

Capital Punishment

We are all well aware of the classic example of the class at college studying psychology when suddenly at the end of a room a fight starts and subsequently the professor asks the various students to make a report on what they have seen and heard. We know that if there are 24 students in the class there are 24 different reports, depending upon what the various 24 members have seen and heard. The reports vary to a large extent. What happened in the classroom has just as many interpretations as there are students in the classroom.

It is a matter of public record that under stress crimes are particularly odious. Frequently the cards seem to be stacked against a fair trial for the accused. There is a famous trial going on in the country to the south of us which might even fit into that category, which may even be an example of whether a trial is fair or unfair. The point I want to make is that there is such a thing as human error. Where prejudice has already been created, due to the circumstances of the crime or to the external factors of publicity, emotion and stress, this prejudice greatly adds to the possibility of error. Once a person is executed he is dead and there is no appeal.

My third reason is based on an ethical objection. The state may not take what it cannot give. The state cannot give life and therefore it should not take a life. There is a point at which the omnipotence of the state should end.

The Belgian ministry of justice, in a memorandum prepared and sent to a select committee of the British House of Commons set up to study the death penalty in 1930, had this to say in part:

The lesson has been learned that the best means for inculcating respect for human life is to refrain from taking life in the name of the law.

The state, of course, has a duty to society. I say that the state fulfils that duty when it withdraws these convicted criminals from society. When a person is incarcerated or sent up for life and kept there the state accomplishes at least three things. First of all, the convicted criminal is punished; second, society is protected from the danger of that criminal; and, third, the state takes out of our society those persons who foul the law.

When we attempt to outlaw war we are attempting to do the same thing in the international field that this bill seeks to do in the national field. We are attempting to go beyond the level of punitive punishment, for I maintain that punitive punishment is the oldest, most primitive form of justice.

I have advanced these three basic arguments, to my way of thinking, in the hope

that they may make some small contribution to this general subject. I have here the issue of *The Bulletin* for November 15, 1955, a publication of the council for social service of the Anglican Church of Canada. At that time capital punishment was under consideration in this house, and it seems to me that on page 15 there is a passage which summarizes my position fairly well. It reads:

It may well be that public opinion is not yet ready for the abolition of capital punishment by law. Several courses are open:

1. An adequate educational program designed to convert responsible opinion to abolition.
2. The deletion of the mandatory clause as regards the death penalty in the Canadian law.
3. Following this, that the use of the power to respite murderers be more commonly used in those cases where the murderer was not previously an offender.
4. And it is also suggested by some that before any abolition of capital punishment is possible there must be a more or less lengthy period during which the law that allows it is in abeyance.

In conclusion, it would appear to me that public opinion with regard to the abolition of capital punishment is in a very confused state; that the record of the present government in commuting 32 out of 40 sentences has only added to that confusion; that the present bill, while good in itself in that it brings the matter up for discussion and to the attention of the Canadian people, nevertheless is very inadequate. Therefore I shall do my best to keep an open mind and fair attitude and listen carefully to those arguments which will be advanced shortly, and then I shall vote in accordance with my conscience.

Mr. Deschatelets: Mr. Speaker, a few minutes ago I asked a question of the hon. member for St. Boniface (Mr. Regnier) and I am afraid my question was badly put. I did not want to give the impression that the question is asked of a prospective juror whether he is against or in favour of capital punishment. I had in mind to say that the fact that a prospective juror declares that he is against capital punishment gives cause to challenge his right to serve as a juror.

At six o'clock the house took recess.

AFTER RECESS

The house resumed at 8 p.m.

Mr. R. D. C. Stewart (Charlotte): Mr. Speaker, in rising to take part in this important debate, one that might have far-reaching significance as far as all Canadians are concerned, I find myself cast in a slightly different role than is customary for me. For almost 27 years I have practised law at the bars of Nova Scotia and New Brunswick and in the majority of cases my role has been that of defence counsel.