Gagliano: Mr. Speaker, that is definitely one of the reasons. I wish to thank my hon. colleague for mentioning those facts. That is indeed one of the reasons why we should not reinstate capital punishment.

In actual fact, Mr. Speaker, when a trial is held, everything is a matter of credibility and a jury is asked to judge a person on the basis of facts and circumstances and even in some cases of appearances. This is also the danger I mentioned in my speech, Mr. Speaker, namely the fact that it has been proved that in many instances throughout history, juries and judges erred in sentencing to death people who were proved to be innocent a few years later.

The have-nots in our society whose appearance may not be as neat and whose defence may not be as well prepared as that of well-off people, tend to be more easily sentenced. Because a person is not properly dressed, or does not have a good appearance, that person may give the wrong impression. And these statistics show that more of those have-not people have

been sentenced to death than those who were well-off in our society.

It is unfortunate, Mr. Speaker, that such things can happen under our legal system, and that is the main reason, that is another very important argument, Mr. Speaker, to show that the reinstatement of capital punishment will not solve those problems, but will indeed lead to more injustice. Therefore, instead of spending our time and energy on this debate which the House has been through twice already, it might be more worthwhile having a debate on our criminal law, on our social justice system in order to provide all Canadians with the same justice.

[*English*]

Mr. Stevens: Mr. Speaker, in the main body of his remarks I believe the Hon. Member said in effect that the state should not have the right to kill. Could the Hon. Member expand on that? In the case of war, if we were invaded by an enemy, does he not think the state would be in a position of being able to field an army which would possibly have to kill the invader in order to protect our territory? In short, surely it is a fairly wide statement to say that the state should not have the right to kill.

Mr. Gagliano: Mr. Speaker, I think the Hon. Member took my statement out of context. With regard to capital punishment the state definitely should not have the right to kill. However, when a state declares war it does not declare the intent to kill but rather the intent to defend. The action of defence naturally creates the horrible thing which is war.

As far as I am concerned it is not right to extrapolate from the state's right to kill that parliamentarians can authorize the Prime Minister (Mr. Mulroney) to authorize someone to kill a person because he or she has killed. However, the case of war, in which we have to defend our country, is not the same circumstance.

Mr. Stevens: Mr. Speaker, the Hon. Member rather startled me by using a figure which I know that those in support of abolition often use, that being that since the time capital punishment was abolished in Canada the death rate for murder has not risen. Surely the relevant period to consider is not from when it was technically abolished but from the last time capital punishment was carried out in this country.

Could the Hon. Member tell the House whether he has checked the figures? If he has, would he not confirm to the House that the death rate from murder per 100,000 has more than doubled since the last time capital punishment took place in this country, which means that on average every year 300 more Canadians have been murdered than were murdered on average in the years previous? Does it not concern him that the murder rate would jump so dramatically as a result, at least in part, of the abolition of capital punishment in practice as opposed to the technical abolition to which he referred?