

Mr. Turner (Ottawa-Carleton): We are talking hypothetically, because the hon. member put his question in abstract terms. If a murder were committed by a member of the FLQ the charge, obviously, would be murder, under the Criminal Code, rather than a charge under clause 4 of this bill. If a member of the FLQ were to kidnap somebody and the evidence were sufficient, he would be prosecuted for kidnapping for which the term is life imprisonment. The proceedings would not be under clause 4 of this bill.

If the victim was mutilated or tortured and death followed as a result, the person committing the offence would be prosecuted under the Criminal Code, which provides a life sentence as a maximum penalty. It is conceivable that if an attempt to overthrow the government were analogous to the crime of kidnapping or murder, the death penalty could result if a charge under section 46(1)(d) of the Criminal Code were sustained, that is, treason for which the penalty is death.

[Translation]

I take this opportunity, Mr. Chairman, to say to all my colleagues that this law is not aimed at raising the question of abolition or retention of capital punishment.

That question is raised by an amendment of an hon. member of the Ralliement créditiste. The House will have the opportunity before December 29, 1972 to make a permanent decision on the matter of capital punishment, and I submit to Your Honour that the time to discuss and to vote on abolition or retention of capital punishment is not during a debate on the passing of a provisional law.

The House of Commons has to be given the opportunity for a serious consideration of that very important question and must not try to deal with it now. I believe the question is much more important than that and it would be unfair either to the people of Canada or the people of Quebec to make a decision on so basic a question when the House has not at present the opportunity to make an exhaustive study of that question.

The opportunity will arise before December 29, 1972.

[English]

The Deputy Chairman: Order. Before I recognize the hon. member for Skeena perhaps the Chair should take a moment to remind the minister that the amendment before the committee permits hon. members to elaborate on the question of capital punishment, and the Chair has no alternative but to allow hon. members to do so if they wish.

• (9:20 p.m.)

Mr. Howard (Skeena): Mr. Chairman, it was interesting to notice the great attention that the Minister of Justice paid in his remarks not to all parts of the House but to one particular section of it.

Mr. Turner (Ottawa-Carleton): I learned that from the right hon. member for Prince Albert.

Mr. Howard (Skeena): I never saw the minister's face once. He was looking in the other direction, not at you, Mr. Chairman. Apart from that, I think the most telling

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argument presented to the committee so far in regard to the amendment before us was that made by the hon. member for Parry Sound-Muskoka. He levelled, I think quite properly, the accusation that the incendiary feeling which exists in the province of Quebec is to a large extent to be laid at the doorstep of this government, whose Minister of Regional Economic Expansion distorted the facts of the situation on more than one occasion for purely political reasons and inflamed feelings far in excess of those which one would have expected to be aroused. That is where the blame should lie.

Some hon. Members: Oh, oh!

Mr. Howard (Skeena): I see hon. members opposite shaking their heads.

The Deputy Chairman: Order, please. May I remind hon. members that the hon. member for Skeena has the floor and should be allowed to make his speech as others have done up to this point.

Mr. Howard (Skeena): Mr. Chairman, I do not really mind the interruptions from members like the hon. member for Mercier, but I would point out that if they are entitled to interrupt they should not object when others interrupt them. That is only fair.

Apart from the fact that the government is to a large extent responsible for the feelings that exist in Quebec, I think we are approaching the question of capital punishment from entirely the wrong angle. There are those who feel we should look at the question whether or not there should be capital punishment from the point of view of vengeance, from the point of view of exacting a toll from those individuals who commit this crime. They subscribe to the view that in our decision we should reflect the desire for revenge on behalf of those who have been injured.

This is not the function of a legislator. The function of a legislator is to try to look at things rationally and dispassionately and not let his heart rule his head. To do otherwise would mean that every time he considered something that was crucial or heinous to society, the Parliament of Canada would be expected to move hither and yon as emotions developed. We have known since long ago that acting out of revenge does not solve the situation or help matters one little bit. In terms of the force of the law we know that capital punishment, or the threat of it, is no more nor less a deterrent to the commission of the crime of murder than some other penalty; and the penalty we impose at the moment for this crime is life imprisonment.

With regard to those who kidnapped Mr. Laporte and Mr. Cross, whatever the punishment that would have been imposed upon them—I think the Minister of Justice said the sentence for kidnapping was life imprisonment and that the penalty facing those who committed the heinous murder of Mr. Laporte was life imprisonment or hanging, depending on how they were charged—they were not deterred in any way by any threatened penalty of capital punishment. I suggest it was not even a factor.