

*Capital Punishment*

system. Throughout this continent there has been a gradual decline in the administration of justice. Sentences imposed, while utterly destitute of uniformity, have nevertheless been notably reduced from those formerly regarded as the norm. For larceny and other offences generally, sentences are invariably far below the maximum prescribed in the written codes. Between 1961 and 1968, 28 individuals serving death-commuted sentences were paroled after spending an average of 12 years in prison prior to release. Between 1968 and 1974, this figure rose to an average of 13.3 years for the 42 persons paroled from death-commuted sentences.

Obviously, I and the hon. member for Ontario (Mr. Cafik), who spoke yesterday, researched data in the same area, but the hon. member for Ontario did not tell the House and the people of his constituency that 42 persons were paroled while serving death-commuted sentences: he refrained from mentioning that fact. Perhaps he did not want his constituents to know, or he did not want the House to know. I thank God we went to the same place for our research data. I am presenting the picture as it is, and telling my constituents the whole story. I think what the hon. member did was wrong. If we are to present a case, we should present it all according to the data we obtained from research, and not stop in the middle of a paragraph.

No wonder people today do not understand the courts and our judicial system. The man in the street is quickly losing faith in justice. Officials in society seem to be on the side of the criminal. Crime rates rise, not because of social or economic conditions but because persons realize that little or nothing will happen to them even if they are convicted. Re-establishing capital punishment and stricter punishment in general for social crimes will restore greater faith in our judicial system. It will give greater confidence to persons who wish to lead good lives and will give them a greater sense of security. Thereby, society will benefit. The old concept of reward and punishment will not be a relic of the past. It will reverse the too often criminal trend of present-day society.

● (1630)

Philosophers and theologians have argued that the state does not have the right to take the life of a citizen even if he has been convicted of an atrocious crime, because it is not up to the state to dispose of human life, which is God-given and not a gift from the state. The right of an individual to take the life of another in defence of his person is hardly contested. Why is it proper on occasion for a private citizen to take the life of another, while the state may not do so under any circumstances? The state has the right and the duty to defend the community against outside aggression, such as in time of war, and within the country, for instance in case of treason, crimes against the state, and so on. To the extent of taking the life of the aggressors and guilty parties, the citizen has the right to protect his own life by killing whoever attacks him without any reason. Thus, the state can do the same when a criminal attacks and endangers the life of the community by deciding to eliminate, summarily, another human being.

Capital punishment must be retained in order to prove the sanctity of the most precious thing, which is the gift of life; it embodies the repulsion and horror that we feel for the greatest crimes. Society has the right to protect the

integrity of the human being and the life of its members against what threatens them. The argument in favour of life imprisonment as a substitute for the death penalty is fallacious. If the state is to be denied the right to take the life of one of its members, then by the same token it should be denied the right to deprive that member, in perpetuity, of his liberty which excludes him from all hope of freedom and rehabilitation.

Those opposed to the death penalty frequently argue that there is always the possibility of an innocent person being executed through error, and that to avoid such tragedies it would be better that no one be executed.

The likelihood of judicial error has been diminished enormously through the institution of courts of appeal in all criminal matters. Invariably, a verdict of guilty of murder is subject to minute scrutiny through, not one but a series of appeals, and not infrequently by retrials. Stringent laws of evidence reduce still further the possibility of judicial miscarriage. The art of cross-examination, skillfully used by able and experienced lawyers, whether employed by the accused or appointed under a legal aid program, make corrupt and perjured evidence more difficult than ever. Organized bodies of opinion, along with a vigilant press, stand in readiness to raise the alarm on any suspicion of judicial railroading.

Much is made of the comparatively remote possibility of an innocent person being hanged for a crime he did not commit, yet hardly any notice is ever taken of the lethal aftermath that can follow an erroneous acquittal. It is ironic that when known killers are liberated, no similar fears are voiced as to the possible consequences to some innocent persons as yet unknown. Wanton murder is so extremely morally wrong that the punishment must remain proportionately severe in order to emphasize the outrage of society; otherwise the potential murderer will infer that society no longer regards the crime as most heinous and even if, from the philosophical point of view, the death penalty may have doubtful legitimacy, it nevertheless represents a political necessity for the protection not merely of society but of the social order itself.

The Solicitor General (Mr. Allmand), in explaining Bill C-84, justified the imposition of a 25-year minimum sentence, instead of capital punishment, as being more humane treatment of a convicted murderer. But is it more humane treatment? Long prison terms may justly be criticized as being repulsive, as being punishment of the sort condemned in the language of the constitution of the United States of America as cruel and unusual. A sensitive society must shrink from the infliction of such prolonged punishment as it should shrink from the torture. In most cases, it is not a punishment which fits the crime but punishment which balances slow, psychic death against the sudden killing. Those who speak or think humanity must forget long prison terms. A person who has spent many years behind bars and concrete walls degenerates beyond recognition into a class close to vegetation.

If the Solicitor General hopes to achieve the rehabilitation of convicted murderers, and therefore justify their escape from death, how can he expect a person who knows that he will be behind bars for such a long time to honestly try to rehabilitate himself? Long, mandatory prison terms will give rise to a situation in which the maintenance of

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