

*Criminal Code*

for abolition has not worked. Many sincere men and women have argued that society should not, under any circumstances, take a human life and, in any case, the death penalty was not a deterrent to murder. Is it not reasonable to suppose that society is concerned for those who help make it work by obeying these rules and without whom it could not exist? It can be argued that the death penalty is or is not a deterrent, although I must admit that I am far from convinced it is not a deterrent. One irrefutable fact is that it is a deterrent to the one who has already committed a murder.

One of the strongest arguments for abolition that occurs to me is that there is always the danger of an innocent man being convicted. It was this very argument that persuaded the government under the leadership of the present Leader of the Opposition (Mr. Diefenbaker) to amend the Criminal Code by dividing murder into two categories, capital and non-capital. Those convicted of non-capital murder, and this included minors, were subject to life imprisonment. This meant incarceration for a period of from eight to 20 years. Those convicted of capital murder, which included premeditated crimes, were subject to the death penalty. Under those conditions any judge or jury would be hesitant about convicting a man of capital murder upon circumstantial evidence. The risk of imposing the death penalty on an innocent man, particularly when one considers the appeals to which a convicted man is entitled, has been as far as is humanly possible eliminated.

Unfortunately, these amendments have never been given an opportunity to work since this government has commuted all sentences, no matter how heinous the crime. We have had, in effect, at a time when crime was on the increase, total abolition since this government took office.

In conclusion, Mr. Speaker, while expressing the greatest sympathy for the views of many good and sincere citizens who for various reasons would abolish the death penalty, I find that as a legislator the important issue is the protection of society from these criminal elements. As I see it, my duty as a legislator is to support legislation that would achieve the ultimate degree of protection for our citizens. I therefore intend to vote for the retention of the law as it now stands.

**Mr. Keith Hymmen (Waterloo North):** Mr. Speaker, I have listened with a great deal of [Mr. Muir (Lisgar).]

interest as my hon. colleagues in all parts of the house have discussed both sides of the important motion before us, and the vital issue concerning the abolition or retention of capital punishment. A great deal has been said. Eloquent presentations have been made, and further discussion might appear to be redundant. However, because I feel that all opinions are important, and in order to provide an opportunity for all members to express themselves in the time which has been allotted, I will make my remarks very brief.

As the members who favour abolition present their case, I notice that a recurring theme in their argument is that capital punishment does not effectively deter homicide. This theory is immediately challenged by the retentionist, and the argument goes on with each side summoning impressive documentation for their respective positions. In my own studies, Mr. Speaker, and I have tried to consider this matter objectively, I have become convinced that there is no proof that capital punishment is an effective deterrent or the only deterrent force.

I believe that many statements and much evidence supporting this fact are typified by the rather concise statement, which might be considered a ready or available reference for the average Canadian, as found in the latest edition of the Encyclopedia Britannica. It is as follows:

Regarding deterrence, it is well established by statistical studies that (1) when comparisons are made between contiguous states with similar populations and similar social, economic and political conditions—some of these states lacking and others retaining capital punishment—homicide rates are the same and follow the same trend over a long period of time regardless of the use or nonuse of capital punishment; (2)—the abolition, introduction or reintroduction of this penalty is not accompanied by the effect on homicide rates that is postulated by the advocates of capital punishment; (3)—even in communities where the deterrent effect should be greatest because the offender and his victim lived there and trial and execution were well publicized, homicide rates are not affected by the execution; (4) the rate of policemen killed by criminals is no higher in abolition states than in comparable death-penalty states. Capital punishment, then, does not appear to have a specific influence on the amount or trend of the kind of crime it is supposed to deter people from committing.

Mr. Speaker, the point is certainly not that the Encyclopedia Britannica is a particular or ultimate authority in this matter, although I have been in touch with their editorial board who inform me that their statement is the result of many hours of study and research the world over. The point is rather that a