

Criminal Code

will increase if you abolish it, but it will not, because, you see, the great deterrent to crime is not severity of punishment but certainty of conviction, and you will find the conviction rate will go up". Second, he said, "We all underrate the effect of the example set by the State". I have always been convinced that he was right, and I have agreed with John Bright when he said, "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.

That quotation is taken from the Parliamentary Debates of the House of Lords, July 20, 1965.

When anyone says that he who expresses that view has not an appreciation of history, let me remind him that the Lord Chancellor of the United Kingdom, with his vast experience and having behind him the tradition of hundreds of years in the administration of justice, the cornerstone of which in the United Kingdom has been the capital sentence, has taken that view. One begins to realize the change that has taken place.

I start with certain basic principles. Society must be protected. From earliest history that has been the view, and I intend to review for a moment something of the awfulness of the punishments which have been exacted for generations.

Mr. Speaker: Order, please. Before the right hon. Leader of the Opposition launches into the main part of his address, perhaps I should seek the agreement of the house to allow the right hon. gentleman to continue beyond his allotted time.

Some hon. Members: Agreed.

Mr. Diefenbaker: From earliest history there has been an acceptance of the principle that the objective is to protect society, to which we have added in modern criminology the objective of rehabilitating offenders. I am not going to rely on statistics because statistics in relation to a subject such as this do not take into consideration the relative differences that exist between regions and individuals.

I am not going to bring out personal matters except to say this. I have followed the tradition of the British bar. In this tradition, in notorious and widely publicized cases great counsel have appeared in the United Kingdom. In this tradition Maxwell Fyfe, finally Lord Kilmuir, the Lord Chancellor, appeared in a frightful, bloodthirsty murder case in the United Kingdom—the "Vampire Murders". The accused was Heath. The tradition in the United Kingdom is that no member of the

[Mr. Diefenbaker.]

bar turns down a retainer, however poor the individual may be, provided he is not otherwise engaged.

Some quote Scripture and say it is difficult for a rich man to enter the kingdom of heaven. A cynic would ask whether a rich man, leaving aside the kingdom of heaven, is not virtually secured against a meeting with the hangman on the gallows? It is because of that fact that counsel have followed the course of appearing for the defence. There is no reward in a monetary sense. There is a feeling of satisfaction in the case of a person alone, facing death in the dock, the evidence mounting against him, when, as the evidence unfolds, justice is done.

I do not like personal references. I have followed the stand that poverty must not provide a one-way ticket to the gallows. I do not belong to the school that would permit that it should. No call was ever denied. In 1940, in the middle of an election, I undertook the defence of an Irish woman charged with the murder of her husband, allegedly the leader of a German-American bund. She was acquitted. An appeal was taken by the Crown. Her acquittal was reversed. Again she came back to trial and again she was acquitted.

Do not let anyone tell me that confessions are always to be believed.

Some hon. Members: Hear, hear.

Mr. Diefenbaker: I remember once a confession placed before me by counsel which I regarded as final and complete. This man confessed that he had killed a young girl after attacking her. I was called in and spoke with him and he said, "I never did it". I said, "There is your confession in detail. You admit attacking her and you admit killing her. You made the statement freely when you were arrested outside the province of Saskatchewan". He said, "I am not guilty". Everyone knows what one's answer would be in this set of circumstances. However, his picture appeared in the press. A farmer living between Regina and Saskatoon had employed him for several days prior to and several days after the day in question. He got in touch with me and I in turn with the solicitor of record. This farmer said, "That man cannot be guilty. The crime took place 250 miles away and he could not have gone there and committed the crime. He was working for me not only on that day but for several days before and after."