

*Amendments Respecting Death Sentence*

of robbing a bank and in the course of committing the robbery he shot a civilian, then he would be guilty of capital murder, he having killed in the course of committing a deliberate and planned crime. So the civilian received that protection under the law as it was enacted in 1961.

I do not think I should go any further than that. We felt we were not making a clear distinction between the position of the civilian and the policeman by the inclusion of the later portions of 202A, such as will be the result of the proposed repeal of the earlier portion of that section. I do not know whether I am making myself clear, but we did feel we were not making a distinction between the actual position of civilians and policemen by the inclusion of that provision. The civilian had the protection of the general law relating to capital punishment. Whereas if we now eliminate that protection and retain only the provisions relating to police officers and prison wardens, then they are the only category of people whose killing attracts the penalty of capital punishment. That is the distinction my hon. friend from Bow River is complaining about.

● (5:40 p.m.)

**Mr. Baldwin:** May I make one brief comment? As the wording is now I think the meaning is quite definite. Using what is known amongst lawyers as the *ejusdem generis* rule, we should interpret a section such as this in the light of what has already been suggested. Unquestionably paragraph (a) of new subsection 2 in clause 1 encompasses "a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer, or other person employed for the preservation and maintenance of the public peace." It includes all those who assist in preserving peace and order. To make my point clear, I point out that section 436 of the Criminal Code says:

Any one—

That means any one at all.

—may arrest without warrant a person who, on reasonable and probable grounds, he believes

(a) has committed a criminal offence—

Sometimes certain persons, even though they are not police officers, restrain others from breaking the law. Under the Criminal Code they have the right to arrest.

Directing my remarks for a moment to the amendment which the hon. member for Bow River wishes to move, I may say that I will help him draft it and I shall vote against it. I

do not like what is contained in the subsection; I suffer under it and I will not do anything to expand its provisions. Even if the minister or the government were to draft the amendment and bring it forward, I would still vote against it.

**Mr. Churchill:** I wonder whether the minister would use his customary discretion and stand this clause? Those who are drafting the amendment ought to have a little time to consider it. The minister could discuss with his officials what should be done. We might save time. That has been done hundreds of times in this house. Between 6 p.m. and 8 p.m. agreement might be reached between the minister and those who propose the amendment. On the other hand, if the minister is completely inflexible—and he will have from 6 p.m. to 8 p.m. to consider the matter—from 5.45 p.m. until 6 p.m. myself and others will repeat the arguments which have been made. What other pressure can we bring to bear on an inflexible minister?

I listened to the debate this afternoon on this clause. Very wisely, the hon. member for York-Humber introduced a problem we ought to consider. He gave us an example of a citizen who, acting on behalf of society, participated in an attempt to check those who wanted to break the law. Arguments have been advanced with regard to those who are impressed to assist police officers. Those arguments make sense to me. I intend to vote for the amendment that the hon. member for Bow River is preparing. If the minister wishes me to discontinue speaking I shall be pleased to if he will say whether he will stand clause 1 and continue with other parts of the bill. I pause to allow the minister to answer. Am I to continue talking or will he stand clause 1?

**An hon. Member:** No.

**Mr. Churchill:** The minister wants me to continue talking?

**Mr. Flemming:** He did not say that. It was some other fellow.

**Mr. Pennell:** Mr. Chairman, I wanted to know whether any further amendments to clause 1 were to be proposed. I agree with the suggestion of the hon. member. I propose to take the proposed amendment of the hon. member for Bow River under consideration and to stand the clause for the moment. I merely wanted to know whether other amendments to this clause were to be moved