

Episcopal Diocese of New York  
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Statement of John V.P. Lasso, Jr.  
Director of Christian Social Relations,  
Episcopal Diocese of New York,  
Before The Temporary State Commission on Revision  
of the Penal Law and Criminal Code,  
New York City  
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My name is John V.P. Lasso, Jr., and I am Director of Christian Social Relations for the Episcopal Diocese of New York. I should note here that the Diocese encompasses the boroughs of Manhattan, the Bronx, and Richmond, as well as seven counties to the north: Westchester, Rockland, Orange, Putnam, Sullivan, Ulster, and Dutchess.

I have asked to appear before you in order to offer some comments on three portions of the Proposed Penal Law: namely, those sections relating to the death penalty, to narcotics offenses, and to sex offenses.

In the first instance, I speak as the official representative of the Diocese since I have been asked by the Bishop of New York to present to you our views on capital punishment. Stated briefly, we are opposed unequivocally to the death penalty and we are -- by action of our Diocesan Convention in 1960 -- committed to work for its abolition. I might add that this is also the official position of the Episcopal Church nationally, established by vote of our General Convention in 1958.

Against this background, you can appreciate our profound disappointment when we learned that the Proposed Penal Law would retain the death penalty as a possible alternative to life imprisonment in cases of murder (Section 130.35) and kidnapping (Section 140-25). We had dared hope that the Commission would, in its extensive revision of

Episcopal Diocese of New York - 2

existing laws, recommend forthrightly the abolition of capital punishment; I would like to think that it is not too late to urge reconsideration -- and the deletion of these sections of the law.

I know that some say that we who call for abolition are rank sentimentalists, but I would counter with the charge that many proponents of capital punishment are guilty of a far more sentimental cast of mind than the most ardent advocate of its abolition. And this sentimentalism is not starry-eyed, but grisly and vengeful, not sickeningly sweet, but vindictive and brutal.

In practice if not in theory, capital punishment becomes ritual murder: a sacrifice performed by the State to propitiate, not angry gods but angry men. The victim, safely incarcerated and no longer able to harm others, is executed -- to serve what ends or whose purposes? Whatever penal experts may say about deterrence and prevention as rationales for the death penalty (and you will surely agree that there is considerable difference of opinion among these experts), the tragic truth is that revenge and retribution seem to be uppermost in the minds of most who clamor for execution, certainly uppermost in the minds of those who applaud in court when a death sentence is pronounced. Is it to serve these passions and please the crowd that a man must die?

It may sound as though I am excoriating proponents of capital punishment as a means of underscoring our innocence, as a means of divorcing abolitionists from the collective guilt. But this is not the case. And, in fact, I cannot. When the State takes a man's life in the name of the People, we are all murderers - abolitionists no less than proponents -- and some cannot sleep any more comfortably that night simply because they have objected. We are each time unwilling executioners, but executioners nonetheless -- and we number in the millions in this State, perhaps more millions than even we realize.

Obviously it is not in your power to absolve us unwilling executioners of our complicity in these executions, but it is in your power to help end this practice by so recommending in your report to the Legislature. We hope earnestly and prayerfully that you will reconsider this point.

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The Department of Christian Social Relations of the Diocese has asked me to express its views on the proposed article (225) relating to narcotics offenses and, in this context, to acquaint you with the official Diocesan position on punishment of narcotics addicts.

*Committee  
to the  
Legislature*  
I must say candidly that we were deeply disappointed to realize that the Commission had nothing to propose in an area of law where so much need for change of concepts and improvement of approaches exists. I say this with full awareness of the Commission's statement that it does not consider itself the appropriate agency to make an "in depth" re-evaluation of existing narcotics law.

We looked to the Commission for more than this. We felt and still feel that the time for change is now. And we must ask if it is in fact necessary to await further study and exploration by the Council on Narcotics Addiction or any other group before attempting to re-vamp the current punitive approach. Difficult as it may be to write a "perfect" statute governing narcotics addiction, it seems to us to be a real disservice to submit to the Legislature -- in a proposed penal law otherwise marked by real and significant improvement -- an article on such a vital subject that does little more than re-order and re-number sections of existing law.

Having said this, I must confess that I am not here to propose specific revisions. I know that there are Episcopal laymen and clergy

Episcopal Diocese of New York - 4

in this Diocese who could be of considerable help if the Commission decided after all to write a fresh statute, but I shall simply offer at this point the broad view of the Diocese, contained in a resolution adopted by our Convention last spring:

"...therefore be it resolved, that this Convention of the Diocese of New York state its support for national, state or local legislation which purposes humane treatment of the addict, including the addicted seller of narcotics, as a person needing rehabilitation, rather than as a criminal requiring punishment; and for legislation which directs the strongest action by the criminal courts and the law enforcement agencies against the narcotics racketeer."

One Churchman, a lawyer who reviewed the proposed article for us, summed up this concept tidily in these words, "Punishment of users for possession of narcotics is totally irrelevant to their rehabilitation and to their basic needs." It is this understanding that we would urge you to accept as the basis for new State laws governing narcotics offenses.

A major goal of law is -- or is always alleged to be -- rehabilitation, and nowhere can this emphasis be more significant than in statutes dealing with an illness or an addiction. There is so much that is so hopeful being done in the rehabilitation of narcotics users, and yet, one gets the feeling that it is being done almost in spite of the law. How tragic! Narcotics laws certainly must not impede rehabilitation, and they should not simply tolerate or sanction it; they must encourage and embody it as a primary concern. There is, I submit, a real and urgent need for change in the laws to recognize this fact.

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I would turn now to the proposed article (135) governing sex offenses, and in this instance, I speak once again for the Department of Christian Social Relations of the Diocese.

We are eager to commend the Commission for what is, in truth, a significant and enlightened advance over existing laws. I express our earnest hope that the Legislature will accept what the Commission has proposed.

I think that there are several improvements in approach and understanding embodied in the revised article, but probably the most important is the recommendation that deviate sexual acts "privately and discreetly engaged in between competent and consenting adults" should no longer constitute a crime. We support this wholeheartedly.

There is no need to re-state here the "modern sociological and psychiatric principles" that led the Commission to suggest this change. Obviously we accept these as part of God's continuing and progressive revelation of truths about man's nature, and it is clear that they have done much to re-shape a view once held by religious groups.

The Church bears heavy responsibility for our present attitude toward sex deviates and their problems, and for the severe penalties with which the law has requited them for their offenses. If the Church does not bear this responsibility alone, it must certainly share it. In the words of a distinguished Anglican scholar, the Rev. Dr. Derrick Sherwin Bailey:

"The Church taught and people universally believed, on what was held to be excellent authority, that homosexual practices had brought a terrible divine vengeance upon the city of Sodom, and that the repetition of such 'offenses against nature' had from time to time provoked similar visitations in the form of earthquake and famine. It was understandable, therefore, that by means of ecclesiastical discipline and of the restraints and penalties of the civil law, steps should be taken to ward off the wrath of God which might be displayed against these offenders." (in Homosexuality and the Western Christian Tradition)

We know that the steps taken were not mild. In Jewish law and, later in the laws of medieval Christian states, prescribed penalties included mutilation, death by stoning, burial alive, and burning at the stake. If today's penalties for deviate sexual behavior are less severe, it is also true that they continue to be unusually and disproportionately harsh -- and in one state of this Union still include life imprisonment. Clearly, much of the early attitude lingers on, and it behooves the Church to re-interpret at every opportunity that which it once taught. Suffice it to say here that we know now that the myth of Sodom fades into insignificance under the weight of God's love and forgiveness.

There will be those who will cry out that the State, by no longer punishing, is condoning; that by removing the stigma of crime, it is rendering favorable moral judgment. This is, of course, absurd. The Legislature cannot eliminate the sinfulness of acts by repealing laws that once held these acts to be crimes. In this case, the sinfulness simply returns to its proper context: no harm having been done another person, the individuals involved are rightly freed of the State's judgment and punishment -- and are returned to the exclusive judgment of God, with whom they will seek to make their peace according to the dictates of their faith and conscience.

It goes without saying that we support the protection that the law continues to seek to give to the young, the incompetent, and the unwilling, even to the sensibilities of the public. We are impressed by some of the new distinctions that have been drawn to delineate the severity of crimes in this area, as we are impressed by the clear recognition of illness in instances of bestiality. We hope that one day greater elements of rehabilitation may be written into all of these laws governing sex offenses, but, in any event and for the moment, we welcome the significant advance that this revised article represents.