

*Capital Punishment*

were a firm abolitionist I would have to look at this bill with a most critical eye and face the problem head on: with all the powers of commutation a man should not be sentenced for one crime of passion or for an accidental killing in a bank robbery to a type of imprisonment which will give him no hope at all.

That clause, along with the clause mentioned by the right hon. member for Prince Albert (Mr. Diefenbaker), is not acceptable, although I do agree in part with the Prime Minister (Mr. Trudeau): If you believe fundamentally in abolition, in theory it really should not matter. With respect, this is one of the problems with our Prime Minister; he is a pretty interesting theoretician, but in terms of practical politics and practical realities he creates difficulties for himself.

In theory he is right; if you believe in abolition, what difference whether the crime is treason or murdering your wife, a policeman or a prison guard? The Prime Minister is theoretically right, but at this particular time in Canada with the problems we have, or might inherit from across the seas in view of some of the events which are going to take place, to do more than they have done in Britain and eliminate capital punishment for treason, acts against the Queen and that type of crime, which is fundamentally against the state, I think is just naive.

Since the proponents of the bill cannot show me what good the change is going to do in terms of law and order and/or protection of the state, since the deterrent effect cannot be proven by statistics one way or the other to further the bill—and I say instinctively there is some deterrence—and if there is a tittle of deterrence, hon. members should think about how they vote on this bill.

Then there are two clauses in this bill which were not in other bills: first, definite periods of imprisonment which will cut out the heart of man in terms of the hope of any rehabilitation, which I think is insidious; and second, we are going to eliminate capital punishment for all forms of capital crime at this time. I say that the theoreticians and philosophers may be in great company with the muses of the ages, going back to Hammurabi of the 1700's, but they are not being very realistic.

I do not know how much time I have left. I was going to speak very briefly because I know the hon. member for Winnipeg South Centre (Mr. McKenzie) wants to speak. However, I want to say where I stand fundamentally on this thing, and what bothers me about this bill.

Unfortunately the public has made capital punishment rather symbolic, and there is in that strong poll for capital punishment a symbolism that if you have capital punishment and if there is capital punishment for a capital crime, then *ipso facto* all problems of law and disturbances in our cities and on our streets are going to vanish. We know that will not happen whether this bill passes or not. The symbolism is not going to be carried through into reality. We will still have difficulties in the administration of justice and on our streets at night and during the day, but I do believe that there are many times when members of parliament have to vote on a bill when the weight of the evidence is not strong one way or the other and the public believes, rightly or wrongly, that there is a very real symbolic effect. I just do not know why members of parliament should fly in the face of that symbolism.

[Mr. Nowlan.]

I know this bill will not correct all the problems, but conversely, if there is a large body of the Canadian public—as there is—which either believes in the principle of capital punishment or has the principle of capital punishment associated with the symbolism of having less permissiveness and fewer problems on the streets at night—in effect, I suppose, the cliché of more law and order—and if it honestly believes that and that is part of the psyche, then why should members of parliament vote to cut that symbolism away from the psyche? If that makes law abiders more comfortable and is not doing them any harm, I just wonder why this bill is so necessary.

There are many other things I would like to say about this, but it has all been said. There was a little discussion earlier between the hon. member for Welland (Mr. Railton) and others about new ideas. I do not really think there are many new ideas on such a fundamental issue which has been with us and will be with us in one form or another regardless of this bill.

In terms of the administration of justice, in the old days there is no doubt about the chance of an error. That is the fundamental thing which bothers me. There is a chance of an error, that capital punishment might be exacted and that it might be found that there was a mistake. We obviously cannot resurrect the mistake; that certainly is something which bothers all hon. members. However, I think in the administration of justice in our society the pendulum has swung so far that it gives an accused person an exaggerated benefit of doubt, not only in the criminal court but in all courts of appeal. It has swung that way with regard to parole as well. I think the minister's own average is ten years; after a capital crime a criminal can be out on the streets in ten years. There is a chance for another capital crime, and I must say that is really what turned me around in this issue. I know of two cases of killers who killed once, got out on either parole or week end leave and killed again.

**Mr. Blais:** How many have there been, Pat?

**Mr. Nowlan:** There have been several.

**Mr. Blais:** There have been two.

**Mr. Nowlan:** Two I know of. I said two.

**Mr. Blais:** That's all.

**Mr. Nowlan:** The hon. member for Nipissing (Mr. Blais) has asked a legitimate question. I can point out at least two situations I know about where there have been killings and chances to kill again because our administration of justice has swung so far in favour of the accused. In all sincerity I suggest to the hon. member for Nipissing that he cannot show me in the last two years or the last five years a mistake which has been carried out. We know that the last capital punishment was carried out in 1962. The hon. member cannot point to a fundamental mistake which has been made.

Each is entitled to his opinion, and my point is that the pendulum has swung so far in favour of the accused that he sometimes has had another chance to kill, and that weighs against the problem which bothers all Canadians about the chance of making a mistake. I think the adminis-