

*Criminal Code*

I should like to refer to an article in the *Toronto Telegram* of March 23 which reads in part as follows:

Note of the government's policy toward capital cases was taken by Mr. Justice Eric G. Moorehouse, of the Ontario Supreme Court, when presiding at a murder trial in Bracebridge. He agreed there was no point in proceeding with the charge against a former milkman, because the penalty for murder had not been exacted for several years.

He accepted the plea of guilty on a charge of non-capital murder.

The crux of my speech this evening is based on one basic fundamental. Since, in effect, we have had abolition for three and a half years—and I am not arguing the pros or the cons to satisfy some members of this chamber who are concerned about statistics—which indicates to me that three and a half years is not a long enough period to establish trends or meaningful statistics, perhaps we should continue with abolition of capital punishment for a reasonable trial period in the future. Frankly, between Biblical quotations and so-called statistics it seems to me almost anything can be proven, either by quoting the Bible or citing a ream of statistics. I do not object either to quotations or statistics but they should be taken in their proper context and in their proper concept.

May I refer again to the article in the *Toronto Telegram* for March 23:

● (6:40 p.m.)

Capital cases in Canada have increased by 120 per cent since the Conservative government amended the Criminal Code in 1961 to establish degrees of murder. This figure from the Dominion Bureau of Statistics refutes the suggestion that the death penalty is not a deterrent to murder.

I suggest it does no such thing. This is using so-called statistics to prove a point. I submit that by virtue of the changes made in the law in 1961 an increase might naturally have been expected, not necessarily because of an increase in the number of capital murders but because of a difference in reporting. In my humble opinion no statistics can prove so completely nebulous an item as this is when they are based on such a very short period of time. One multiple killing could throw these presentations all out of line.

I suggest we should take note of the speech made by the hon. member for St. Paul's (Mr. Wahn). If I understood the gist of his remarks correctly, he considered we might have to settle for a trial period of abolition. As I have mentioned, virtual abolition has been in effect now for three and a half years. I could support abolition for a period of the next five or seven years provided, and I think this is a

[Mr. McCutcheon.]

reasonable proviso, that the most minute records should be kept and the most searching examination made of all activity relating to murder, attempted murder and crimes of violence. This material having been accumulated and digested, parliament could then study it and reach a decision on the basis of fact and logic, not as at present I fear largely on the basis of emotion.

The hon. member for Prince (Mr. MacDonald) made a most moving presentation. He painted a picture of rehabilitation rather than punishment or retribution. I think this aim is commendable and perhaps one day, we can advance to this great position in the evolution of our society. I hope we shall be able to do so. But I submit we have a long way to go.

This is not the problem of the criminal. This is the problem of society. When we have to put people in hallways and corridors due to overcrowding in our hospitals, remembering that those who are in these corridors have only committed the crime of being ill, then, desirable as the hon. member's suggestion is, I fear we have not yet advanced far enough to be able to put it into practice.

The hon. member for Royal (Mr. Fairweather) brought out some statistics which were meaningful to me. He compared the state of Maine with the province of New Brunswick. He pointed out that Maine has had no capital punishment for 80 years. These statistics were meaningful to me because both these areas have the same culture and the same economic background. On the basis of his figures there appeared to be no difference between the rates of murder per capita.

However, this brought up a question in my mind. I often read in the press—and in the part of the country where I live I have access to many United States newspapers—that a suspect was shot during the course of arrest. What happens? Does the old rule of shoot first and ask questions afterwards apply?

I have no statistics from the state of Maine or the province of New Brunswick in this regard, but before the statistics given by the hon. member for Royal are completely meaningful to me they would need to cover both aspects of this question. To me this is another consideration which adds weight to my suggestion that we should introduce abolition for a stated period and keep meticulous records until that period is over. If, for example, we were to find that innocent people