

specifically to the question of what the punishment should be for murder and certain other serious offences.

At the present time, the Criminal Code provides that the punishment in some of those instances is death. Bill C-84 changes all that and provides that the punishment for these offences cannot be death but can be, at the most, life imprisonment. I submit that is a very precise proposition and that the vote of the House on second reading for the principle of this bill was a vote in favour of abolishing death as the punishment for crimes set out in the Criminal Code. It was a vote in favour of other degrees of punishment. I submit, therefore, that an amendment that seeks to bring back what the House voted against on second reading should be declared out of order.

I was interested in the fact that my hon. friend from Calgary North read a bit from page 494 of Erskine May's eighteenth edition. I wish he had gone on to read one or two more paragraphs. In the middle of the page I find this paragraph:

(1) A committee—

I realize that this is the British practice in committee, but I think it can be applied to the report stage.

—is bound by the decision of the House, given on second reading, in favour of the principle of the bill, and should not, therefore, amend the bill in a manner destructive of this principle.

I do not see how we can get away from the fact that the principle on which we voted on second reading was on the question whether to retain capital punishment for murder and certain other offences, or whether to change to life imprisonment or certain terms of imprisonment. That decision having been made, it seems to me that amendments which seek to reverse that decision are not in order. I am not suggesting that it is not open to the House to change its position by defeating the bill at the report stage or at third reading. It can go back on that decision. But the principle having been approved on second reading, I submit that all the arguments on page 494 of May's eighteenth edition are against amendments that seek to bring back the death penalty.

I would also point out, just to read a Canadian work, that at page 170 of Beauchesne's Fourth Edition is a very well-known citation, citation 202(12), which reads:

An amendment proposing a direct negative, though it may be covered up by verbiage, is out of order.

Surely, an amendment that seeks to negative directly a decision made by the House on second reading is a direct negative or an expanded negative and therefore should be ruled out of order.

In his remarks, the hon. member for Calgary North referred to amendments that were allowed by the Speaker of the day to one of the previous bills; I think he was referring to the legislation of 1967. In any case, he pointed out that amendments to extend the death penalty to some other crimes not already in the bill were allowed. I would point out, with great respect, sir, that the bill of 1967—indeed, all the bills we have had in this sphere up until now—was a bill that only partially abolished capital punishment. The death penalty still existed, and I think the Speaker's rulings on those occasions were that since the death penalty still existed it was in order for members to move an amendment applying it to some other crimes than

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those set out in the bill. This is a vastly different bill which we now have. Those previous bills were bills that did include the death penalty and, indeed, were also bills covering only temporary five-year periods. We now have a bill which is for total abolition of the death penalty on a permanent basis and approved by the House on second reading.

● (1700)

Some hon. members have tried to say, and I think the hon. member for Calgary North used these words—I hope I am not twisting them at all—that this is not a total abolitionist bill but it is a partial retentionist bill. I do not think the member should be allowed to get away with that. It may be that with the National Defence Act being unchanged, our total law is not totally abolitionist. There may be provision for my friend, the Minister of National Defence (Mr. Richardson) across the way, to conduct a firing squad, or what have you. However, he comes from Winnipeg and would not do that. Even though there might be the provision for a form of capital punishment in another act, namely, the National Defence Act, as far as the Criminal Code is concerned, as far as civil law in this country is concerned, this bill before us is totally abolitionist. There is no provision in this bill, anywhere, for the penalty of death to be applied in respect of any crime set out in the Criminal Code.

Like my friends who have taken part in this debate by referring only to procedural matters, I shall try to stay away from the substance of the bill. It does seem to me that this is a pretty important issue in procedural terms. The principal point is that it is a bill to make a change in punishment for murder in so far as the Criminal Code is concerned. The House has made a decision on that point, and I confess to a little bit of surprise that some of my friends who voted against the bill because it was for total and permanent abolition should now say it is not a total and permanent abolition bill because of certain provisions in the National Defence Act. Perhaps this is a bit of an aside rather than an addition to the argument.

I think I have made the case as I see it, Mr. Speaker. What is before us is not just a set of routine amendments to the Criminal Code. It is clearly defined in the title as a bill to amend the Criminal Code in relation to punishment for murder. The present law says that the punishment for murder in certain cases is death. This bill abolishes death as an instrument of punishment for crimes under the Criminal Code and, the House having made its decision, I do not think it is open to members to move amendments that would either reverse or alter the result of that decision already taken.

It is open to hon. members to argue for their amendments. It is open to members to try to defeat some of the clauses, and it is open to members to try to defeat the bill on third reading. In other words, the second reading vote does not stand for all time. Some of us are very conscious of that, and will be until the issue is over. But an attempt to amend the bill and by that method to bring back the death penalty which was voted against on second reading is something that I submit would be out of order at this stage.