

*Criminal Code*

the law, by police officers and jail guards. They almost all agree that the death penalty is an important and very necessary means of deterring criminals and that it effectively deters from crime; imprisonment or other forms of punishment could not have the same result.

Mr. Speaker, I think it would be unrealistic to say that a sentence to life imprisonment or to a long period of confinement is a sufficient deterrent because, in practice, life imprisonment will not really exist. There will be a tendency to shorten the sentence; people do not remain angry long enough.

Mr. Speaker, we had evidence of that in the case of the prisoner Leopold Dion. I am told that the judge who presided at Dion's first trial had recommended that that prisoner never be paroled. But the authorities deemed it advisable to parole him and you know what happened: four young people and a guard lost their lives.

● (5:50 p.m.)

As I said, people do not remain angry long enough to insist on true life imprisonment or on very long sentences. When a murderer has served a sentence for, let us say 9 or 10 years, people begin to look at the other side of the question, that is the hardship such long confinement has been for the prisoner, and to admit more easily that that man is now a different person from a mental as well as a spiritual point of view and that he should be given the opportunity to return to society.

The second argument I would like to deal with is to the effect that the death penalty is irrevocable. There is no doubt that the hanged man will not recover the life he lost. By definition, any penal sanction is irreparable. Whoever is sentenced to imprisonment will not recover the freedom of which he will be deprived by that sentence. Should all punishments be abolished for that reason? What is meant probably is that the death penalty is too harsh and final. In that case, it is only a matter of degree. How can that degree be established? Is it the rule that the harshness of the penalty must not exceed the seriousness of the crime? Now, the greatest crime of all is to deny one's fellowman voluntarily, and I insist on the word voluntarily, of the priceless gift of life. He therefore deserves the ultimate penalty, death.

Third, that capital punishment might result from a judicial error and an innocent person might be executed. That is a possibility, Mr. Speaker, but very remote and doubtful. It is difficult to give conclusive cases, for it is not enough for someone to accuse himself of a

crime for which another was punished to conclude that the latter was innocent. To wit, the Coffin case. Had Simpson been killed, either murdered or in an accident, before recanting his confession, it is easy to imagine what use abolitionists would have made of it. No one would have dared express any doubt about Coffin's innocence. And in spite of Simpson's recanting, are there not some who still believe Coffin innocent?

This is what the joint committee of the Senate and the House of Commons on capital punishment had to say about the possibility of error, on June 27, 1965, as reported on page 63, article 60 of the White Paper on capital punishment:

Considerable emphasis was put on the risk of irrevocable error in capital convictions. The fact that there was no known Canadian instance of the execution of an innocent person indicated the effectiveness of present procedures by way of trial and executive review and this suggests that the risk of error does not present a reasonable argument for abolition in Canada.

And even when the right hon. member for Prince Albert (Mr. Diefenbaker) pointed out that there had been judicial error, he mentioned the United States and England, but did not point out a single case in Canada. The alleged mistake can only occur when society performs a duty made imperative by the common weal. Individuals and social groups are unable to perform this duty. Therefore, public authorities have no other alternative. I believe, Mr. Speaker, that the manner in which the law is applied in Canada in murder cases provides the required safeguards to prevent an innocent person from being put to death.

In 1961, an amendment to the Criminal Code divided murder into capital and non-capital murder. Incidentally, Mr. Speaker, when the vote was taken on those amendments, I was one of the 17 members who voted against them.

And I too feel, like the hon. member for Kamloops (Mr. Fulton), that since 1961, nothing has been changed in the rehabilitation procedures and other methods used to reform prospective criminals to prompt me to change the opinion I had in 1961 about those amendments.

Capital murder is a planned and deliberate murder committed directly by the accused or on his advice during the perpetration of certain crimes with violence, directly by the accused or on his advice, and when the victim is a police officer or a jail guard in the