

*Capital Punishment*

reports about those who came within moments of losing their lives for crimes they did not commit.

One particularly relevant example of that is the case of Donald Marshall. I know that his was not a capital offence, but it was murder and it is a sufficiently dramatic example to bring forth as an illustration. An error was made and was compounded by the fact that we were not dealing with one of the winners in society, one of the well-to-do whose chances of dying for a capital offence in the United States are very slight as compared to those of the poor. He had one other characteristic which condemned him. He was an Indian in Canada.

● (1740)

I refer those who think that the unequal application of justice to those who are racially or nationally different is unique to the United States and cannot happen in Canada to the studies of Dr. Avio which demonstrate that even in Canada if you were a Ukrainian, a Francophone, black, or a poor person, your chances were far greater than those of your fellow citizens, if you were found guilty of murder, to be killed for such.

In the arguments of those who advocate capital punishment we cannot see an intellectual or rational basis in the infallibility of our law and the prospect that the application of that law would be error-free. I suppose that if you were looking for nice, neat, rational, intelligent and intellectually-based arguments for capital punishment, you might resort to the ultimate, that it is a lot cheaper to kill them. Never mind that you might make a mistake and kill an innocent person, thus causing our nation to become guilty of murder. Surely it is a potent argument that we could relieve the burden upon our prisons of having to incarcerate so many of those who are guilty of homicides and save the taxpayers some money.

The fact is that in New York State at least the cost of the judicial process necessary to bring about the death of a murderer would be equal to the cost of keeping that individual in prison for almost 100 years. Therefore, the argument of getting off cheap is not one for the restoration of capital punishment.

I suppose one would have to resort to the essentially emotional, moral, or ethical argument that the punishment must fit the crime. That is the familiar argument of an eye for an eye and a tooth for a tooth. The Member was talking earlier about consistency. If this most extreme form of violent crime must be met by the most extreme form of violent action by the state, it follows, therefore, that all violent crimes should be punished by violent action.

I have not heard that argument advanced so far, although I am sure that those who advocate capital punishment may be tempted by the simplicity, clarity and logic of it. It has been pointed out by a number of commentators that this is the primitive solution of a more primitive society, that there must be some standard to limit the punishment or there would be no

way of keeping control over the populace as they attempted retribution.

Does that make it appropriate? Should we return to the state of the Old Testament and before? Or should we listen to that great historic victim of capital punishment administered as a result of judicial error? Should we take an eye for an eye and a tooth for a tooth, or shall we listen to that early victim and say, "Forgive them"?

God said, "Vengeance is mine". God said that because only the absolute could understand all of the conditions, all of the factors, and all of the environmental influences on someone who kills. There can be no justice if we do not know all of those things which led to an event. I know that some of the more simplistic advocates of capital punishment believe that they have a closer alliance with God than the rest of us, but most of us think that we are by our nature limited in our capacity to understand, to bring about symmetry in the administration of justice, and to ensure that justice does fit the crime. This requires the weighing of factors which only God, only an absolute intelligence, could ever understand. Yet we would advance ourselves as final judges on something so absolute in its consequences.

No, Mr. Speaker, I am not prepared to see Canada revert to a primitive state. Canada abolished capital punishment as a sign that it had become an advanced civilized nation. This is something that de Tocqueville recognized many years ago. He said that the severity of a nation's punishment is least when its sense of social equality is greatest. It is a measure of the maturity of its democracy, the level of its civilization. The same man who is full of humanity toward his fellow creatures when they are at the same time his equals becomes insensitive to their affliction as soon as that equality ceases.

One hundred and fifty years ago de Tocqueville recognized what is evident now. It is in the least democratic and most regressive nations of the world that capital punishment exists—the U.S.S.R., Iran, Saudi Arabia and South Africa. Those who look at America will see that it is the contempt for equality that underpins capital punishment there.

It is no accident that it is the southern states of that nation which have rushed so quickly to capital punishment. In the southern states a black has about 10 times the chance of being a victim of capital punishment that a white does. Only in that nation, and I hope never in this country, would a Supreme Court argue that while there is discrimination in the application of capital punishment it is of no judicial relevance.

No, Mr. Speaker, I do not want this country to revert to that model of nationhood. From the message of de Tocqueville from many years ago one inevitably reaches the conclusion that those who advocate capital punishment have a considerably greater sympathy for the kind of nation which he portrayed than the kind of nation that we have become. As I said before, those are the people who see the simple answers. They have the simple answers on abortion, drugs and the poor. They look back on almost everything. They are the ones who