

Amendments Respecting Death Sentence

am saying that certainly there is a section in the code which states that a person may be called upon to assist the police. This is what in many cases makes the law in Canada and Great Britain different from the law in the United States. If the bill is merely drawn to get a certain kind of measure through the house we have a pretty weak situation, but if the bill is drawn with the idea of protecting police officers then as a member of this house I want to be assured that, if police officers are protected, anybody else who accepts the responsibility of a peace officer is also protected.

If Mr. A in a bank is called upon to help a policeman make an arrest, has a legal duty to do so and then is shot and killed, then does the accused who is convicted of murder become subject to capital punishment? My answer, of course, is that he does not. This private citizen is not employed. What we are doing by this bill is saying that when someone shoots and kills a policeman that person is subject to capital punishment but that if a private citizen who is called upon to take the same responsibility is killed then the person who killed that private citizen is subject only to life imprisonment. In addition, after he is imprisoned it may very well happen that often ten years, one month and one day or some other period he is out again.

Why should we not write into this bill protection for the private citizen in this type of situation? If this bill is a mere compromise vis-à-vis completely abolishing capital punishment, then I say that in its broader sense—and this is not a reflection on the minister personally or on his intelligence—it is a dishonest attempt. I use that word in the right rather than in the wrong sense. If that is all the minister is trying to do, abolish capital punishment, then putting in these little tidbits of protection is nothing less than a disservice and a departure from the minister's responsibility. That is my position.

● (4:50 p.m.)

Mr. Martin (Timmins): Mr. Chairman, having regard to the argument that has been taking place I should like to suggest that hon. members look closely at this clause of the bill. The whole basis of the argument advanced by the member for Bow River is related to a situation in a bank where a bandit with a gun is holding everybody at bay and a policeman asks John Q. citizen to assist him in making an arrest. It is inherent in the hon. member's argument that the citizen is in terrible danger because the bandit

knows that if he shoots the policeman he will swing but if he shoots the citizen he will only get 10 years, eight months and some days. I suggest that this argument is silly and borders on the ridiculous. We should not waste any more time on it.

Some hon. Members: Oh, oh.

Mr. Smith: Mr. Chairman, the Solicitor General suggested that he does not want to add more categories to the exceptions. I think this difficulty could be solved very easily if we took the time to include a better definition of what "or other person employed for the preservation and maintenance of the public peace" means. It would be a very simple matter to define that category as including people who are pressed into temporary law enforcement duties.

Mr. Bigg: Mr. Chairman, speaking as a former police officer I must say that on many occasions I was embarrassed because the law has not been made clear on this point. I think we should take the necessary time now to clarify the law. We can no longer rely on the common law of England since the famous peeping Tom case which went as far as the Supreme Court. At that time the court indicated that the common law of England was no longer valid except by reference in principle. I do not think reference in principle is good enough to satisfy the purposes of this bill.

It is very important that the point in question be clarified. I cannot help but agree with my colleague, the hon. member for Bow River, that the interpretation of the law is in many cases more important than the law itself. I can see no reason for not standing this clause, or doing whatever protocol requires, until such time as this part is clarified once and for all so that the courts will know what we mean by "employed" as a peace officer.

It is my understanding that as soon as I get someone to help me carry out my duties as a police officer, that individual is in fact a peace officer whether or not he is paid. When an individual is called upon to help a police officer to make an arrest to preserve the peace he is in effect acting as a peace officer, and whether or not he is being paid is unimportant. Let me give an example. If I as a police sergeant were wounded in the course of carrying out my duties and I handed my revolver to a private citizen whom I had called upon to assist me, surely that private citizen would become at least a peace officer