

Criminal Code

lawyer tries to impress it in the other. Sometimes it is the power to influence that is the deciding factor, rather than the evidence in a case. In almost all murder cases the evidence must of necessity be circumstantial. A person who is about to commit a murder does not publicize or advertise it, so that people will come around to see it. He proceeds in a quite different way. The result is that lawyers and juries must make as intelligent guesses as they can as to what has happened and, on the basis of those guesses, bring in a verdict of guilt or innocence, involving hanging or acquittal.

These are some of the reasons I find it hard to accept capital punishment at all. I think we should get away from the idea of punishment and think more in terms of protecting society. In my view the hon. member for Temiscouata was on more dangerous ground when he advocated the extension of capital punishment to the crimes of rape and kidnapping. While I am not an authority or an expert in these matters, like most hon. members in the house I have read the opinions of others who have studied these matters and who are convinced that there would be fewer murders in connection with kidnapping if kidnapping itself was not a crime punishable by death. The same is true in the matter of rape.

How does that apply? If the person injured were going to lay a complaint, her evidence would be convincing. But dead people do not lay complaints and, in order to prevent such a person laying a complaint, murder follows the first crime. That, I believe, is the way the criminal mind works. To make the death penalty apply would not diminish the number of such crimes. I do not believe anyone who commits any of these crimes is ever in an emotional condition to consider the pros and cons of what may happen to him or to her, as the case may be, if he or she does what he or she has in mind. I do not believe anyone can accept that idea.

However, I am glad the Minister of Justice is setting up the committee. Regardless of what it may find, it will be good for the people of Canada to study the matter and to hear what is to be said on both sides of the question. Experts as well as laymen are interested in this matter. We all want to do the best we can for the society in which we live and so advance that society that we can diminish those anti-social acts that call for punishment.

Hon. George A. Drew (Leader of the Opposition): Mr. Speaker, before this debate is closed I do want to say something about

the subject that has most actively engaged the attention of hon. members in their comments about this committee. I do not propose to make any remarks about the two very important subjects of corporal punishment and lotteries. They have been adequately covered, particularly by the hon. member for Kamloops (Mr. Fulton); but I do want to speak about the discussion in regard to capital punishment, particularly as it has taken form here this evening.

What has been said by the hon. member for Kamloops and by the other hon. members who have raised certain questions here has not been in opposition to this motion. I recognize that the Minister of Justice (Mr. Garson) has been well aware of that from the time the discussion began. It would not be proper for the members of this house at this time to seek to tie the hands of the committee that they will appoint on the adoption of this motion, if it is adopted, as it would appear that it will be, I should think, unanimously. Nevertheless, the way in which this committee does its work, the way in which it approaches the subject, may very well be guided in some degree at least by the attitude expressed toward the subject matter of its inquiry.

The committee will doubtless hear different views, and the different views which have been expressed here will undoubtedly be expressed again when that committee meets. In the examination of the witnesses and in the calling of evidence undoubtedly different approaches will be suggested by different members of the committee. It may well be, however, that if the members of the committee became convinced that one point of view or another was clearly the point of view of the members of the house, they might in some measure seek to anticipate that point of view. It is with that thought in mind that I wish to make a few remarks in regard to capital punishment.

This is a moral question. It is a question that deals with the right of any human being, individually or collectively in the form of society itself, to deal with any matter that may arise, to deal with any guilt that has been proved, by depriving some other human being of life itself. Capital punishment is a terrible thing. It is not inappropriate that the full horror of capital punishment should be discussed, as it has been discussed here in dramatic terms today. It is appropriate that we should bear in mind exactly what it is that the parliament of Canada is permitting the courts to do after a man or a woman is found guilty of a capital offence.