

What about the Crown prosecutor? What is his or her attitude toward the prosecution of a criminal offence? Does the Crown prosecutor believe that it is his or her duty to bring the whole facts before the judge and jury or does he or she believe that it is a primary duty to achieve a conviction? Does that sense of justice become diluted somewhat by the personal ambition and career plans of the prosecutor?

● (1210)

What about counsel for the defence? There is a wide variety and talent, persuasion and persistence among counsel. Yet, in most cases, particularly those involving legal aid, the accused does not have the right to choose the particular counsel defending him or her. That range of talents inevitably enters into the facts that are presented before a jury and the jury's assessment of those facts.

The accused has very little control over those human factors. Many accused of the ultimate crime are friendless, alone and without resources. Although we speak of equalizing the opportunity and equality of justice in Canada, there is still little doubt that a person with resources has a better chance.

[Translation]

Some capital punishment supporters, including the Hon. Member for Peterborough (Mr. Domm), state that it is worth the risk. They say that even if the state mistakenly kills certain people, it will be worth it since we will thus be getting rid of the guilty. This is a carefree and irresponsible approach which I cannot accept.

[English]

Of course we are given the ancient argument's recital of an eye for an eye and a tooth for a tooth—and, a life for a life. Murder is a barbaric act, so should we respond in a barbaric way? What would happen if we carried that to its logical conclusion: burgle the house of a burglar, cheat the embezzler, make obscene phone calls to someone who makes them, kidnap the child of the kidnapper? Of course that is an absurd argument but that is what we are really saying if we are to reply in the same way to an act of barbarism.

**Some Hon. Members:** Hear, hear!

**Mr. Turner (Vancouver Quadra):** Civilized societies over the centuries have developed codes of law and systems of justice to provide for the punishment of the guilty. It is not a system based on vengeance, retribution or revenge. Surely Canada has risen as a state beyond state-enforced vengeance or state-enforced retribution. Surely we have a system based on a calm, dispassionate review of the allegations so that beyond any shred of doubt within the burden of proof of the criminal law they are converted into facts. If guilt is assessed after due process then a punishment is imposed which will deter the commission of similar crimes. That is our system.

[Translation]

The aim of this system is to protect society and rehabilitate criminals. And in a civilized society the penal system must

focus on protection, prevention and rehabilitation. We must come to grips with the causes of violent crimes, not only with their consequences.

[English]

What we are discussing here this morning is not whether the state has the right to execute but whether it is right for the state to execute.

**Some Hon. Members:** Hear, hear!

**Mr. Turner (Vancouver Quadra):** The Hon. Member for Peterborough (Mr. Domm) is quoted in *The Toronto Star* as having said:

A country that puts murderers to death is telling the world that life is not cheap in that country.

I would ask the Hon. Member to reflect on that statement. If we look around the world and see where capital punishment is used we see that it is mostly in countries such as Iran, Saudi Arabia, the Soviet Union, China and South Africa. We must then ask ourselves, are these our models? Are these the societies that we want to emulate? The answer is clearly no. The answer is that the societies with which we feel comfortable are those of western Europe, New Zealand, Australia, and those states in the union of the United States where capital punishment has been abolished.

I do not arrive at my own views on capital punishment from any philosophical belief that there is no inherent right in the state to take a life. Under our moral history, under our law and under our traditions there has always been a right individually to self-defence, even at the cost of taking another's life in legitimate self-defence.

The state has always had collectively the right to defend itself, even by going to war and taking life, even when it involves the killing of others. Execution in the course of individual self-defence or in the course of collective self-defence has always been morally and legally justifiable within our moral and legal principles.

The question then is this. Is state execution justifiable as a response to murder? Is the state exercising a legitimate role of self-defence in that response to murder? It can only justify that as an act of self-defence if it can establish beyond a doubt that it is the only effective deterrent to the recommitment of that crime, and in influencing other people as they behave in our society.

Is capital punishment the only such deterrent? That is the issue. It is not only a moral issue; it is a factual and pragmatic issue. There are facts before us.

I think that one of the great speeches made in the House of Commons on this issue was made by the late Arthur Maloney. I commend his speech to Hon. Members. He made it on February 18, 1960 and he pointed out:

—there are many things which we are morally entitled to do but which we are not morally obliged to do.