

Capital Punishment

like Tom Payne who said that you have to represent the people who voted for you?

Eventually I came to the conclusion that in a democratic society where there is a basic concept of moral conscience on issues which are firmly held and not lightly held—and there is no question of majority opinion—the elected representatives had to take some note of that opinion or else they would bring the whole process of law-making into disrepute.

A law which is not accepted by the majority of the people to whom it applies can never be a good law. I have not changed that opinion, although I hope the trend of our times would be toward less and less severity of the sentence, more and more emphasis on rehabilitation and the possibility of rehabilitation, and a reduction of the number of circumstances in which punishment of this order would even be considered.

I would hope the ultimate penalty would be reserved for those who were totally unmanageable in the present context of our prisons, the repeat murderers, those whose guilt is established beyond any question of a doubt, and those about whom it can be said that the circumstances were just about as brutal as the human mind could conceive. There are not many such cases—perhaps 1 per cent of the murders that take place.

Presently in the United States there is one man who has committed four murders of other inmates and prison guards since being incarcerated under a life sentence. I do not think our prisons are capable of coping with a substantial number of such persons incarcerated within them. The concentration of 15 or 20 of such persons within a single institution strains the situation. The lives of other prisoners are in jeopardy, as well as the administration of the institution itself, which brings disrepute upon our society.

I should like to refer to an article which appeared in *Weekend* magazine dated November 19, 1977. It cites the result of a poll which was taken in 32 urban centres. A total of 1,078 people were questioned. They were asked: "Do you think there is ever an occasion when it is all right for society to execute a criminal?" The article indicates that 73 per cent said yes, 14 per cent said no, and 13 per cent said they had no opinion.

Those who said yes, that the death penalty should apply, were asked what kind of crimes it should apply to. Here is the table: for child murder, 72 per cent said yes; mass multiple murder, 71 per cent said yes; premeditated murder, 67 per cent said yes; killing prison guard, 62 per cent; murder during a crime, 53 per cent; child rape, 42 per cent; terrorism, 34 per cent; treason, 28 per cent; hijacking, 28 per cent; kidnapping, 26 per cent; drug trafficking, 25 per cent; child abuse, 21 per cent; child molesting, 21 per cent; rape, 19 per cent; and manslaughter, 19 per cent.

This is an issue which cuts across traditional allegiances. The people who took the poll noted that the lowest and highest income groups were most favourable to capital punishment: 86 per cent of those earning less than \$3,000 a year and 84 per cent of those making more than \$25,000 a year favoured the death penalty. Men were more likely to favour it than women.

[Mr. Francis.]

The figures were: 79 per cent of the males favoured the death penalty, and 68 per cent of the females. Understandably, females in our society were more in favour of the death penalty for crimes against children.

There were regional differences across the country. British Columbia was the province that most strongly favoured the retention of capital punishment. Perhaps some recent happenings in the prisons of that province had something to do with that. The Atlantic provinces and the province of Quebec were the areas least in favour of capital punishment. Only 70 per cent of Quebec residents favoured it. In terms of age groups, those who were examined between the ages of 30 to 34 were most strongly in favour.

I have no reason to reject the results of such a survey, nor do any other members of this House. The resolution before us requests the government to consider the advisability of a referendum on the subject. There is no question what popular opinion on a referendum would disclose. I suggest to Your Honour, and to the members of this House that this poll is substantially correct. As far as my constituency is concerned, all I know of the subject is consistent with the results that are revealed.

We have to ask ourselves, as law-makers, what our responsibility is. The thing which bothers me most is to what extent we are free, or should we reflect upon decisions which have been taken by this House? A decision has been taken as a result of a long, free debate. The suggestion on previous occasions that there was not a free exercise of conscience for members on this side of the House is one I firmly repudiate.

● (1712)

I was not alone on this side in voting against the abolition; many of us stood and were counted. It was a free vote of members of the House of Commons, freely expressed, and I believe that any decision on a matter as fundamental as this should stand for an adequate period of time to test the validity of the decision. I do not believe that we serve our own purposes or those of the nation well if we take a decision one day and reflect on it by some action the next.

I have not changed, in any respect, the views I held at the time I rose in my place to cast my vote in the House, but I do not believe that the process of consultation, referendum or plebiscite can be used ad infinitum or for a large number of purposes without reflecting on us. We have, it is true, a proposal before the House which was made in the debate on the Speech from the Throne by the Prime Minister (Mr. Trudeau) for a referendum on the subject of national unity. I believe that the term sophistry, casuistry or some other fancy term was used by the mover of the motion to suggest that because the Prime Minister had agreed to a referendum on national unity, it was perfectly in order to have this additional one, and that if we were opposing it we were doing something which is somehow less than straightforward or honest.

An hon. Member: Inconsistent.