

Mr. Speaker: After these points of order and questions, perhaps we might call orders of the day.

GOVERNMENT ORDERS

CRIMINAL CODE

REINSTATEMENT OF LAW RELATING TO CAPITAL PUNISHMENT THAT EXISTED PRIOR TO DECEMBER 30, 1972

The House resumed, from Wednesday, May 23, consideration of the motion of Mr. Allmand that Bill C-2, to amend the Criminal Code, be read the second time and referred to the Standing Committee on Justice and Legal Affairs.

Mr. Peters: Let us have the question on the motion.

Mr. Speaker: I believe the hon. member for Scarborough West (Mr. Harney) had the floor when we adjourned yesterday.

Mr. Harney: Mr. Speaker, I was just leaving my seat to leave the House.

[Translation]

Mr. Réal Caouette (Témiscamingue): Mr. Speaker, the issue currently before this House, namely that of capital punishment, is most sensitive and very controversial throughout Canada.

It is not the first time that the retention or complete abolition of this punishment is discussed. It has been discussed since 1914 and each year since then it has been debated in this House and particularly in 1917, 1948 and 1950.

I have myself received letters from everywhere throughout Canada. Some of them were urging me to vote against capital punishment while most of them asked me to vote for retention.

I would like to express the basis on which we are advocating the re-establishment of capital punishment and summarize the principle of the Thomist philosophy on capital punishment. Generally speaking it is as follows: Anyone must protect his own life and also respect the life of others. It is in that sense that homicide or murder is prohibited by moral law as well as by civil law which should reflect natural law.

It is incumbent upon the civil authorities to protect the individuals through laws and it is their right to adopt and enforce the legislation required by the common good and the protection of the citizens' life and property.

Since civil authorities are responsible for maintaining order in society they are also entitled to inflict punishment and demand reparation from those who break law and order. This is the punishment which come as a complement to law. But can civil authorities go as far as inflicting the death penalty?

This is the question asked by most of those who are advocating total abolition. St. Thomas' thesis is as follows: Political authorities have the right to inflict capital pun-

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ishment on those who are guilty of homicide. Civil authorities have the right to do everything necessary to serve justice and insure the security of the citizens. Now, capital punishment is required to ensure justice and the security of society; therefore, the civilian authority is entitled to impose this penalty.

● (1520)

The proof of the first part of this thesis is that punitive justice requires that there be equality, if possible, between the crime committed and the sentence for it. Yet, against specific crimes like homicide, murder, there is no retribution other than capital punishment to make the sentence fit the crime.

And let us note, Mr. Speaker, that it is not in a vengeful mood, as some people try to suggest, that I advocate retention of capital punishment. It is not a policy of an eye for an eye, a tooth for a tooth, an arm for an arm, a leg for a leg, but a policy of justice. The would-be murderer knows beforehand the consequences of his act should he commit murder. Then, if he knows he is aware of it and that punishment is nothing more than fair penalty. No sentence other than capital punishment can restore equality between the sentence and the crime. Therefore, in order to serve justice, capital punishment is sometimes necessary.

As to the proof of the second part of this Thomist thesis, it is almost impossible to ensure the safety of citizens against some people's acts without applying the most powerful restriction against these criminals. And the most powerful restriction is capital punishment. Life imprisonment, that some people suggest as a punishment, is not powerful enough to deter potential murderers. Indeed some murderers may escape and not serve their sentence. On the other hand, the frightful crime of taking someone's life is not enough punished, and a deterrent measure like a life sentence is not enough. Capital punishment constitutes a more efficient deterrent. Death represents the deprivation of life, the greatest property, therefore capital punishment must be imposed to those who take this property from others.

It is said that life imprisonment ensures security. To this argument it must be answered that life imprisonment ensures the security to a certain extent, but is it enough and efficient? It may be but not in all cases.

Is the death penalty homicide? Homicide is forbidden by natural law. Now, according to some, the death penalty is homicide. The imposition of capital punishment must therefore be forbidden. So speak those who advocate the death penalty.

A solution must be found to the problem posed by the word "homicide". In fact, natural law does not forbid every kind of homicide. It does not object to the unjust homicide, that is when life is taken unfairly. That capital punishment constitutes unjust homicide must therefore be denied.

Some claim that an innocent man can be inflicted capital punishment and that, then, it is too late to make up for the judicial error. It is true that the death penalty can accidentally be applied to the innocent, but the construction of automobiles or aircraft cannot be brought to a stop just because there are accidents. By the same token, because