

Criminal Code

who were capable of exerting a formidable public opinion. As this public opinion became more humanized by religious influences and better informed by the interchange of ideas and by increased knowledge of human behaviour, a public moral conscience began to emerge. As this moral conscience has developed there has been a definite rejection of the old basis of revenge and retribution, as the hon. member who has just taken his seat went to some pains to point out.

The death penalty was rejected as a punishment for the crime of stealing and there has been continual progress in that direction. It has been abolished for one crime after another until today it is imposed only for the most culpable forms of murder. The question now before us is, should it be retained even for such crimes and, if so, on what grounds can it be justified? We have already rejected revenge and retribution as sufficient justification for this punishment.

People who support the retention of capital punishment have tended more and more to base the justification on its efficacy as a deterrent. This in itself, is controversial because as we evaluate the experience in countries where this penalty has been abolished and compare it with countries where it has been retained, we find there is no clear balance of evidence one way or the other. There are statistical surveys which tend to show that when social and economic conditions, as well as other conditions, are similar there is no difference at all even among the different strata of society between countries which retain the death penalty and those which have abolished it.

In the year 1956, this parliament set up a committee to go into this question. This committee recommended that the death penalty should be retained. They based their decision largely on the ground that crime patterns in Canada were, in many respects, different from those in European countries. It was their belief that in Canada, at least, the death penalty was a greater deterrent than any other form of punishment. I think we must give due weight to that decision which was arrived at only after a most thorough investigation and deliberation. If we accept the finding of this committee as a fact, and I see no reason why we should not, then we must still ask ourselves, should this ground of a deterrent be the overriding factor? In my opinion, it should not be.

I submit, Mr. Speaker, that the overriding factor in cases such as these should be simply, is it morally right or is it morally wrong. The death penalty is justified on the ground that human life is sacred and it is morally wrong for one individual to take the life of

another. If it is morally wrong for an individual, how can it be morally right for the state? It can only be right for the state if our concept of the state is such that we regard it is an impersonal body, such as a corporation. In some textbooks a corporation is defined as something which has no body to be kicked and no soul to be damned. I point out that is the very concept which has been developed by the communist state and by other states which are based on materialistic considerations. I believe we must reject that concept of the state and accept the fact that the state must be morally bound the same as the individual, and that the state is no more or less than what the individuals who have been entrusted with its administration make it.

We know today a great deal about human behaviour and the effects on human behaviour of such factors as heredity, environment, etc. Some of these factors are the creation of the state and are the responsibility of the state. To the extent that these factors have contributed to the behaviour of the person on whom the penalty is to be imposed, then the state itself is not above blame. In insisting upon the imposition of the death penalty the state is like Pilate washing its hands and rejecting its responsibility. This point can be developed to some extent, but I realize other speakers want to participate in this debate.

Having mentioned what in my opinion should be the overriding consideration, I should like to mention the second factor which should be taken into consideration. I refer to the risk of hanging an innocent person. There can be no doubt that that risk exists; there can be no doubt that innocent persons have suffered the death penalty. I do not believe the state can shrug its shoulders at that fact and say, it is too bad but society did it because society has decided that this person is not fit to live amongst us. It is one thing to say an individual is not fit to live amongst us, but it is another thing to say he is not fit to live at all.

If we are to be consistent and build up the law of our country on a moral foundation, if we accept the moral basis of the sacredness of the individual, then I feel we must avoid the risk of taking the life of an innocent person. In my opinion these two considerations, the morality of the thing and the risk of taking an innocent life, outweigh the consideration of the death penalty as a deterrent. For that reason, I heartily support this bill.

Mr. E. L. Morris (Halifax): Mr. Speaker, in rising to take part briefly in this welcome debate originated by the hon. member for York-Scarborough (Mr. McGee) I attest to no specialized knowledge. I am not a