

anyone would suggest that the legislators in the more than 45 jurisdictions which have abolished capital punishment are less concerned about the protection and the safety of their fellow citizens than those who are privileged to sit in this chamber.

In New Zealand the law on capital punishment has had an untidy history. In 1941 capital punishment was abolished. In 1951 the death penalty was reinstated, and in 1956 the death penalty was again abolished although it was not formally removed from the statutes until 1961. In New Zealand there is no strong evidence that the abolition or retention of capital punishment has had any significant increase on the rate of murder. The minister of justice for New Zealand made this statement during the course of parliamentary debates as recorded in volume 328, page 2699:

—when we realize that the penalty for murder has changed three times in the period I have been reviewing—in 1935, in 1950 and 1957—with no effect on the figures, then surely it is plain to us that executing murderers does not achieve anything.

I could multiply the illustrations from the commission's report.

In the Scandinavian countries there is no real evidence that the murder rate has been affected by the demotion of the death penalty. Let me pursue the statistical evidence for just a moment longer. We are agreed that there can be no precise mathematical proof in an issue of this character. But surely the retentionist ought not to reach such a somber conclusion on such inconclusive evidence that their claim of a special and unique deterrent is in fact accurate. The retentionists are faced with the Scottish verdict of "not proven".

I am bound to point out that the statistics point strongly in one way, that the murder rate is conditioned by factors other than the death penalty. The royal commission report says in paragraph 61:

Moreover, we received no evidence that the abolition of capital punishment in other countries led to the consequences apprehended by our witnesses in this country.

Not only do the findings of the royal commission point strongly in one direction, they also underline the dearth of statistical evidence available to support the retentionists. There is no argument that the royal commission did not look for evidence, because it spent four years in close and careful analysis of all the evidence.

Finally on this point may I bring to the attention of the house the statement of Sir

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Ernest Gowers, the chairman of the royal commission who by his own admission began the inquiry as a confirmed retentionist and moved to the position of an abolitionist. On page 137 of his book, "A Life For A Life", he tells us:

There remains the argument that without the uniquely deterrent value of capital punishment, more murders would be committed. As we have seen, such evidence as there is goes to show that the abolition of capital punishment does not in fact have this result.

That is the view of perhaps the best informed student of this perplexing problem. Before leaving the question of deterrents, I wish to say to hon. members who oppose this measure, I hope without offence, that I am more than surprised at the ease and assurance with which they speak of how the criminal mind reacts. Hon. members who do not need the death penalty to deter them from committing murder seem to be able to unravel the workings of the criminal mind.

● (3:50 p.m.)

I do not claim to be an authority on this matter, nor do I claim that my opinion is more important than those of other hon. members. But perhaps the house will forgive me if I point out that in recent years I, more than any other member, both in my professional and ministerial capacities, have been deeply concerned with this issue.

It has fallen to my lot to defend some 10 or 11 persons charged with capital murder, and I need not, of course, mention my ministerial responsibilities. Permit me, then, to speak for a moment out of my own experience. One case in particular remains vividly in my mind. This is a case that is now cited as a legal authority. I was assigned to the defence of the accused at his preliminary hearing and travelled with him through the whole judicial process to the Supreme Court of Canada and back to the condemned cell. I lingered with him almost to the moment he stepped on to the trapdoor and dropped into the unknown.

I shall never forget his complete indifference to the consequences of the law from the moment I first met him. The question I deliberately put to the house is this: Whom does the death penalty deter? How do the retentionists rationalize between those who commit murder despite the death penalty and those who claim they are deterred by it?

There is a grim sequel to the case I have cited. It was a case that attracted extraordinary attention in the community. Two years later I was in the same community, in the