

*Capital Punishment*

will remain if this bill is not passed by parliament. At the moment, the law says that the killers of policemen and prison guards on duty are liable to capital punishment. No other kind of murderer ever is liable to the same extreme penalty.

I have the greatest respect for Canadian police forces, for the RCMP, and certainly for the police force in my own area of metropolitan Toronto, but in all fairness it should be pointed out that police officers and prison guards go into their work knowing the risks they face and they are trained to be prepared for those risks. I am arguing that the law as it is now constituted simply does not seem to be fair. If we investigate statistics of the average of fatalities on the job for 10,000 employees in Canada from 1964 to 1973, the highest on the job fatality rate is for miners. The second highest is for loggers, then fishermen, transport workers, labourers, and police officers rank sixth. Following that are craftsmen and—I see the Minister of Agriculture (Mr. Whelan) looking my way—farmers.

The fact is that there are many jobs in Canada where the risk of losing life at work is much greater than it is for police officers. That does not detract for one moment from the seriousness of their work and the fact that the state must provide them with some protection in the most responsible manner possible. However, I believe it does suggest that the existing law is not fair or equal and does not consider the reality of statistics with regard to murder and also statistics on death on the job in Canada.

I should like to talk for a moment about whether the existing law, capital punishment, is in fact an effective form of justice. Does the law, as it now stands, make it possible for the judicial system to carry out penalties and to deter crime? On the question of whether capital punishment is effective, I should first like to quote from Professor Fattah's study on the deterrent effect of capital punishment, which was done for the Department of the Solicitor General in 1972. In that report he says:

If it is true that the promptness and swiftness of punishment are important factors to its effectiveness, then capital punishment should be the least effective since the time-span between a murder and execution is usually much longer than other crimes. The slowness of capital punishment is something inherent in its very nature.

I will quote one of the most distinguished law enforcement officers in the world, the commissioner of Scotland Yard, Sir Robert Mark. In a speech given in Toronto in August of last year, Sir Robert Mark said:

The best deterrent to crime is the likelihood of detection followed by the certainty of conviction rather than the reliance on savage penalties unlikely to be applied in many cases because a proper finding of guilt is prevented by the operation during investigation and trial of safeguards rightly designed to protect the innocent from a sentence of death... I am therefore opposed to the death penalty and so are most of my senior and most experienced colleagues simply because its continuance prevents the reforms necessary to increase the effectiveness of criminal justice.

● (1650)

So, Mr. Speaker, from both the report prepared for the Department of the Solicitor General of a study of the issue here in Canada, and from the commissioner of Scotland Yard, we have strong statements to the effect that if you want effective justice, if you want the criminal element to appreciate that the worst of all crimes will be seized upon

[Mr. Fleming.]

and punished, then the most effective justice is not the death penalty.

May I also address myself for a moment to the question of the injustice of the death penalty. While there are many arguments in this area, I simply want to refer to one or two in particular. I believe that most people will accept the statistics in the United States showing that poor people—blacks, poor whites and minority groups—are executed in numbers far disproportionate to their more affluent, and in most cases white, neighbours. If capital punishment is a deterrent, it would seem that these groups who have suffered most from capital punishment would be the most obedient.

Again, the converse is true. Surely the reality of the situation is that cultural and social conditions help to contribute to the development of a criminal character. People who are underprivileged or denied certain advantages are more likely to enter upon crime. The latest figures available indicate that there are 114 people under sentence of death in the United States. Of these, 61—more than half—are black and three are American Indians. All, or almost all, are poor or not capable of expensive legal procedures. Lack of money for adequate defence and investigation in turn can lead to mistakes.

So that if we say, Mr. Speaker, that we want on our law books the ultimate of all penalties, that of taking away life, which means you cannot later appeal, or if there has been a mistake seek redress, or give the person the opportunity of rehabilitation, we are saying that someone who is rich who commits the most terrible of all crimes will not die. I can find no example—and I challenge any member of this chamber to find one—of a wealthy, white person in North America having been executed in the last several decades. On the other hand, we can find examples of poor, underprivileged people, people who come from such an environment, who have been executed. In effect, this means that you are applying the law unequally and discriminating against those who are maladjusted, those with distorted minds who come from a poor environment. But not the wealthy whose crime is just as serious. Lewis Lawes, for many years warden of Sing Sing prison, is quoted as saying:

Not only does capital punishment fail in its justification, but no punishment could be invented with so many inherent defects. It is an unequal punishment in the way it is applied to the rich and to the poor. The defendant of wealth and position never goes to the electric chair or to the gallows. Juries do not intentionally favour the rich, the law is theoretically impartial, but the defendant with ample means is able to have his case presented with every favourable aspect, while the poor defendant often has a lawyer assigned by the court... with no experience.

Surely, when someone such as the warden of Sing Sing prison, which has contained so many notorious inmates within its walls, comes to such a conclusion we must seriously consider his views. Finally, on the question of the injustice of the death penalty I should like to quote the right hon. member for Prince Albert (Mr. Diefenbaker) who had this to say:

There is no equality among individuals who are charged with murder. For example, you do not hear of many wealthy men going to the gallows.

Reference has been made by one of my colleagues on the other side who spoke in favour of retention to holding a