

Amendments Respecting Death Sentence

same courtroom, defending another person charged with capital murder. Clearly the execution of the first man has failed as a deterrent in respect of the second. I am not prepared, in my own mind, to say that the moral guilt of the one sentenced to death was greater than the other, although the second man escaped the gallows.

I accept the fact, and I suppose all lawyers must, that there are certain anomalies in the law. But I have never ceased to be disturbed by the fine line drawn between murder and capital murder and previously between murder and manslaughter. I believe that where that line has been drawn in the past has sometimes been determined by the experience and competence of counsel. I believe the fineness of the line is reflected by the reluctance of juries to convict of capital murder.

Some hon. Members: Hear, hear.

Mr. Pennell: I come back to the question I posed a moment ago, Mr. Speaker: Whom does the death penalty deter? There are, in my view, three classes of murderers. There are those who are clearly insane. There are those who act in a state of passion, with hate, jealousy, love, all the primary emotions, in a moment when they have no conscious concern for what they are doing. Then there is the third category, those who commit their offence after careful, deliberate calculation, with an indifference to the penalty because they are sure they are going to escape detection. The number of unsolved crimes proves that sometimes they are right. But, Mr. Speaker, clearly to the murderer who plans and calculates his action the death penalty is not a unique deterrent. In my view the most effective deterrent is the certainty of detection and conviction. I believe there would be a great decrease in crime generally if the offender knew that he would be readily apprehended and convicted.

I now turn to the second major argument which is used to tell against the abolitionists. It is put most forcibly in the words of Lord Denning:

The punishment is an emphatic denunciation by the community of the crime: and from this point of view there are murders which, in the present state of public opinion, demand the most emphatic denunciation of all, namely the death penalty.

With the greatest respect, I submit that on close examination it will be seen that this statement is really the principle of retribution carried to its ultimate degree. It is the enunciation of the principle that I understood an enlightened opinion had long ago rejected.

[Mr. Pennell.]

It offends the three basic principles of our penal system. We seek to punish the offender, we try to reform him, and we aim at deterring others from repeating his offence.

Under our laws we do not disfigure or maim a man who has disfigured his victim; we do not burn down the house of a man who has committed arson. I accept the proposition that punishment necessarily implies a measure of retribution, but I believe we can manifest our denunciation as clearly and completely by the substitution of life imprisonment for judicial execution.

No hon. member believes that a murderer can pay for another person's life with his own. Nothing we can do can possibly atone the taking of human life. I believe that so long as the state claims the right under the law to deliberately take human life—there will be a tendency to regard life more cheaply.

Some hon. Members: Hear, hear.

Mr. Pennell: I believe there is a responsibility upon the state to set the example. We can denounce the terrible conduct of murderers far more impressively by declaring our profound belief in the sanctity of human life and substituting a sentence of life imprisonment. I think it is worth while to offer to the house these words of John Bright:

A deep reverence for human life is worth more than a thousand executions in the prevention of murder. And it is in fact the great security of human life. The law of capital punishment while pretending to support this reverence does in fact tend to destroy it.

Some hon. Members: Hear, hear.

Mr. Pennell: I believe, sir, that with the abolition of the death penalty we can set an example, as a government, of our respect for the sanctity of human life to a world that is sorely in need of a higher regard for human life and a higher standard of humane conduct.

It is impossible to leave this subject without reminding the house that in any system of administration of justice, however mature and refined, miscarriages of justice are bound to occur. It is for the house to decide whether we have the moral right to ask the court to impose a sentence which by its very nature is irreversible once it is applied. Whatever care may be taken, the possibility of a mistake is bound to arise. It has arisen in the past and it will arise again in the future.

I propose to single out one well known case for a very brief examination. Timothy