

Criminal Code

Is it not possible to take the last step in this direction and, just as we do not kill madmen in spite of the equal danger which they represent, likewise stop sentencing murderers to death? I am not, you will note, speaking of sparing criminals; I am only speaking of sparing ourselves an action which we are all ashamed of and which, moreover, contradicts all our convictions and all our feelings about the sanctity of human life. I am simply speaking of completing this last stage on the road to progress in a field which can truly be called vital.

Do we have the means to do it? I say yes, Mr. Speaker. If we can protect ourselves from the mentally ill without doing away with them, we can also, through modern penitentiaries, protect ourselves from all criminals. If we are rich enough to feed and care for dangerous psychopaths, we are also rich enough to respect the life of murderers and try to rehabilitate them.

[*English*]

Some might say that we could not abolish capital punishment without running a risk. But what progress, social or otherwise, what evolution or advancement has ever been achieved without any risk involved? In 1810—this fact was mentioned in the house yesterday—when it was proposed that the death penalty be abolished for shoplifting to the value of five shillings, the Lord Chief Justice of England expressed the view that such an experiment was pregnant with danger to the security of property. He went on in these words:

Such will be the consequences of the repeal of this statute that I am certain that depredations to an unlimited extent would immediately be committed.

Such was the view of that enlightened gentleman on that matter, and the abolition of the death penalty is no exception in this regard. Social progress under all forms has always met with that kind of resistance.

When European parliaments were faced with the problem of child labour, for instance, toward the middle of the nineteenth century, and legislation was debated in order to bar children under 12 from the coal mines, many a noble lord and many a French bourgeois politician of the time fought the measure to the end, deeply convinced that such an initiative would inevitably bring about the collapse of the coal industry.

When the right to strike was being discussed, hundreds of politicians voted against

it because in their view, and their most sincere view, I should think, it meant the very end of law and order, and the reign of chaos in modern societies.

Again, when universal suffrage or schooling for the working class came up for debate, innumerable politicians were frightened to death. And it was quite normal for them to be afraid because those measures, which to us after more than a century appear as harmless as bread and butter, were incomparably more consequential and far reaching than the one we are considering today. Of course there is a risk involved, Mr. Speaker, but I suggest that it is a normal and calculated risk, the kind of risk which can only be avoided by doing nothing at all.

Finally, although I am not a lawyer or a jurist by any means, I should like to put forward one argument dealing with the juridical aspect of capital punishment, an argument which I borrow from Professor André Richard, former dean of the free law faculty in Paris, who had this to say in concluding a lecture delivered in Toulouse a year ago:

• (4:10 p.m.)

We can define as follows the positive aspect of abolition: do away with capital punishment and you strengthen justice in its war on crime.

A judicial system without the death penalty does not mean that there no longer exists a form of capital punishment. It only means that a penal system is established based on a gradual scale of sanctions leading up to a maximum penalty. But the latter no longer differs in nature from the other sanctions; it only differs in degree of intensity and duration.

The immeasurable abyss which presently separates penalties imposed on the living from that extreme punishment of destroying a man's life, would no longer be there to create anguish in jurors and judges. They could therefore make their decisions more calmly in the light of their conscience and reason.

He concludes:

The death penalty is the neurosis of our judicial system.

The case now is whether we want to cure it.

Mr. R. Gordon L. Fairweather (Royal): Mr. Speaker—

Mr. Choquette: May I ask a question of the hon. member who has just spoken?

Mr. Fairweather: I should be only too glad to allow the hon. member to ask his question.

Mr. Deputy Speaker: Order, please.