

*Capital Punishment*

For example, in support of the police approach to the deterrent value of any punishment, Dr. C. H. S. Jayewardene, professor of criminology at the University of Ottawa states that "if a threat is an empty one that cannot or will not ever be actualized, it will not influence conscious or unconscious deliberations of the individual". It is therefore not a question as to whether society imposes capital punishment or life imprisonment for murder, it is whether those sentences are actually carried out. It is only if the sentences in either cases are actually carried out, will the punishment serve as effective deterrent. As stated in an article of the *Ottawa Journal* of Saturday, November 11, 1972, it is not the severity of the punishment but the certainty that appears to be related to crime rates. Therefore the certainty of the death penalty for the crime of murder amongst others would certainly qualify as the maximum deterrent.

In the joint committee of the Senate and House of Commons report of June 27, 1956, it is stated in part that "capital punishment is not an effective deterrent; it has no unique deterrent effect which would not be accomplished by imprisonment." We respectfully submit that the so-called life imprisonment of 20 years for the most callous murder simply means that at some time in the seventh year of the sentence, the murderer is eligible for parole.

The Royal Commission on Capital Punishment in its 1949-1953 report, speaking against capital punishment suggests that the death penalty, because so many sentences have been set aside, tends to degrade the administration of justice.

*[Translation]*

Mr. Speaker, irrespective of the sentences which could be passed by the judges and the convictions which could be executed, it must be recognized that if those sentences are not effectively served and that the state reverses the decisions of judges and juries—because the cabinet can always reverse legal decisions—the effects of the death penalty under any circumstance will be absolutely destroyed even if stricter legislation is passed.

Mr. Speaker, it is unfortunate to note that the Canadian government has given up its responsibility as far as the protection of the individual is concerned. We all have humanitarian feelings for criminals, but when we discuss the protection of the individual in this House, we would appear to be out of step with what the government would like to see as established policy for the Criminal Code.

Mr. Speaker, we should also consider that a number of homicides could be prevented by having the death penalty in our statutes. It will be said that the number cannot be known. Evidently it cannot be known, there can be no computation of homicides unknown and which have not taken place. However, it is clear that such legislation is like a sword of Damocles held over the heads of would-be criminals, a sword which can fall at any time once justice has rendered its verdict. If the death penalty does not have a dissuasive effect on the murderers of Canada, why would all sentences meted out by all judges of Canada have a dissuasive effect on crime in Canada?

If the death penalty does not prevent a murderer from committing a murder, why would a two- or three-year prison sentence for burglary lessen in criminals the will to repeat such a crime? Such an argument makes one question the rationale of justice in Canada. If the death penalty has no value as a deterrent for criminals, why would the sentences given by all judges have any value in reducing infractions against Canadian laws?

Mr. Speaker, we have made a try since 1967, when the death penalty was abolished. Now, since that time, all sentences were commuted by the cabinet, and that is one

reason why we realize today that murderers are not afraid of justice, are not afraid of being convicted and are laughing at the judges. Why? Because they know very well that at the right time, the cabinet—and especially the right hon. Prime Minister (Mr. Trudeau) who declared that as long as he would be Prime Minister there would be no hanging in Canada—will commute the sentence.

Mr. Breau: He did not say that.

Mr. Rondeau: Mr. Speaker, as a result of such a policy of liberality in the face of the law, we will unfortunately witness more and more difficult situations where the individual will be less and less protected, because the criminal feels more and more protected by the law.

*[English]*

Mr. W. C. Scott (Victoria-Haliburton): Mr. Speaker, in rising to add my remarks to the debate on Bill C-2 I would like to lend my support to those speakers who have pointed out to this House that we are not debating the issue of capital punishment. We are, in fact, debating the question of whether or not we should put the question in mothballs and debate it again five years from now.

● (2120)

I do not agree with this method of dealing with such a serious matter, Mr. Speaker. When we debated this same bill in the very same manner more than five years ago, it was the understanding of those who took part in that debate that the House would deal with the issue of capital punishment at the end of a five-year trial period. It was very clear to all of us that for five years there would be a ban on capital punishment except for murderers of policemen and prison guards.

The five years are up, Mr. Speaker, and we are saying today the same things that we said back in 1967 about the pros and cons of capital punishment. We do not have any new material and we certainly do not have any new statistics. We do not have any new material to discuss for the simple reason the federal cabinet did not carry out the wishes of parliament. The federal cabinet has commuted every death sentence handed down by the courts since that day in 1967 when parliament decreed that there would be two types of murder, capital and non-capital, and that those persons convicted of capital murder would suffer the death penalty. The guidelines laid down by parliament were clearcut and it is obvious that the federal cabinet has been following a policy of flouting the law and the will of parliament.

Webster's dictionary describes the word "flout" as "to treat with contemptuous disregard." That definition is the best we could find to describe what has happened over the past five years. We in parliament had good reason to think that in those five years we would learn a great deal about the deterrent effect of the new approach that we worked out in 1967. However, as it has turned out we might just as well have said that murderers of policemen and prison guards would be treated no differently than other criminals.

What has happened is that parliament has been ignored and the federal cabinet has placed itself above the will of