

Criminal Code

reasonable doubt exists as to the basic value of capital punishment. There is reasonable doubt that this nation gains any great benefit from the use of the gallows. It is my understanding that in their wisdom the courts of this great land caution the many Canadians who are asked as jurors to judge their peers to remember that, if a reasonable doubt exists, that doubt must free the accused and the condemned. Mr. Speaker, in this case, that doubt is present, and as a member of the jury judging capital punishment, I must, in all human conscience, cast my vote for abolition.

I have mentioned reasonable doubt as to the effective value of the ultimate penalty. There is another area of reasonable doubt which is in my opinion of prior importance and could well be the prime consideration in regard to the whole issue before us.

In this twentieth century, in spite of all the knowledge and experience at our disposal, there is possibility of error whereby an innocent person has, and under our present Criminal Code can be put to death for a crime which he or she did not commit. In this debate actual cases have already been mentioned in this connection. I am sure that there are and must be many more.

● (8:50 p.m.)

Professor Borchard, of Yale University, in his book "Convicting the Innocent", has collected 68 cases from England and the United States in which innocent persons have been convicted of crime. Twenty five of these cases involve murder. No doubt error is not discovered as often in murder cases as in others. With the execution of the supposed offender further investigation usually ceases, whereas in other kinds of offences investigation by the family, friends and legal advisers of the convicted person frequently continues.

I could refer to the royal commission in England appointed by Queen Victoria in 1864 and the summary report which quotes evidence by Sir Fitzroy Kelly, a former attorney general and solicitor general as follows:

After careful consideration and examination, he has come to the conclusion that it is not in any way reasonable to be doubted that in many instances innocent men have been capitally convicted, and in certain numbers of instances, few of course, but yet formidable numbers, have been actually executed . . .

He well remembers that there were, between the years 1802 and 1840, 22 cases of capital convictions, seven of which resulted in the execution of the convicts, and in the rest of which the sentence was mitigated, or a pardon granted. But in the

whole of the 22 cases, the innocence of these persons was established, or at least, established satisfactorily to those who investigated the matter, and in most of the cases to the satisfaction of the advisers of the Crown.

It took the British parliament, which is the mother of this parliament, 100 years to recognize gross injustice and take steps to correct this injustice. This matter has been under consideration here, in this very place, off and on, for half a century.

Even the strongest proponents of retention, Mr. Speaker, if they will examine their own consciences, must have at least one reservation. This could be predicated on the possibility of an innocent person paying with his life for the crime of another. This possibility is usually minimized as insignificant statistically when viewed in the interest of the public and the nation.

In conclusion, Mr. Speaker, I must insist that while any shadow of doubt exists, while an alternative exists, no matter how imperfect that alternative may be we dare not use the prerogative which is ours to exercise the supreme penalty. If hon. members will consider this one point and this point only, I am sure that they will come to only one possible conclusion namely that capital punishment should be abolished.

Mr. W. H. A. Thomas (Middlesex West): Mr. Speaker, I appreciate very much this opportunity to put on the record for the benefit of the people who sent me here to represent them the reasons why I am going to vote as I will vote on the matter now before us. I have found it, as many others have confessed to finding it, a very difficult decision to reach. For many months there has been a deluge of literature and of arguments both for and against the abolition of capital punishment in Canada. Arguments have been drawn from many sources to support the opposite conclusions so strongly held by responsible individuals and highly respected organizations. In the end, each member of this house is left with the responsibility to weigh the evidence and to judge for himself or herself how his or her vote should be cast.

The purpose of capital punishment is to serve as a deterrent to crime. If capital punishment is not a deterrent to crime, then there is no reason to retain it as a penalty in our Criminal Code. This debate, then boils down to whether or not capital punishment serves as a deterrent to crime. I believe that it does, and holding this belief I cannot support the resolution for abolition.