

Criminal Code

should adopt a trial period of abolition. Let us do so with our eyes open, feeling sure that we are doing the right thing in view of all the facts. Let us vote clearly and definitively to abolish the death penalty.

• (7:20 p.m.)

[Translation]

Mr. J.-P. Goyer (Dollard): Mr. Speaker, after hearing or reading the various speeches made in this house, one is inclined to believe that all arguments have been used. It is easy to repeat them and I willingly share the idea or at least the attitude of those who believe that it is good that the same arguments be taken up again from various angles.

For instance, we have been told often about the progress made by our society not only with regard to the death penalty but also in the field of mental health. We have heard philosophical and theological arguments which find their roots in documents which have come to us through the ages from the Bible to essays by Camus or Koestler.

The personal experiences that many of us have lived or witnessed in our midst, experiences which have influenced more or less deeply our attitude and which are reflected today in the stand which we will have to take soon. All of us, not to win, because this is not a marathon or a competition, but rather to look for a truth, if that is still possible, at the end of this debate.

Of course, a line of reasoning that leads to a decision cannot be followed in prejudice, when looking for sensationalism or exploiting an electoral advantage which would not be to the credit of those who elected us.

Throughout this debate, I was struck by the effect produced by the words: death penalty. For some, it is related to barbarism and anti-humanitarianism. For others, it looks like a valid and necessary, even essential, weapon for society. And yet, taken in itself, the death penalty is a means to sentence a criminal and as such it must have a punitive and a preventive value. Thus the necessity, in order to deal with that matter objectively, to forget any prejudice which subsists in us, to go beyond what hides the true problem and to dwell instead on the objectives to be attained by the death penalty, just like we would do when studying any other type of sentence. After reading a great deal of literature, especially articles by Marc Ancel, Paul Gornil et Giuliano Vassalli, I have a theory which seems to me worthwhile, that of an alternate penalty. The objection which

I would then raise is as follows: Can death penalty be replaced by another penalty, which would retain the punitive aspect toward the convicted and the deterrent aspect toward society?

In fact, the alternate penalty is now accepted throughout the world, and is applied in Canada as elsewhere.

The latest amendments to the Criminal Code constitute a significant example of my argument. From now on, we differentiate between two kinds of murders: the capital murder and the non-capital murder, the first one involving hanging and the latter life imprisonment.

This theory of an alternate penalty is not new. Already, at the end of the 18th century, movement of penal reform brought about the abolition of corporal punishment to be replaced by loss of freedom only. In that respect, the loss of liberty was an alternate penalty to torture, since crime was punished by a different penalty.

Likewise, death penalty has this value of replacement when it ceases to have degrees, that is being accompanied by tortures more or less extended. For instance, in 1791, the French Criminal Code, decided that:

The death penalty will be a simple deprivation of life without any torture exerted against the convicted.

To use a well-known method, a proper death penalty is found and established. Going through the ages, we could multiply the examples proving the application of this theory, to reach the present situation where the death penalty has been completely replaced: it has been abolished or partially replaced.

In both cases, the substitute punishment took the form of a denial of freedom. In other words, we are all more or less abolitionists, for in some instances imprisonment is accepted as a substitute for the death penalty indeed, nobody can say that nowadays a killer must always be killed. Otherwise, one who commits a passionate crime would always be hanged, one who commits a political crime would be hanged and the mentally ill committing a crime would be hanged. Yet, it is readily accepted today that those three types of criminals should not be hanged, either because of the law or following the commutation of the penalty. Why? Because the death penalty is instinctively revolting, too severe and contrary to reason. The death penalty is thus being questioned as a punishment and a deterrent and we are