

Capital Punishment

House to subscribe to those principles and refer this matter to committee in order that Canadians will have some say in the actions of the government.

We will not settle, as members of the opposition, for the point made by the Solicitor General (Mr. Kaplan), that this is a non-confidence motion. This is a motion requesting the opportunity for the majority of Canadians to have some say in the decisions of members of Parliament.

Some hon. Members: Hear, hear!

[*Translation*]

Mrs. Céline Hervieux-Payette (Parliamentary Secretary to Solicitor General): Mr. Speaker, it is both as a member of the Committee on Justice and Legal Affairs and, of course, as a citizen and elected representative from Quebec that I welcome this opportunity to rise in this House this afternoon on the motion introduced by the Leader of the Opposition (Mr. Clark). For the benefit of my constituents, I would like to recall some facts that led to the free vote held on July 14, 1976, when Bill C-84, to abolish capital punishment, was approved by 134 yeas to 124 nays.

In support of the government bill, the Leader of the Opposition, Mr. Clark, had this to say at the time on capital punishment, and I quote:

... it has been my judgment that capital punishment does not function as a deterrent in the case of those peculiar people who commit murder.

This, Mr. Speaker, is taken from *Hansard* for June 7, 1976, page 14215. He went on to say:

... What we have to do is determine whether the threat of capital punishment would stop those people who are likely to take human life, or likely to commit murder, from undertaking that act. I have seen no firm evidence to suggest that the threat of capital punishment is a deterrent.

This is on the same page, Mr. Speaker.

A week later, the hon. member for Oshawa (Mr. Broadbent) Leader of the New Democratic Party, stated the following, as reported on pages 14496 and 14498 of *Hansard*:

... I am not persuaded that capital punishment can be supported by reason or moral argument... the solicitor general and others have shown that the evidence—and I shall not put it stronger than this—is simply not persuasive.

Capital punishment therefore was abolished for all offences in the Criminal Code, with the support of the leaders of the three major political parties in this House.

Historically, Mr. Speaker, I submit that we should look back on the past in order to find out what types of crimes, according to the tradition of our British law, of course, deserved capital punishment. In the 18th century, England dealt out capital punishment for 250 offences. However, there is no evidence that so many executions had any incidence on the crime rate at that time. Quite the opposite, a study of offences committed in Britain three years after executions were suspended for a number of property crimes shows that their number had significantly decreased.

Mr. Speaker, at the time it was abolished capital punishment applied to a specific type of murder, namely the first degree murder of police officers or of people working inside prisons. I contend that murder will always be murder and that we cannot consider the death of one individual as having a greater significance than that of another. In this regard, if we had to reconsider this issue, we would have to examine what other types of murders could be subject to this penalty. I must say that I am really shocked when I think that thousands of deaths in car accidents each year will never be subject to this kind of penalty, nor will the numerous deaths occurring through neglect because companies or business owners decide to reduce safety measures on work sites or in the manufacture of certain appliances. I believe, Mr. Speaker, that you cannot put a price on any life and that it is not by reinstating capital punishment that we shall bring back to life those who will die because of the carelessness of other people.

The paradox that should be noted concerning the death penalty is that if it is dealt out too often, it forgoes its frightful nature, and if it is seldom applied, the risk of being sentenced to death gets blurred in the minds of criminals. I believe that this was the conclusion arrived at when Bill C-84 was passed in 1976. Its proponents have never shown that it can be a deterrent or that it is more of a deterrent than life imprisonment. In Canada, capital punishment seems to have been a deterrent less for the murderers than for jury members, Crown attorneys, judges and members of the Privy Council. Thus, many of the accused have been acquitted, or found guilty of lesser crimes, or have been declared temporarily insane or had their sentence commuted.

According to available data, the annual rate of convictions for murder has varied in Canada between 33 per cent and 46 per cent during the period extending from 1880 to 1960. Between 1960 and 1974, the total rate of convictions following an original indictment for first degree murder has been less than 10 per cent. However, the percentage of murderers tried under the original indictment for first degree murder and sentenced for a lesser crime has been 64.5 per cent, and this brings the total rate of convictions to 74.2 per cent. We can therefore conclude, Mr. Speaker, that Canadian jurors are reluctant to indict an accused for first degree murder, but will rather find him guilty of a lesser crime which does not put his life in jeopardy.

Statistics also show that shortly before 1962, a murderer had one chance in ten of being hanged in Canada because many jurors were reluctant to bring in verdicts of guilty for fear of seeing the death penalty imposed. Therefore, before that year, not only were murderers not condemned to death, but they had also a better chance of being sentenced only to a short prison term or of being acquitted. After the last hanging in Canada on December 11, 1962, successive governments, both Liberal and Progressive Conservative, on the basis of the evidence including minutes of proceedings, commuted death