

THE SCHOOL OF LAW REVIEW

Published by the undergraduates of the School of Law
at 45 St. George St., Toronto

Subscription for the two issues published during the 1943-4 Session is
Fifty Cents.

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The School of Law has learned with sorrow of the death in action with the Eighth Army in Italy of Lieutenant William B. Wood, 3T9, of the 48th Highlanders. Lieutenant Wood was a distinguished graduate of this School, President of the Law Club in his final year, and the second Editor of the *Court Crier*, predecessor of this journal.

"... and let the accused be hanged by the neck until he is dead and may the Lord have mercy on his soul" are the judge's last words in a successfully prosecuted murder trial. And a few days later, in the chill early morning light, the life of a member of the community has been prematurely brought to an end through a positive act of the state. Almost every one feels some pity for the deceased even though he has been found guilty; but the average person soon escapes from the psychological effects of death when he recalls the acts of the criminal and realizes that the execution has been the logical culmination of past events. However there are in this country sensitive and over-emotional people who decry capital punishment as a relic of a barbarous age. Notwithstanding such a declaration it behooves us to examine the question from the standpoint of justice and reason. Nothing is to be gained by shedding tears when common sense should have the upper hand.

Capital punishment should not be abolished because public safety demands its retention. The sentimentalists who urge educational rehabilitation greatly err by fixing their attention upon the punishment of the crime, and thereby overlooking the crime itself. They allow their hearts to run away with their heads, and consequently base their chief arguments upon the mental and physical agonies of the condemned man. Let us however look at the heinousness of the crime of which the criminal has been convicted. He has committed murder. Maybe he has slain a man in cold blood in order to rob him; perhaps he has committed a crime against morality and then killed his victim to make detection less probable.

We must always remember that the convicted person has wilfully and intentionally robbed a human being of his earthly existence and of his joy of living. More than that; he has brought sadness to others, and, as is often the case, has caused a family to suffer on account of the bread winner's death. The murderer did not care a bit about the mental and physical sufferings of his victim; he was totally indifferent as to the results of his crime as far as others were concerned. His crime makes him a menace to society, and punishment, which is always the objective of criminal procedure, is in order. The convicted offender is made to undergo evil which is inflicted on him not for the sake of redress but for the sake of example. The infliction does not provide compensation to the person who has been injured by the crime, but it is simply a warning—a *documentum*, as the Roman lawyers called it—to persons in general not to cause such injuries.

The argument is frequently raised that the death sentence should be commuted to life imprisonment. The advocates of the abolition of capital punishment say that criminals fear life imprisonment more than death. If a life term is a greater deterrent than death, why are all these efforts on behalf of condemned men? Why are friends and reformers so anxious to have a death sentence commuted if they know that they increase the suffering of the guilty party? Moreover this argument is contradictory. For if it is said that imprisonment is more severe and effectual, it is forgotten that "if human tribunals have a right to inflict a more severe punishment than death, they must have the right to inflict death itself." The point is often made that other penalties should be substituted for the death sentence. Switzerland abolished it but several years later restored it. Why? On account of the increase of crime. Australia, and the States of Colorado and Iowa passed through a similar experience. Lynchings and murders became more numerous than they were when the penalty was in force.

Admittedly the paramount object of punishment is the prevention of crime. However another purpose of punishment is the gratification of the kindred of the murdered person, a purpose on which modern society looks upon with resentment. However the eminent jurist Sir James Stephens stated not so long ago that criminal procedure may justly be regarded as being to resentment what marriage is to affection—the legal provision for an inevitable impulse of human nature. A second subsidiary purpose of punishment is the elevation of the moral feelings of the community at large. For men's knowledge that a wrongdoer has been detected, and punished, gratifies—and thereby strengthens—their disinterested feelings of moral indignation. They feel as Hegel puts it, that "wrong contradicts right, but punishment contradicts the contradiction". The death penalty can alone competently accomplish the proper end of punishment.

R. G. H. A.

LETTERS TO THE EDITOR

Dear Sir:

LAW should be permitted its own *teams*. By this I do not mean *teams* composed wholly of the members of one college but representative *teams* which could compete in intramural athletics on an equal basis with college *teams* and *teams* of other faculties.

At present when a *team* is allowed to bear the word LAW, it must bear as a prefix the name of a college. Further, permission to form such a *team* is grudgingly granted as a matter of grace rather than of right.

The reasons for such unwillingness to allow LAW students to field representative *teams* capable of competing on behalf of LAW, cannot but be wholly selfish. Law, sir, is a way of life as well as a profession and I know of no better way to infuse a unity of spirit than to allow the formation of *teams*.

When there are *teams* composed of Medical students, *teams* of engineering students and even *teams* of P. and H.E. students, I can see no valid reason for denying *teams* to the students of the oldest profession but one.

Yours sincerely,
JIM MCGUINNESS.

Judging from Reader McGuinness's letter, there are already too many *teams*.
—Ed.

Dear Sir:

Having read the above letter, I can only agree with the editor's comment. The wild demands put forth by the writer are truly hysterical.

The practical difficulties of his scheme are enormous. Such a concession would riddle the intramural system. No college could carry on effectively without the gentlemen from law.

If Mr. McGuinness had given only a moment's thought to the expense involved, his flight of fancy would have plummeted to the ground. At the present time athletic equipment is both costly and scarce. There is the further item of fines for misconduct and for games defaulted.

If participation in sports means the enjoyment of law as a way of life, I fear that Mr. McGuinness will have to content himself with the practice of law as a profession. During the course of a long and trying acquaintanceship, I have never seen him take any exercise except such as is involved in tying a shoe-lace. In short, sir, (to imitate his own pompous style), the letter above is from a most inappropriate person upon a most unexpected topic.

Yours truly,
WILLIAM BERESFORD GARFINK.

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CARSWELL COMPANY
LIMITED
Law Publishers
Printers and Bookbinders
145-149 ADELAIDE STREET W.
TORONTO, CANADA
Always at your service
Telephone AD. 1794