CAPITAL PUNISHMENT

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Capital punishment is a subject which arouses in men the strongest emotions and one on which there are divergent views, some of them at variance with one point or another of Catholic teaching. There are, for example, those who deny openly that the State has any right to inflict the death penalty, at least in times of peace. Others affirm categorically that the death penalty is something which no Christian can tolerate. Furthermore, some of those who are not Catholics look upon the teaching of the Church on this question as out-dated and old-fashioned, while others, inside the Church, will say that capital punishment is a matter about which Catholics must make up their own minds. In view of this variety of opinions, Catholics need some guidance if they are not to be misled by such utterances, if they are to know in what sense, and to what extent, they are free to form their own opinions on this question.

The Right of the State to inflict Capital Punishment

The first point to note is that the Catholic Church has always defended the view that the right, and therefore the power, of inflicting capital punishment on those who have been found guilty of more atrocious crimes, has been conceded by God to the lawful supreme civil authority for the common good.

The scriptural basis for this teaching is to be found in several Books of the Old Testament (Gen. 9: 6; Ex. 21:22; Lev. 24:17; Deut. 19:11-12), and in the New Testament in chapter 13, verse 4, of St Paul's Epistle to the Romans. In the opening verses of this chapter, St Paul speaks of the Christian's duty to obey the lawful civil authority and of the power of the State to punish evil-doers. In verse 3, the Apostle gives this rule to the Christian: 'If thou wouldst be free from the fear of authority, do right, and thou shalt win its approval; the magistrate is God's minister, working for thy good'. Then, in verse 4, St Paul goes on to say: 'Only if thou dost wrong, needst thou be afraid; it is not for nothing that he bears the sword; he is God's minister still, to inflict punishment on the wrong-doer'.

All Catholic commentators agree that St Paul is teaching here that the lawful civil authority has the right to punish wrong-doers even by death – 'it is not for nothing that he bears the sword'. Referring to this text, Pope Pius XII says that it is God who is punishing the criminal through the instrumentality of man, and he states that attention is called here to the function of expiation in punishment. (Address to the Sixth Congress of International Penal Law, 3 October 1953. Acta Apostolicae Sedis, Vol.45, p.742.)

It is interesting to note that St Paul himself implicitly recognizes the right of the State to inflict capital punishment, when, at his trial before Festus in Caesarea, he protests: 'If I have done something which deserves death, I do not ask for reprieve' (Acts 25:10.

None of the Fathers of the Church denied this right to the lawful civil authority. They considered that the State was acting as God's delegate in this matter. The State not only derives its authority and purpose from God, it has also a right to make use of those means without which it cannot carry out its primary duty to preserve public order and security, and in so far as capital punishment is necessary for this end, the State has the right to use it.

This traditional teaching of the Church, which has also been constantly upheld by Catholic theologians, was denied by the Waldensian heretics in the 13th century, and, in the Profession of Faith drawn up for them by Pope Innocent III in 1208, they were required to profess their belief in the right of the State to inflict capital punishment within just limits on those who have been found guilty of heinous crimes.

Since punishment generally takes the form of depriving the guilty person of some benefit in expiation of his crime, Pope Pius XII, addressing the first International Congress of the Histopathology of the Nervous System in Rome on 14 September 1952, shows how this factor is present even when it is a question of capital punishment. 'Even when it is a question of the execution of a man condemned to death', says the Pope, 'the State does not dispose of the individual's right to live. It is reserved rather to the public authority to deprive the criminal of the benefit of life when already, by his crime, he has deprived himself of the right to live'. (A.A.S., Vol.45, p.787.)

The Death of Man

Before discussing the conditions required for the lawful use of the death penalty, something must be said, however briefly, about what is involved in the death of a human being. Death is the separation of the soul from the body. It marks the end of man's life on this earth. This is a natural phenomenon which need not surprise us. The material body, which we possess, is no exception to the general rule according to which material things gradually deteriorate, wear out and perish. At death, the soul leaves the body because the body no longer presents conditions in which it can respond to the presence and life-giving activity of the soul. This

comes about when the body is utterly weakened by disease, is worn out as a result of continued wear and tear, or suddenly suffers serious damage because of some accident, e.g. a car crash.

While the body disintegrates at death, the soul does not die. The dissolution of the soul and body does not mean the soul's destruction. It is in fact indestructible, immaterial and spiritual. Though the soul cannot be observed by the senses (it cannot, for example, be seen or touched), it is none the less real. It is able to have its own existence after death when the body and soul are dissolved. During life the presence of the soul is manifested by certain human activities which point to the nature of the source from which they spring. Rather than attempt an inadequate explanation of all this, we refer the reader to the relevant Catholic publications. Suffice it to say, that the power of forming abstract ideas, of self-reflection and self-consciousness, the capacity to know and love everything that exists, are characteristic activities of the human soul which are incapable of any material explanation. The only adequate explanation is that they must proceed from a principle which is itself immaterial, indestructible and spiritual; this principle we call the human soul.

In the present order of things man's death is not simply a biological process. Reason, unaided by Revelation, certainly tells us that death follows as a natural result of the compound of body and spirit which we call man. It is impossible, however, to treat of death without some reference to the doctrine of the Fall and the Redemption, factors which reason itself would not be able to discover, if God had not revealed them to us.

When God created our first parents He gave them sanctifying grace, which would enable them to attain personal union with Him, as well as other special gifts, all of which were in no way necessary to them as human beings. They could claim no right whatever to them. God intended that these gifts should pass to Adam's posterity, but Adam, the source from which every human being derives his nature, lost these gifts by his sin. Thus his descendants, deprived of these gifts, are born in a state of original sin. Among these special gifts was that of freedom from suffering and death, and scripture tells us quite clearly that the suffering and death which we now experience are the effect and punishment of the sin of Adam which all his children have inherited.

Christ came to restore to us the grace we had lost through Adam, to redeem us by His death. At the first moment of its existence the humanity of Christ was endowed with the fullness of grace and truth, and of His fullness we have all received. Christ, however, did not possess the special gifts of freedom from suffering and death, because He suffered and died: He overcame sin, because He overcame death, which is the effect of sin, by rising from the dead.

The work of Christ is applied to us in baptism. Baptism takes away what Adam caused in us. Through this sacrament we share fully in the effects of Christ's suffering and death and we become friends of God and capable of personal union with Him. This life gives us the one opportunity to choose God freely and to decide our destiny for ever. If the moment of death still finds us a friend of God by reason of the grace that is in us, death for us will be a meeting with Christ; and our soul, separated from the body, will be destined for God, in whose presence it will rejoice until the day when the body will rise and be reunited to the soul to enjoy the happiness of Heaven forever.

Although the Christian may be saddened at the thought of the sufferings of death, he is consoled by the knowledge that if he is found faithful to grace he can look forward to the promise of eternal life. At death, life for him is not taken away but is changed into something infinitely better than anything he had experienced in this world. He looks upon death as a share in Christ's victory and his birth into external life.

For those who deny the existence of the human soul and who look upon the body of man merely as a chemical compound, for those who do not share the belief of Christians in life after death, who lack Christian hope, death is indeed the greatest of human tragedies, it is the end of everything, and in its presence they can only give way to sorrow, desolation and even despair.

Conditions for the Lawful Use of the Right of Capital Punishment

Whilst it is Catholic teaching that the State has the right to inflict capital punishment, certain conditions must be fulfilled, if this right is to be lawfully used. It is necessary for the accused to have been proved guilty of having committed the grave crime which is punishable by death, and that this punishment be considered necessary for the common good of society. There must, therefore, be a fair judicial trial in which every effort is made to ascertain the true facts of the case.

On the question of guilt, Pope Pius XII refers to two extreme views which can also have a bearing on the subject of capital punishment. On the one hand, there are those who are inclined to admit guilt too readily, and on the other, those who deny it with-out sufficient reason. Of the former, His Holiness says: 'Those who are inclined to hasty judgements of guilt are forgetting that nowadays it is not enough to take into account the "traditional" extenuating circumstances which are laid down by jurisprudence and by the natural and Christian moral laws. They must also give some thought to the points established by recent studies in scientific psychology; in some cases this helps us to recognize a considerable reduction in the degree of responsibility

involved. The other tendency uses these same findings of modern psychology as the basis for affirming that the practical possibilities of making a free decision, and hence the real responsibility of a great number of men, is reduced to a bare minimum. In dealing with this unfounded generalization, we can, on the basis of everyday living and of scientific experience, in the fields of law and morals, assert that most men – and we might say the vast majority – have not merely a natural capacity but also a real power in practice to make their own independent decisions and govern their own conduct, except for individual cases where you can prove the opposite. This means that morals and law are not frozen in an out-of-date attitude when they say that the burden of proof must lie in establishing where freedom ends rather than where it begins. Sound reason and common sense rise up against the kind of practical determinism that would reduce liberty and responsibility to a minimum, and they can find ample support in the practice of law, in social life and in the revelation of the Old and New Testament'. (Address to Italian Jurists, 26 May 1957, A.A.S., Vol.49, pp.405-6.) Neither the cause of justice nor the common good would be served if this second view were followed in practice.

Of the judge himself, Pope Pius XII says: 'He must possess certain knowledge of the act to be punished both from the objective and subjective standpoints; that is, he must be certain of the actual commission of the crime and of the guilt of the accused and of the extent and gravity of this guilt'...'According to the nature of the case, the judge must consult outstanding specialists on the capacity and responsibility of the accused and must consider also the findings of the modern sciences of psychology, psychiatry and character study. Where there still remains a grave and serious doubt despite all precautions, no conscientious judge will pronounce a sentence of condemnation, particularly when there is question of an irrevocable punishment such as the death penalty.' (Address to the Italian Association of Catholic Jurists, 5 December 1954, A.A.S., Vol.47, pp.64-5.)

One might ask, at this stage, in what way the conditions laid down by Pope Pius XII for passing sentence are realized under English Law. First of all, it must be remembered that in English Law only minor crimes are tried by a judge (or magistrate) alone. Capital offences, being major crimes, are tried by a judge and jury, the verdict being that of the jury. In all criminal cases the standard of proof required is that the jury should be satisfied of guilt beyond all reasonable doubt. Any reasonable doubt must be resolved in favour of the accused. Moral guilt is taken into account when issues arise as to intention, diminished responsibility (in murder), or insanity. Intention is legally much more rigidly interpreted than in common parlance: it is most often implied. Environment and provocation may also be taken into account and reduce murder to manslaughter. Whilst responsibility in cases of mental disorder is still largely measured by the 120-year-old, much criticized, McNaughten Rules, in murder alone there is now available a lesser standard, namely 'diminished responsibility'. To establish insanity within the McNaughten Rules it must be shown that the accused did not know the nature and quality of his act, or alternatively did not know that it was wrong. It is now the practice in English Law to obtain independent medical evidence, e.g. by consulting a psychiatrist from outside the prison service, in cases where mental considerations directly arise. All this is in complete agreement with the statements on the subject by Pope Pius XII which have already been given, as well as with those that are to follow.

Human Judge not Infallible

A very real difficulty in connection with capital punishment arises in some people's minds by reason of the fact that no human judge is infallible. In their view, to justify the passing of such an irrevocable sentence, human judgement would have to be infallible; otherwise capital punishment is unjust. Pope Pius XII deals with this difficulty as follows : 'The knowledge required for the pronouncing of a sentence of punishment is, in the case of God, the Supreme Judge, a perfectly clear and infallible knowledge'... 'God is present to man, both in his internal decision and in the external execution of the criminal act. Every factor is completely revealed to His vision down to the last detail. The act in its entirety is present to His knowledge as clearly now as at the moment it was committed. But knowledge of such complete thoroughness and absolute certainty, of every instant of life and every human act, is proper to God alone. For this reason God reserves to Himself alone the final judgement on the value of man and the decision on his ultimate fate'..... 'The human judge, on the other hand, does not enjoy the same manner of presence nor has he the complete knowledge which is proper to God alone, and so he must, before passing a judicial sentence, form for himself a moral certitude. That is, he must have certainty which excludes all reasonable and serious doubt concerning the external act and the internal guilt of the crime.

'The human judge is handicapped because he does not have immediate insight into the interior dispositions of the accused at the exact moment of the crime; very often the judge cannot even reconstruct them with absolute clarity from the arguments which are brought as proof, and sometimes not even from the confession of the accused himself. However, this handicap should not be exaggerated to the point where it seems humanly impossible for the judge to obtain sufficient certitude to impose a sentence' ... (then follows what has already been quoted about doubtful cases)..... 'In most cases the external mode of behaviour is sufficient

manifestation of the interior motive for the criminal deed.

Normally, therefore, it is possible – and very often obligatory – to draw a substantially sound conclusion from the overt behaviour of the accused; were it not so, human judicial functions would be impossible. On the other hand, it must be remembered that no human judgement can settle finally and definitively the fate of a person, for this is decided by the judgement of God alone, whether it be a question of a single action, or of those of a whole lifetime. Consequently every mistake of a human judge will be corrected by the Supreme Judge of all'..... 'This, of course, is not to be understood as dispensing the human judge from a painstaking and conscientious effort to ascertain the truth. However, it is a wonderful consolation to realize that there will be a final balance between guilt and punishment which will leave nothing to be desired.' (Address, 5 December 1954, A.A.S., Vol.47, p.64.) Here we have an answer to those who say that the judge must have absolute certainty before passing sentence. It is clear, from what has been said, that moral certainty based on human evidence is sufficient to warrant the passing of a sentence and inflicting the penalty. The fact that the accused is guilty of the crime in question must be proved beyond reasonable doubt, after a thorough and conscientious effort has been made in a Court of Law to ascertain the true facts of the case. Everything must be done to diminish the risk of error, especially when it is a question of an irrevocable penalty.

The Meaning and Scope of Legal Punishment

Before treating of the last condition for the lawful use of the right of capital punishment, namely, its practical necessity in modern times, something must be said about the meaning and scope of legal punishment in general, because the opinions held about the lawfulness of capital punishment are closely connected with different theories held about the meaning and scope of punishment itself. Some would limit the scope of punishment to the correction of the delinquent and say that it should always be reformative or remedial. Others see in punishment a means used by the State to deter citizens from committing crimes, and in their view the scope of punishment should be deterrent or preventive. Many civil jurists today reject the view that punishment should be retributive. This may well be due to the fact that they make retribution synonymous with vengeance. Some people point to the text of Romans 12:19, where Christians are told not to avenge themselves against their enemies: 'For vengeance is for me, I will repay, says the Lord'. It should be noted that St Paul in this chapter is giving rules for the Christian's private conduct towards his enemies. The Apostle is not treating of the right and duty of the State to punish evil-doers. It is clear, from what has already been said, that he deals expressly with the Christian's duty of obedience to the lawful civil authority, and the power of the State to punish evil-doers even by death, in the following chapter of his Epistle. The principle of retribution which is inherent in all punishment, and therefore in legal punishment, is not in any sense vengeance or revenge. It corresponds to the instinctive desire in men to repel and punish violence, to see justice done and public order, which has been violated or seriously disturbed by crime, restored by a penalty proportioned to the crime and the culpability of the offender, meted out by the competent public authority.

This principle of retribution in legal punishment serves also to remind the criminal of the existence of this moral order in society, an order which he may not violate with impunity. Therefore, when public authority uses its God-given power to punish a criminal for his offence against society, far from acting in a spirit of retaliation, it is simply administering the penalty in accordance with the natural law referred to by St Paul in Romans 13:4, which requires that such offences be punished.

This same principle of retribution prevents excessive severity on the one hand, and extreme leniency on the other, in the administration of punishment. If deterrence were the sole guiding rule in this matter, great injustice would be the result, since any punishment could be imposed for any crime, provided it was calculated to deter others. Alternatively, others, being guided merely by their emotions, would tend to impose too light a punishment for really serious crimes.

Retribution respects the dignity of man by taking account of the fact that man is a responsible person, whilst at the same time it admits that there can be degrees of responsibility, or that it can be completely lacking in a particular case. To deny all responsibility, in the belief that all criminal acts are pathological, and yet to demand punishment even as a merely 'therapeutic' measure, would likewise lead to injustice and the punishing of the innocent. Hence it is, that Pope Pius XII teaches that 'it would be incorrect to reject completely, and as a matter of principle, the function of retributive punishment. The result of retributive penalties is in no way opposed to the function of punishment, which is the re-establishment and restoration of the order of justice which has been disrupted, a function which is essential to all punishment'. (Address, 5 December 1954, A.A.S., Vol.47, p.67.)

Pope Pius XII defines punishment as 'the reaction demanded by law and justice against crime', and he states that 'the proper function of law and justice is to preserve the harmonious balance between duty on the one hand, and law on the other, and to re-establish this harmony where it has been disturbed'. (A.A.S., Vol.47, p.62.) The order of justice has been disrupted because 'the criminal by his evil deed has refused to show due

subordination, due service, due devotion, due respect and homage to the civil authority. Objectively, he has committed an offence against the loftiness and majesty of the law, or rather the law's author, guardian, judge and vindicator. Justice requires that as much service, devotion, homage and honour be restored to authority as were taken from that authority by the crime'. (A.A.S., Vol.47, p.75.) Furthermore, the principle of retribution in punishment protects not only what it is the purpose of the law to protect, but it protects the law itself. Pope Pius XII states that 'this retributive function of punishment is concerned not immediately with what is protected by the law but with the very law itself. There is nothing more necessary for the national and international community than respect for the majesty of the law and the salutary thought that the law is sacred and protected, so that whoever breaks it is liable to punishment and will be punished'. (Address to the Sixth Congress of International Penal Law, 3 October 1953, A.A.S., Vol.45, p.742.)

In the same address the Pope analyses the modern conception of punishment (which excludes the retributive element), and asks if it is fully adequate. 'Most modern theories of penal law explain punishment and justify it in the last resort as a protective measure, that is, a defence of the community against crimes being attempted : and at the same time an effort to lead the culprit back to the observance of the law. In these theories punishment may indeed include sanctions in the form of a reduction of certain advantages guaranteed by the law, in order to teach the culprit to live honestly : but they fail to consider expiation of the crime committed, which itself is a sanction on the violation of the law, as the most important function of punishment'. (A.A.S., Vol.45, p.742.) The Pope concludes his address with an appeal to the members of his audience 'not to refuse to consider this ultimate reason for punishment merely because it does not seem to produce immediate practical results'. (A.A.S., Vol.45, p.744.)

Retribution, therefore, has an important place in the meaning and purpose of punishment. It requires that the penalty be proportioned to the gravity of the crime and the culpability of the criminal, and this principle is violated when the punishment is out of all proportion to the offence committed. That is why it is impossible to justify, on this principle, the death penalty for over two hundred minor offences which were on the Statute Book as capital offences in England in the year 1800. Grave crime, however, deserves a correspondingly grave punishment. Wilful murder is a most serious offence and to ask the murderer to pay the supreme penalty is not to inflict a penalty out of proportion to the crime he has committed.

To those who might look upon this insistence on the retributive aspect of punishment as out-of-date, Pope Pius XII points out that 'the Church in her theory and practice has maintained retributive as well as medicinal penalties' and that 'this is more in conformity with what the sources of revelation and traditional doctrine teach regarding the coercive power of legitimate human authority. It is not a sufficient reply to this assertion to say that the above-mentioned sources contain only thoughts which correspond to the historic circumstances and to the culture of the time, and that a general and abiding validity cannot therefore be attributed to them. The reason is that the words of the sources and of the living teaching power do not refer to the specific content of individual juridical prescriptions or rules of action (cf. particularly Romans 13:4), but rather to the essential foundation itself of penal power and of its immanent finality. This, in turn, is as little determined by the conditions of time and culture as the nature of man and the human society decreed by nature itself'. (Address to the Italian Association of Catholic Jurists, 5 February 1955, A.A.S., Vol.47, p.81.)

Whilst in the Catholic view retribution is the essential and primary principle of legal punishment, the purpose of punishment is not purely retributive; it is also reformative and deterrent. At the same time, it does not follow that these three elements need be present or will be present in every type of punishment in practice. It does not follow that because a criminal proves to be incorrigible he must go unpunished.

Capital punishment certainly cannot bring about the reform of the criminal except in the sense that, faced with imminent death, his conscience may be aroused and he may be moved to repent of his crime, make his peace with God and die a good death. But even here the punishment can be said to be fulfilling its function of redeeming the criminal through repentance. For this reason spiritual help should be made available for those who are condemned to death as long as such help may be needed. It should be noted that although St Thomas Aquinas teaches that in this life penalties should be remedial rather than retributive, when treating of capital punishment he says that the fact that the criminal is not given an opportunity of reforming himself, in the generally accepted meaning of the term, is no reason for abolishing the death penalty. In his view the common good of the community takes precedence over the private good of the individual. (Contra Gentiles, Bk.III, c.147.) This is a point that some writers fail to note and therefore their appeal to St Thomas is not a valid one.

The lawful use of the death penalty, therefore, will depend on its effectiveness as a deterrent in the state of society in which we live today. Punishment is lawful and the civil authority inflicts it lawfully when such punishment is shown to be necessary for the common good. If penalties less severe than the death penalty can be shown to be as effective in safeguarding the common good by maintaining public order and by protecting society, the State would not be justified in using its right to capital punishment. This brings us to the discussion of the last condition mentioned above.

Is Capital Punishment Necessary Today?

The answer to this question will depend on that given to the further question: Is capital punishment an effective deterrent today?

It cannot be denied that there are differences of opinion about the deterrent value of the death penalty today, and, therefore, Catholics are free to make up their minds about this question. The most we can do is to list the various arguments produced by both sides in favour of their respective views.

In the first place it should be noted that the debate in Parliament at the time of the Homicide Bill 1957 showed that the arguments brought forward did not prove the case for deterrence either way.

Those who favour the retention of capital punishment argue that it would be against sound common sense to conclude that all criminals are in no way affected by the death penalty. They say that most men instinctively abhor death as the greatest of physical evils, and that this is shown by the fact that those who are condemned to death often ask for the sentence to be commuted and they gratefully accept a reprieve.

Those who favour the abolition of the death penalty reply that while this may be true in theory, in practice there are criminals who commit crimes in the heat of passion without giving a thought to the consequences, or who are so depraved as not to think of the penalty in the hope that they will escape justice.

The retentionists point to the evidence given before the Royal Commission on Capital Punishment in this country (1949-53), which shows that many experienced persons are of the opinion that the death penalty is a uniquely effective deterrent both to professional criminals and young thugs. They also state that experienced judges, lawyers and officials consider that the abolition of capital punishment in this country would be likely to lead to an increase in the number of capital murders. They argue further that the police and those in the prison service, both of whom have a knowledge and experience of the criminal classes which is far greater than that of the ordinary citizen, share the same views.

The abolitionists answer that there are also judges who want to see the end of hanging, that any possible future rise in the murder rate with the abolition of the death penalty is something that can be proved only by facts, and that the police and prison officers are not entirely disinterested parties in this matter. They also note that some concern has been expressed in certain quarters about the effect of executions on prison chaplains, doctors, staff and other prisoners.

The protagonists of abolition draw attention to the fact that in those countries, with conditions similar to those in England, where the death penalty has been abolished, there has been no rise in the murder rate, so that the death penalty cannot be the effective deterrent it is thought to be.

The antagonists of abolition argue that this is not a matter that can be proved purely by statistics, and they quote in passing that England has one of the lowest murder rates in the world. Among the many factors that influence the murder rate they number the national mentality and temperament, peace and war, the home influence, housing, the existence of a strong police force, and the alternative to capital punishment, which in some countries is solitary confinement for many years or actual imprisonment for life; e.g. in Norway the murderer must spend the rest of his life in prison and hand over whatever he may earn by his work to the family of his victim. Finally, they observe that in the countries in question the death penalty was abolished at the will of the majority.

Those favouring abolition point to the fact that after 1861, when the death penalty was removed for over two hundred minor offences, the figures for the years immediately following show that the number of convictions for such offences decreased rather than increased.

Those favouring the retention of the death penalty say that the proportion of convictions to crimes is not properly indicated by the statistics since, in the years preceding 1861, juries were reluctant to convict precisely because they considered the penalty to be too severe.

Space will allow us to mention just a few of the other arguments produced by both sides in addition to those which centre round the deterrent value of capital punishment and the logical possibility that an innocent man may be hanged, which has already been dealt with by Pope Pius XII.

The abolitionists maintain that the existence of the death penalty creates a morbid interest and curiosity in murder, and, because of the fascination which it awakens in some people's minds, it is the cause of an increase in the murder rate.

The retentionists say that in this case the remedy is to be found, to a great extent, in not giving undue publicity to such cases in the press, and in refraining from certain lurid descriptions of scenes connected with the trial, the death cell and the execution.

The abolitionists say that capital punishment is both degrading and brutalizing, and they point to experiments in other countries where, after terms of imprisonment, murderers have been reformed and turned into useful citizens.

The retentionists hold, on the other hand, that capital punishment is neither degrading nor brutalizing, and

they quote expert medical opinion to the effect that the method of execution is most expeditious and causes quick and painless death. They say that the alternative of life imprisonment is demoralizing by reason of the fact that murderers must spend their lives mixing with men who have been convicted of gross crime. They have also the haunting fear that unless sentences of 'life imprisonment' mean imprisonment for life, there is a great danger to society that some murderers will give way to relapses after their release, and they refer to one or two rare instances which have occurred in recent times.

Finally, both abolitionists and retentionists point to the grave anomalies and grave difficulties raised by the Homicide Act 1957 and the confusion in men's minds as to what really constitutes capital murder.

Catholics and the Abolition of Capital Punishment

In the various Papal addresses quoted in this pamphlet, Pope Pius XII does not directly deal with the question of the abolition of capital punishment. The general impression given is that the Pope takes the death penalty for granted; indeed, he lists it among the penalties that have been used, are being used, and will be used by the civil authority, without passing any comment. 'The penal justice of the past', says His Holiness, 'that of the present to a certain degree, and – if it is true that history often teaches us what to expect in the future – that of tomorrow as well, makes use of punishments involving physical pain . . . . and capital punishment in various forms.' (Address to Italian Jurists, 26 May 1957, A.A.S., Vol.49, p.408.) It is hard to escape the conclusion that Pope Pius XII also had capital punishment in mind when he stated, in his address on 5 December 1954, that 'imprisonment or solitary confinement are not the only good and just forms of punishment', and he refers to what he had to say in an earlier address about the retributive aspect of punishment. (A.A.S., Vol.47, p.67.)

When Pope Pius XII was asked about certain penal reforms that had been referred to him, this is what he had to say: 'The goals envisioned in this reform, namely, the simplification of the law, the broader scope allowed to equity and to spontaneous good judgement, the better adaptation of penal law to popular feeling, are all beyond objection. While there are no difficulties in the theory of such a reform, obstacles may be encountered in the form of its realization. For, on the one hand, the guarantees of the existing order must be preserved, and, on the other, new needs and reasonable desires of reforms must be taken into account'. (A.A.S., Vol.47, p.66.) What the Pope has to say here can help us in coming to a decision about the abolition of capital punishment. Each one should ask himself this question: Having regard to the conditions prevailing in this country today, can it be said that the existing order is likely to be preserved or threatened, if capital punishment were to be abolished?

Finally, in answer to the question, 'May a Catholic support a campaign for the abolition of the death penalty?' one must first of all point out that, in any discussion about the abolition of the death penalty, a distinction must be made between the right of the State to inflict capital punishment and the use of this right. A Catholic may not deny that the State has the right and therefore he may not give his support to any movement for the abolition of the death penalty if such a movement is an expression of the denial that the State has the right to inflict it. Nor may a Catholic give his support to such a campaign if it is the expression of a general denial of the personal responsibility of the criminal for his crime and for its adequate expiation. A Catholic is entitled to argue, however, that in the present state of our civilization the use of the death penalty is not a practical necessity, and to that extent he may give his support to any movement for its abolition which is inspired by humanitarian motives. It must always be understood, however, that even if the use of the death penalty were to be abolished, the State would still have the right, and in a particular case even the duty, to re-introduce the death penalty, if it were to be considered necessary in the circumstances for the security and adequate protection of society.

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