

## The Commonwealth of Massachusetts.

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EXECUTIVE DEPARTMENT, BOSTON, March 29, 1916.

*To the Honorable Senate and House of Representatives.*

It has come to my attention that there is now before your honorable bodies a measure which seeks to abolish capital punishment. While the arguments on this long debated question have been stated many times, without intending to repeat them here, I deem it my duty not to let the opportunity pass without urging the subject upon your attention and asking for it that serious consideration which its gravity deserves.

The death penalty is one of the most ancient of punishments and it has been used for many crimes. In Great Britain in the year 1800 there were nearly two hundred capital crimes and some of them for the most trivial offences, "such as cutting a tree, or poaching deer." Since the early part of the nineteenth century the number of crimes for which the death penalty was inflicted has become steadily less and when the increase in population is considered there is nothing to show that the committing of those crimes previously punishable by death has increased. In many of the countries in Europe the death penalty has been entirely abolished for all crimes and this is also true of eleven of the States of the Union. It was substantially abolished in Italy in 1786, in Roumania in 1864, in Norway in 1867, in Portugal in 1867, and in Holland in 1870. For the reason that it is rarely enforced it is practically abolished in Tuscany, Belgium, Finland, Prussia and Denmark and but rarely

enforced in Switzerland, Austria and Russia. The State of Michigan was the first to abolish the death penalty in the United States, which it did in 1846, and Wisconsin abolished it in 1853, neither of these states ever having restored it. The State of Maine abolished it in 1876, but restored it in 1883, but again in 1887 abolished it. Although the State of Kansas did not legally abolish it until 1907, it has practically been abolished since 1872. Rhode Island abolished capital punishment in 1852 and restored it in 1882, only in cases of murder committed by a life convict. In 1911 the Philippine Islands and the State of Minnesota legally abolished it and in 1913 the State of Washington, followed in 1914 by the State of Oregon and in 1915 by the States of North Dakota and South Dakota. There are but fourteen states including Massachusetts that have death as the only punishment for murder in the first degree, twenty-three other states leaving optional either death or life imprisonment. In the majority of the states murder is the only crime for which the death penalty is inflicted, although some of the states make three other capital offences. In the states that have abolished capital punishment and have afterwards restored it, there is no evidence that the change has any effect in lessening crime. In many of the states that already have three or four offences for which capital punishment is inflicted there are many cases of lynchings. The Federal Government has reduced the number of crimes punishable by death to three, these being treason against the United States, piracy and murder within the Federal jurisdiction, while before 1894 the capital offences were twenty-five under the military code, twenty-two under the naval code and seventeen under the penal code. It is thus shown that the tendency is toward the entire abolition of the death penalty. Governor Long during his service called attention to this measure in each of two inaugural addresses and his words are worth recalling. He said in his first message:

It is an outrage on human sensibilities; it is out of accord with the spirit of the age; it has undoubtedly, in many cases, induced juries to acquit men who, although really guilty of murder in the first degree, have thus gone unpunished; and nothing can justify it but the convic-

tion which is in the public mind, and which I admit affects my own mind very differently the moment I look at the matter under a sense of official responsibility, that the dread of this extreme penalty is a safeguard to life.

And in his second address:—

The pretence of insanity will not then succeed, as it now too often does. Should you abolish the death penalty, you might substitute for it the severest form of punishment.

It is said that Frederick The Great, who was certainly a severe disciplinarian in military matters, would not allow capital punishment under the civil law.

Abraham Lincoln, as is well known, was strongly opposed to its use even in the army.

In many of the states capital punishment is inflicted by hanging, electrocution and shooting. These three methods apparently are the only ones in use. Massachusetts a number of years ago abolished the punishment by hanging and substituted electrocution, but it is not clear that the electrocution of convicts is any less barbarous than hanging, for in some cases death is not instantaneous and the convict becomes frightfully burned and suffers great torture. In considering the infliction of capital punishment too little thought is given to the great number of people who are affected seriously by this brutal method of inflicting punishment by the society of which they are members. As statistics do not prove that the infliction of capital punishment lessens the number of crimes committed, it would seem that the time had arrived for doing away with that method of punishment.

I therefore recommend that you take action accordingly.

SAMUEL W. McCALL.

