

Capital Punishment

themselves on this subject. I am very grateful that I have had the privilege of speaking against capital punishment.

Mr. Alan Macnaughton (Mount Royal): Mr. Speaker, I have listened with a great deal of pleasure to the remarks of the previous speakers. There is no doubt that capital punishment, and whether it should be retained in certain cases or abolished in toto, is a question of great importance and a hard one to decide. I think congratulations are certainly in order to the hon. member for York-Scarborough (Mr. McGee) and, in fact, to those other hon. members who have introduced in this house bills on the subject of capital punishment. It seems to me these are all steps in the creation of public opinion leading to the abolition of the death penalty.

There is no doubt that the present government has been exercising an unusual degree of mercy in cases of condemned criminals. I believe the figures show that out of 40 cases, 32 have been commuted in the last 2½ years. This commutation of four out of every five cases by the government has, I think, created a rather confused situation. Does it mean that the government is really in favour of the elimination of capital punishment and is slowly creating public opinion to that end. If so, it seems to me that the government should stand and declare itself.

This morning in the *Montreal Gazette* in its lead editorial "An important private bill" seems to refer to this confusion in the minds of the public generally. I would like to quote just two or three paragraphs from the lead editorial:

Others, who favour capital punishments, might say that the present tendency offers only the worst of both systems: it does not allow enough executions to be a true deterrent, and yet, by allowing some, it fails to prove that capital punishment is unnecessary.

Still others (such as a clergyman whose letter was published on this page on Tuesday) questioned whether degrees of guilt may be sufficiently estimated by any cabinet, so that 80 per cent may be commuted and 20 per cent may be hanged.

It may be true that the government, in increasing commutations so greatly, has been following no policy, but only exercising the power of mercy according to the sentiments of men more than usually merciful. Yet there can be no doubt that this tendency has immensely sharpened the urgency of a decision on the central question whether capital punishment should be retained at all.

Then, later on in the editorial we find the following:

But "a little capital punishment"—which amounts to the occasional hanging of a condemned murderer—would seem to be capital punishment in its most repellent, least deterrent, and least defensible form.

Basically, if one can set aside the emotions inherent in this question, the matter I think

[Mr. Regnier.]

becomes one for the individual conscience of each member. My own feeling is that we have now reached the stage in public understanding of this question which calls for a very careful study of the death penalty.

In principle, I am opposed to capital punishment for three basic reasons: in the first place, capital punishment emphasizes the punitive aspect of justice. I think we have got beyond that. The word "punitive" of course means punishment. Punishment is a penalty imposed by the state to discourage crime. We think of it as making the criminal experience himself some of the consequences of his own act and today, a further qualification has crept in, in that we now try to reform the criminal either by changing his outlook or working on his character. I say that today, therefore, the punitive aspect of justice really comprises four elements: that of acting as a deterrent to the commission of crimes; the element of a certain retribution, or making the person who has been convicted of a crime suffer for it; the element of reformation, or making an effort to reform the person's character or outlook; and, finally, the protection of society.

It is well understood that law and justice exist for the protection of society. We incarcerate persons who have committed crimes; we put them in institutions or we lock them up in jails. It seems to me that the issue with respect to capital punishment is this. If the taking of life is wrong, does a second wrong accomplish anything positive? Is a capital sentence the best and surest way for a community to repudiate the evil action of one of its members?

Punitive justice is the oldest, most primitive form of social justice and, in my opinion, it is now outmoded. It can be compared to the punishment given to a child which is supposed to mend his ways but often has the very opposite effect. I say that punishment by itself is not enough. Punitive punishment is not in keeping with our cultural advancement as of today. If capital punishment is a deterrent, then the custom of public hangings of condemned criminals should be revived on our public squares, and I think everyone in this house will admit with me that this is not only outmoded but it would shock the present day conscience of society.

The second problem we run into with regard to the matter we are discussing at the moment is the problem of human error in judgment. No man is infallible. Even under the best conditions men make mistakes. Even under the best conditions witnesses make mistakes.