

*Amendments Respecting Death Sentence*

advisability of participating in exchanges between lawyers I should like to make one point. It may be all right for the Solicitor General to give assurances to this side of the house as minister in charge of the legislation, but members on this side of the house have had experience of accepting such undertakings. Members have left the house with the understanding that something would be done but when they returned they found that the minister no longer headed the department in question. With all the switching that takes place so frequently on that side, we cannot rely on the Solicitor General being minister of this department on Monday of next week.

Perhaps I am being a little facetious in saying that, but since it is difficult for lay members to understand the actions of lawyers and courts I would ask the minister this question. Since he is having trouble in accepting the suggestion of the hon. member for Bow River to replace the word "employed" with the word "engaged" and since the minister refuses to stand the bill, is it his intention at a later date to amend the Criminal Code to remove the penalty that can be imposed on any individual who refuses to assist a police officer? Each and every citizen of this country could be penalized for not coming to the assistance of a police officer. If a civilian does assist a police officer, those who support the minister are refusing absolutely to give him the same protection they give that police officer. At the same time, if a civilian refuses to help a policeman those same members are imposing a penalty upon him under the law.

Therefore, Mr. Chairman, if the minister is unable to accept the amendment of the hon. member for Bow River, which is supported by some members on that side of the house, and give protection to those who assist police officers, then I ask him to remove the penalty that can be imposed on any person who refuses to assist a police officer.

**Mr. Basford:** I will be brief, Mr. Chairman. It has been said that those who support this provision in the bill are not concerned about private citizens who are either impressed into acting as police officers or who voluntarily serve as police officers. It seems to me the hon. member for Kamloops could be of great assistance to the committee at this point, because the definition in Bill C-168, clause 1, paragraphs (a) and (b), is the same that the hon. member for Kamloops, when he was minister of justice for Canada, put into section 202A of the Criminal Code, in which

[Mr. MacInnis (Cape Breton South).]

section he established the distinction between capital and non-capital murder. In section 202A of the existing code capital murder is defined in subsection (2) (c) as follows:

—such person by whose own act caused or assisted in causing the death of

(i) a police officer, police constable, constable, sheriff—

And so on. As I say, Mr. Chairman, they are the same words that are used in the bill before the committee.

The hon. member for Kamloops could be of great assistance to the committee by explaining why, when section 202A was incorporated in the Criminal Code, he did not include at the same time in subsection (2) (c) the words "citizens impressed as police officers or citizens voluntarily acting to keep the peace". I think such an explanation from the hon. member for Kamloops could be very helpful.

**Mr. Fulton:** Mr. Chairman, I think hon. members will realize that this section was drafted in 1961, some six years ago, and it is not easy to remember all the details in connection with the reason that certain provisions were included in the legislation and certain provisions were not. My recollection is that it was the hon. lady, the Secretary of State, who raised the matter formally for the consideration of the committee and we conferred on the question at the time.

Concern had been expressed by the association of police chiefs, and the government and the committee felt that as an assurance of their position and as an indication that parliament, on behalf of society, recognized the importance of giving this protection, it would be appropriate to put the provision in the bill.

It has a particular significance now in the context of this discussion when you realize that at the time we were passing the legislation in 1961 ordinary civilians received the protection of the earlier portion of section 202A—the protection of the maintenance of capital punishment for planned and deliberate killing on the one hand, or for the killing of somebody in the course of committing some other planned and deliberate crime on the other.

It seems to me, Mr. Chairman, that the provisions of the law which are now being repealed did in fact cover the case of a civilian acting in the circumstances my colleague from Bow River has in mind. Under the provisions of the law as it now stands, if a bandit or a bank robber had the intention