

being the case, the 17-year old who hits the policeman with a heavy flashlight, killing him, could serve 25 years unless the government commuted his sentence. This means that the 17-year old youth, stronger than he might think, who hit the policeman could serve 25 years without commutation following a judicial inquiry or something of that sort. To my way of thinking that is not justifiable legislation.

The 1962 legislation, which set up two degrees of capital murder, was never given a fair trial in this country because the government changed hands and the next Prime Minister commuted every sentence. It was conceived in the minds of those people who might commit murder that their sentence would be commuted and they would not have to forfeit their lives. For that reason it was impossible to prove or disprove the value of capital punishment as a deterrent. It has been impossible in the last 15 years to determine the deterrent effect of capital punishment because this government and the government before it demonstrated to the country at large that there was no intention to carry out the death penalty.

Before 1961 we had a different situation altogether because we did not have two degrees of murder. There was a sentence for murder, and whenever the courts recommended a plea for leniency the cabinet commuted the sentence. In some cases when the courts did not pass on a recommendation the cabinet commuted the sentence anyway. I am thinking particularly of the case referred to by the hon. member for New Westminster of Steven Truscott, a boy of 14 years of age. Under the law passed in 1961 he would never have been subject to capital punishment.

Many cases prior to 1961 would not have been subject to the death penalty under the law as it stood from September 1961 on, and there would have been no necessity for commutation. These were cases that involved deliberate murder. Each one of these cases since 1961 was subject to commutation, therefore any attempt to prove the deterrent value of capital punishment has been impossible in Canada.

It is the knowledge of the risk one is taking that really is the measure of deterrence. If one believes he will never be caught he might go out and rob a store. Perhaps one will go out and commit a murder if he knows he will never be caught. It is the degree of risk of being convicted and punished that deters one from committing the offence. One can use many examples to show this, some of them regarding the penal system within this country of ours. Let us take the speed limit in a specific area as an example. We do not have to use even the breathalyzer case.

If there is a 30-mile an hour speed zone and one knows he will never be caught, he will more than likely travel through that zone at 40 miles an hour. If he knows there is a speed trap around the next corner or in the next block he will travel through that speed zone at 30 miles an hour. It is not the speed zone that stops him from going faster than 30 miles an hour, it is the risk of being caught that holds him to 30 miles an hour.

The government has demonstrated to Canadian society that it is not prepared to use capital punishment.

An hon. Member: Oh, oh!

Capital Punishment

Mr. Horner: If a new thought has struck you, then rise in your place and make a speech. I will listen to you, as I am sure other members in the House will. We will welcome your speech as I am sure your constituents would welcome it.

It has been impossible to prove the deterrent value of capital punishment in this country since the change in the law because the government of Mr. Pearson and this government have commuted every sentence. This government has used the trial period as a hoax on parliament. Do hon. members realize what happened to them in 1967? The Liberal government conned them as it conned parliament in 1972. Hon. members who vote on this legislation, no matter on which side of the House they sit, will be allowing themselves to be conned again because the government does not intend to carry out the measure it is asking us to pass. By that I mean the government does not intend to make sure that any convicted murderer stays in jail for 25 years. I know, and everyone in this country knows, that members of the cabinet are not that inhumane. They will let them out before their 25-year sentence has been served. I would hope they would let non-capital murderers out before ten years. They do not believe in their own legislation.

● (2120)

If the legislation should be defeated we will go back into a trial period. If we go back into a trial period the government can commute every sentence from now until the next election. I expect it. All those who would be subject to it will expect it, and the electors will make a new decision in 1978. They may make a new decision in any event in the constituency of the hon. member opposite who is interjecting, because they already know he has nothing new to offer. They will make a new decision in respect of many seats in this House of Commons if the government continues to commute every sentence between now and 1978. But if the legislation is accepted, the government does not intend to follow it, and if the legislation is defeated the government will continue not to obey the wishes of the Canadian people.

I shall conclude by saying to all members of this House of Commons that they have been conned twice. If they allow themselves to be conned a third time I can only say that the people of Canada should take a look at those who represent them in this House and see how they are conned and how little they really are prepared to serve the will of the Canadian people. In all the speeches made in this debate no one has disagreed in respect of the will of the people. Everyone has said that 70 per cent or 80 per cent of the people of Canada believe in the retention of capital punishment. Can we be conned into disobeying the will of the people in a democracy? That is the fundamental question. If we are, will the people take it laying down? Mr. Speaker, I hope not.

Mr. J. P. Nowlan (Annapolis Valley): Mr. Speaker, I must say in participating in the debate on Bill C-84 that I think my remarks will be a little more brief than they sometimes are. It has been stated publicly, although it is open to some interpretation, that this is to be a free vote. Certainly on this side of the House there is a very real intent to have a free vote.