

penalty clauses, a brief look through the motions before Your Honour indicate there are no amendments along those lines. However, let me just put the hypothetical proposition. In two of the cases, for example, in first-degree murder and second-degree murder, there are penalties that mention a 25-year period of imprisonment and a 15-year period of imprisonment. If there were an amendment before Your Honour to change the 25-year period to 30, 20, 40, or 15 years, would that be out of order?

I cannot believe that would be out of order. I believe the Chair would rule that the penalty clause was ancillary to the main principle and, therefore, amendable and debatable at the report stage. Similarly, the question of life imprisonment and the death sentence for certain of the reclassifications of homicides is a referral to the penalty clause only. If it is a referral to the penalty clause only, that is ancillary to the main principle of the bill and, therefore, it should be debatable and amendable at report stage.

[Translation]

Mr. André Fortin (Lotbinière): Mr. Speaker, following the question raised by the Chair as regards the acceptability of amendments dealing with capital punishment and its enforcement, in putting the problem as if Bill C-84 in its principle dealt only with capital punishment, I think I should join the previous speakers in contending that the principle of Bill C-84 as such has nothing to do with the abolition or retention of the death penalty. In Bill C-84, the government seems to be dropping capital punishment as a means of fighting crime. As was said earlier, through Bill C-84 the government tries to amend the present outdated and obsolete Criminal Code, to reclassify the order of crimes and to provide for a new class of crimes; therefore—and this is only the result of such reclassification—unmistakably the government also provides for a degree of sentence in relation to the crime. In Bill C-84, one can find sentences such as commutation, detention for a specified period and even some provisions for parole after a given number of years in prison.

Mr. Speaker, as the title of the bill indicates, the bill before us is designed to amend the Criminal Code. This is the principle of the bill. I wish to make a comparison in support of my argument by referring first to the Fourth edition of Beauchesne, citation 246, paragraph 3.

It deals with a precedent relating to "money" bills, bills which aim either at spending some money, or at reducing or increasing expenditures. As the House and the Chair surely know, a member of Parliament cannot introduce a bill aimed at opposing the government's view, or involving public expenditures; but this would not prevent any member of Parliament from introducing an amendment providing for a different distribution of taxes that would be raised through the government bill.

In other words, a member of Parliament cannot reduce a tax on his own initiative through an amendment, but he can amend the legislation so that the distribution will be different from the one proposed in the bill. I will not read paragraph 3 of citation 246 of Beauchesne, but this is precisely the principle it puts forward. This is where I relate it to Bill C-84. I have in my name in the order paper a number of amendments that are being considered by the Chair and I suggest that those amendments, particularly

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No. 37, are simply designed to classify in a different way from that provided by the minister—the Solicitor General, who sponsored this bill—the penalties which will be involved in relation to a first or second degree murder.

I shall also refer to citation 276 of the same edition of Beauchesne's *Parliamentary Rules and Forms*, paragraph 1, which reads:

In early editions of this book (Sir T. Erskine May's *Parliamentary Practice*), it was stated that "the Crown has no concern in the distribution of taxes." Hence amendments were at first permitted which proposed the substitution of a different tax for a tax proposed by the Government . . .

I shall refrain from reading the whole paragraph, but I wish to show once more that a member of Parliament has some power. In other words, Mr. Speaker, if your decision were that any amendment aimed at changing the way the sentence is to be carried out, the sentence being either life imprisonment, or life imprisonment with possible commutation, or death with possible commutation, or again imprisonment with possible parole, one readily sees that that enumeration deals with the consequence of an act that was committed.

What the government is interested in is fighting crime. That is the principle in the bill which indicates the government has decided to revamp the Criminal Code as a whole. I for one say that the means proposed by the Solicitor General (Mr. Allmand) in his bill, not the itself, are inadequate, and I suggest that one of the means to achieve the objective of the government happens to be the death penalty. What inspired me when I drafted motion No. 39—which I will simply recall without quoting—it to say that in the amendment I want to extend imprisonment in certain cases, rule out parole in others or simply deal with the sentencing to life imprisonment in yet other cases.

Well, Mr. Speaker, and that boils down to the opinion expressed by the hon. member who spoke before me, if that kind of amendment is out of order it means the bill itself is strictly a bill to abolish capital punishment, regardless of the crime rate in Canada, regardless of the categories of murders, regardless of the categories of crimes and regardless of the means used. That is why I say that the House of Commons should not become entangled in this kind of procedural snare because hon. members would have no other choice but to vote on a principle that would be either abolition or retention of capital punishment. I say for my part that as a Parliament we have the power to go further in the same way we do with bills dealing with public outlays in the sense that we have the power to suggest to the government amendments to distribute its taxes in a different way, and then there is a vote. I say that the purpose of Bill C-84 which is to revise the Criminal Code is commendable, that the purpose of fighting crime is also commendable but that the means proposed by the Solicitor General are inadequate. That is my opinion. That is why I am taking positive action in not touching the bill, nor its title nor its basic principle but rather the means the government intends to give itself to fight crime, to control crime or to penalize a criminal convicted of first or second degree murder.

Mr. Speaker, I would like to conclude my remarks by saying that the principle of Bill C-84 is not to establish the mode of punishment but to catalog a number of crimes, establish categories and therefrom establish penalties. The