

through all the stages of binding over to keep the peace, probation, approved school, and prison, have yet become habitual criminals. They appear to be beyond all human reformatory agencies.

The underlying and governing idea in the desire for retribution is in no way an eye for an eye or a tooth for a tooth, but rather that the community is anxious to express its repudiation of the crime committed and to establish and assert the welfare of the community against the evil in its midst.

[Translation]

Mr. Speaker, I would like to give a brief summary of my views on this matter. I think the time has come for our modern society to have enough confidence in the individual who, in spite of his errors, has a right to rehabilitation. In my view, those who, at the same time that they advocate individual liberty and civil rights, speak out for abolition of corporal punishment, deserve our support.

For my part, I must say I cannot deal with the matter without a certain degree of emotion as for many years I was a defense attorney. I must confess, Mr. Speaker, that I am showing partisanship when enthusiastically advocating the abolition of corporal punishment except in the case of some extremely serious offenses, when it has been established that corporal punishment is the only possible solution.

I remember, Mr. Speaker, that in my youth, when my father deemed the usual normal means to be inadequate, *manu militari*, or a spanking, as it is known to us, often solved the problem. Evidently, that is perhaps why I went to the bad and am now a member of the House of Commons. However, I must say that in such pleasant company, both that of government members and that of opposition members, I have no complaints.

[English]

Mr. John Gilbert (Broadview): Mr. Speaker, first I should like to thank the hon. member for Egmont (Mr. MacDonald) for his concern and his progressive thinking with regard to this important matter. When I heard him describe the vivid and horrible detail of what happens to a young man when the broad strap is applied to him it made me feel ashamed to be a Canadian when this law is on the statute books. The hon. member could have gone into more detail with regard to the effect of the cat-o'-nine-tails when it is inflicted on a young man. It takes a person days and sometimes weeks to recover from the welts on his back. He could have told us that the strap is perforated so that the soft flesh on a man's buttocks is drawn up and torn with each stroke. This is the type of law we have.

The hon. member for Egmont suggests that this bill be referred to the Standing Committee on Justice and Legal Affairs. I am inclined to disagree with him because we have had studies on this matter and have gone into the matter in detail. When I think of some of the studies there have been on this matter, it would seem that it is now time for action. Back in November of 1968 when the Commissioner of Penitentiaries was before the Committee on Justice and Legal Affairs I asked him certain questions. These questions are recorded in the report of

Criminal Code

the Ouimet committee which came out in March 1969. In 1968, as recorded in the Ouimet committee's report, these are the questions I asked and the replies by the Commissioner of Penitentiaries at that time:

Mr. Gilbert: Mr. Commissioner, I would like to direct other questions to you with regard to corporal punishment—

Mr. MacLeod: —As far as institutional corporal punishment is concerned, it cannot now be imposed in an institution without the specific approval of the Commissioner of Penitentiaries. Of course, we have very elaborate regulations governing the manner in which it is to be imposed. No more than ten officers can be present. The prison psychiatrist or medical doctor must be there; the warden or deputy warden must be there. The punishment can be stopped at any time by the doctor or the psychiatrist or the warden or deputy warden. Of course, the only problem with making rules about corporal punishment is that the more humane you try to make them, the less humane the operation looks in the end result. My own feeling is that the tendency is for it to go into disuse as a possible prison punishment and, of course, when that happens then presumably the regulations in the act will reflect the practice.

Mr. Gilbert: In other words, you would not have any objection if I brought forth an amendment to repeal that particular section?

Mr. MacLeod: I would not, no. As a judicial punishment, it is remarkable that it is reserved under the Criminal Code for offences that involve the use of violence or the threat of violence by the offender. Our people seem to think that it may have a useful short-term benefit if it is imposed on an offender, but ultimately society reaps more violence from him than it inflicted upon him.

The Ouimet committee states:

The committee agrees with this view. We are of the opinion that corporal punishment is contrary to modern prison philosophy and practice and we recommend its abolition.

Mr. Speaker, that is in respect of corporal punishment in Canadian penitentiaries as a disciplinary measure. It is pointed out in the Ouimet report that from January to October 15, 1968, there was only one case of infliction of corporal punishment. In 1967 there were 19 cases, and in 1966 there were 32 cases. So one can see that the practice is falling into disuse. The hon. member for Egmont said he found there has been no practice of corporal punishment in provincial institutions. The Ouimet report states that Manitoba is the only province or territory which has used corporal punishment as a prison disciplinary measure in recent years.

The report also states that it still appears in prison regulations in British Columbia and Newfoundland but has not been used in those provinces for some decades. So there we have it. It is not being applied in provincial institutions and yet it is applied in federal institutions. We also have the words of the former Commissioner of Penitentiaries with regard to his proposed abolition of it.

● (5:40 p.m.)

Mr. Speaker, as a result of that interview with the commissioner I brought forth a bill which is exactly the same as the bill now before us. That bill was brought forth in December of 1968, two years ago. From that time until now there has been no action. I wonder why we have had no results. The Minister of Justice (Mr. Turner) has done very little with regard to this important matter other than bring forth the omnibus bill on the Criminal