

Criminal Code

been restrained from committing the second offence if he had been flogged on the first occasion. So far as these 440 cases are concerned, it appears that a sentence of imprisonment or penal servitude without corporal punishment was no less effective in deterring the offender from committing a further offence of robbery with violence than a sentence of imprisonment or penal servitude combined with corporal punishment.

Again, on page 81 there is the following:

For the most part, corporal punishment is ordered for those who have either committed a crime of violence such as armed robbery, assault or rape, or for those who have committed a sex offence interpreted as disgusting, such as sodomy or incest. The people who commit these crimes are those least likely to benefit from corporal punishment. They are the emotionally unstable, probably aggressive people who will only react with further violence. As far as sex offenders are concerned, these people are unable to control their emotions and will commit further crimes even against their own wishes.

There probably are unusual people who would respond favourably to corporal punishment, but they are very difficult to identify, and certainly no court has the facilities to select them . . . Any possible deterrent effect is further weakened by the necessary time lag between the crime and the infliction of the punishment. If the offender could be punished immediately he commits the offence he might connect the two, but there is delay while he is awaiting trial, and further delay of some weeks to allow for appeal; only then is the lash administered. By that time, the connection between the crime and the punishment is not very clear.

Again, Mr. Speaker, referring to the report of the parliamentary committee to which the hon. member for Vancouver East (Mr. Winch) made reference, there is in my opinion a very significant table on page 43 giving the number of convictions in cases where corporal punishment might have been inflicted in addition to the normal punishment of imprisonment and also giving the number of cases where corporal punishment was actually ordered to be inflicted. I think the two figures of significance occur in the years 1931 and 1954. In the year 1931 there were 1,360 cases where corporal punishment could have been inflicted in addition to penal servitude and there were 165 cases out of that number where corporal punishment was actually ordered to be inflicted. In the year 1954 we find that there were 2,344 cases where corporal punishment might have been inflicted and actually only 14 cases where the judges who imposed sentence thought it fit as a result of their deliberations to impose corporal punishment.

From these figures I would derive the impression that the people best qualified and whose duty it is to inflict this means of punishment have come to the conclusion over the intervening period of time that flogging does not have the effect of deterring or reforming. I would suggest that these circumstances be borne in mind when considering the effect of the proposal before us.

Finally, I have it in mind that there are still quite a number of jurisdictions in Canada where police magistrates can be appointed without necessarily having the qualifications to exercise the functions of a judge which in my opinion they should have. That being the case, and bearing in mind that in my experience 90 to 95 per cent of criminal cases are actually tried at the magisterial level, I would be most reluctant to see continued a state of affairs whereby we put into the hands of these possibly unqualified people the right to inflict punishment of this kind. For these reasons I am in favour of the principle of the bill and feel obliged to support it.

Mr. F. J. Bigg (Athabasca): Mr. Speaker, corporal punishment should be abolished. I make that flat statement because as soon as we start to talk about degrees of corporal punishment we are in deep water. I agree that corporal punishment should be abolished entirely not only in our courts but also in our penal institutions as well as in the home. I was raised in a home under a father of the old school whose word was law and any exhibition of normal boyish enthusiasm was frowned upon. However, I was also made aware at a very early age that both my father and mother loved me very dearly. Therefore any bad effects which corporal punishment may have had upon me were dissolved by love and kindness. So far as my moral welfare since that time is concerned, those of the old school might argue that I was a reasonable person because I had a stern father. I refute that argument and say that in so far as I am socially mature, it is because I had loving parents.

If we apply what I have said to the present problem I think hon. members will have to agree with me that corporal punishment is long out of date. The mores of a community are usually established long before the laws are adjusted to fit those standards. If we look at the history of the world and the history of law we see that there is a strange parallel between the reduction of cruelty and the advancement of democratic principles. Where there is dictatorship there is cruelty. Where there is freedom there is mercy. It is extraordinary that we should have to labour this point in a Christian community but we do. People who are of the old school will quote scripture but Shakespeare says that "the devil doth quote scripture to his purpose".

I think corporal punishment is a very evil thing and should be uprooted. Those who say "spare the rod and spoil the child", are trotting out the words of the old testament in order to uphold this old, worn-out argument. Those who really want to see progress