

*Criminal Code*

crime, despite even his indignity, the criminal still remains a human being and deserves the protection of the state.

To maintain the principle of capital punishment merely because we do not know exactly yet what to do with the criminal, this is to pervert the whole problem; this is to deny a duly based principle, for purely pragmatic considerations. On the contrary to accept the final demands of a principle in spite of the serious hindrances involved, is to show maturity and sense of responsibility.

On the other hand, if this house votes by a majority for capital punishment, it would admit publicly its helplessness and incompetence because it would reflect, in its decision, its deep conviction that there is nothing to do with a criminal or a human being or one of our own citizens.

Furthermore, it is a question of civilization. The level of progress of a civilization can be measured by the fundamental attitude of a society toward its crippled members. In primitive societies one never had scruples about merely eliminating the useless members: crippled, old men, insane persons, criminals, offenders all used to share the same fate: death. It was the era of private vengeance. Followed the era of private justice where society managed to guide and limit the carrying out of private vengeance. In so doing, civilization took a giant step toward some form of social justice.

The death penalty was as rigorous and as vigorous, but at least, its application was partially limited to voluntary crimes, and still only in extreme cases where agreement between the parties was impossible to reach.

Nevertheless, that was implanting a prolific principle of evolution in society. Prolific and irreversible indeed for, from that time onward, society progressed toward public justice. Followed the progressive organization of justice: various codifications, systems of judgments and repressive measures and multiple forms of execution.

Without going into all the historical details of that evolution of the law, it might be well to point out here how society grew to claim as its own exclusively, the right to judge and condemn its citizens, removing them completely from the personal or popular vindication of private vengeance. And so, in its own name and for its own benefit, society decided to systematically organize the fight against crime, the administration of justice and the execution of its penalties.

About this last point, it is to be noted that the evolution of civilization is reflected through the humanizing of the law and, consequently of the legal punishments. The old mosaic law listed over 650 crimes as punishable by death. In the 13th century, there were over 350. In the 15th century, only 17 remained, while early in the 19th century, 15 major crimes were still punishable by death.

Under the impetus of numerous social, judicial and penal reforms occurring during the 19th century, all countries of the world have reconsidered and revised their penal system and their criminal laws. As a concrete result, 58 countries to date have abolished capital punishment and more than one hundred countries have introduced major reforms in their penal code.

It is then becoming obvious that the position of a civilization or a society on capital punishment is in direct ratio to its degree of social progress. As the laws become more humane, capital punishment loses ground.

How can we stick to capital punishment as the ultimate method to preserve justice and maintain order? It might as well be said that progress stops there.

Deterrent effect of capital punishment: many hon. members have already touched upon this point, Mr. Speaker, and I shall briefly go over the main conclusions.

First of all, capital punishment has not deterred criminals from their crimes since crime and murders are constantly on the increase.

Then, even if capital punishment is a protection for society, no one can claim it is the only protection, nor the best, since it does not produce the desired results; crime is not eliminated when the criminal is eliminated, any more than tuberculosis is eliminated when the tubercular patient is eliminated. Solution is not at that level but at the level of scientific research, of penal philosophy and judicial reform.

Finally, to act as a deterrent, capital punishment should be carried out in public, a method abolished long ago.

Since these facts prove beyond any doubt that the death penalty serves none of the three purposes it is designed to serve, that is to deter criminals, to give complete protection to society and to act as a warning to all citizens, there remains but one logical choice—the abolition of capital punishment.

Death or the taking of life is a divine right.