

Criminal Code

institution. However, there has been a noticeable decrease in the use of this form of punishment within institutions. There is now a regulation in effect under which the commissioner of penitentiaries must consider each case when a warden imposes a sentence calling for corporal punishment and must decide whether or not it will be administered. The result has been that corporal punishment is falling into disuse as a disciplinary measure within penal institutions. This form of punishment in Canada is in almost the position it is in in Great Britain in that it is used within an institution only in the event of an inmate displaying violence in an attack upon a guard or another inmate or where he is responsible for major wanton destruction of property. Because of this fact, and because I am one who if he cannot get a full loaf will take half a loaf and then try for another half later on, I have brought in the bill that is before us. I feel there can be no objection on the part of any hon. member to a measure which calls for the abolition of corporal punishment as a part of a judicial sentence. It has been abolished in the United Kingdom. As far as I am aware, South Africa and Canada are the only two countries in the free world where corporal punishment is a part of a judicial sentence.

I recall very well the words of one hon. member who spoke exactly one week ago today concerning capital punishment. He definitely gave the impression that he was in favour of its abolition but he thought the recommendation should have come from a joint committee of the House of Commons and the other place. I am certain that he and all hon. members will appreciate knowing that the abolition of corporal punishment as part of a judicial sentence was the unanimous recommendation of the recent joint committee of the Canadian House of Commons and the Senate which met over a period of three years.

On the basis of the situation that obtains in other countries, on the basis of the recommendation of the joint committee of the parliament of Canada and on the basis of one other fact which I will mention in a moment, I urge hon. members to support the principles of the abolition of corporal punishment as part of a judicial sentence.

Article 5 of the universal declaration of human rights adopted by the United Nations and supported by Canada reads as follows:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

In view of this provision in the universal declaration of human rights of the United Nations which has been accepted by Canada it is difficult to understand how Canadians could give formal approval to that provision and yet retain corporal punishment under our criminal law.

Therefore, sir, because of the fact that all civilized countries, and in particular those that have a modern prison system, do not make use of corporal punishment, because that indicates we have no need for it and because of all that I have tried to put forth in a few words, I hope hon. members will see fit to support this measure.

Mr. G. W. Baldwin (Peace River): Mr. Speaker, I say quite simply that I find myself in favour of the principle of this bill and in sympathy with the objective at which it is apparently aimed, namely the deletion from the Criminal Code of all the provisions which sustain what in my opinion are useless and obsolete measures designed to inflict corporal punishment on persons who are sentenced to that punishment.

So far as I can ascertain—and I think I differ slightly from what has been said by the hon. member for Vancouver East (Mr. Winch)—there are four countries which still retain that method of punishment, which include the state of Delaware, the Union of South Africa and apparently what was formerly Egypt, and we rank with them in occupying that unique position of still keeping corporal punishment on our statute books.

My own personal opinion is largely derived from my experiences over a period of some 30 years in the practice of my profession in defending people who were charged with offences which included this punishment in addition, of course, to the other punishment of imprisonment. While I have struggled to achieve the reputation of not appearing for anyone who was guilty, I am afraid from time to time I found judges and juries who could not agree with me in that point of view; but when I had occasion to appear for anyone charged with such an offence I inquired with the greatest measure of anxiety as to this question of punishment and the possible effect it might have on the individual who was charged and, of course, the effect it might have on society as a whole. I do not think you can possibly separate the two. You cannot put the individual