

the death penalty cannot be separated from trends in the use of punishment as a whole. The trend in punishment for about the past 275 years is from the corporal, bloody, and severe sanctions developed through the mediaeval period to the predominantly non-physical forms of today. The progressive movement has been to abandon the gallows and the stake, the butcher knife, the branding iron and the whip, and to adopt some form and degree of fines and imprisonment. The trend in recent years, particularly since the genocidal agonies sustained in Europe during and prior to world war II, clearly and unmistakably has been away from capital punishment. The tendency is to abolish it completely.

If I were asked by a student where he would find a great historic speech delivered by the hon. member for Prince Albert (Mr. Diefenbaker), I would tell him to study the address the right hon. gentleman made on April 4, 1966. This, in my view, is a Diefenbaker classic. He has, of course, spoken on this subject many times. I like his summary in which he said, as the hon. member for Red Deer (Mr. Thompson) said a moment ago, that we have virtual abolition through the suspension of the death penalty today. I agree with him; I think that is fair comment. We do have *de facto* abolition. And I agree with Dean Maxwell Cohen, Q.C. who in 1960 noted that we have a virtual suspension of the death penalty in Canada and said, "Let us legalize our convictions". As it is now applied the death penalty is nothing but an arbitrary discrimination against an occasional victim.

• (5:50 p.m.)

Executions at one time were public spectacles, but they did not have the moral effect which it was thought they would have on the public. Gradually executions became private, or nearly private, since it had become abundantly clear that public executions had failed in their avowed purpose which was to deter others from the commission of murder and other capital crimes. So we have seen the gradual elimination of public executions. I remember seeing, as a boy on Battlefields park in Quebec City, the black flag flying and the great crowds that gathered when a prisoner was to be executed. Though we did not actually see the execution everybody sensed what was taking place. I know that as a society we have become more and more averse to such unaesthetic and revolting spectacles, to such cowardly performances

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where the state in the name of law snuffs out a human life.

It is clear that historically the trend in the popular attitude to the death penalty has been for abolition. We have in fact seen an international movement toward the progressive abolition of capital punishment. Hugo Adam Bedau, who is professor of philosophy at Tufts and is also known at many other United States universities, has written several books on this subject in which he is recognized as an outstanding scholar. He says that the spirit of the times is unfavourable to this penalty and that to prove this is so all we need do is glance at history.

Personally I had hoped that we, in this centennial parliament, might have had the satisfaction of ending this archaic punishment and of ridding our jurisprudence of something that soon, will be ended of in any event. The attitude of the public, of responsible spokesmen of churches, of those who speak for the sociological and penological societies, is that this penalty ought to be abolished. Today in the United States 13 states now are without the death penalty, involving the greatest number and greatest regional distribution of abolition jurisdictions in the history of America. Today more people in the United States live without the threat or the protection, if such it be, of capital punishment than ever before.

As the Solicitor General stated a short time ago, in all the legal jurisdictions of the great United States total executions in 1966 numbered one. In talking about the United States we are talking of 200 million people. Yet notwithstanding this fact the murder rate in the United States has not shown any marked tendency to increase. I point out that in 1960 there were 9,140 murders in the United States, the rate per 100,000 of population being 5.1. In 1965 there were 9,850 murders—the population had increased—and the rate per 100,000 of population remained at exactly 5.1. In the period 1960 to 1965 the murder rate had not changed.

Let us look at the number of executions. In 1960 there were 56 executions in 20 executing jurisdictions; in 1965 there were seven executions in four executing jurisdictions and, as I mentioned a moment ago, in 1966 there was one execution in one executing jurisdiction.

In that country crime and arrest data indicate no substantial increase in aggressive crimes during recent years. This is borne out by an examination of statistics on murder