

*Capital Punishment*

play and justice that have been common to the English people. That same Magna Carta—it is still the law today—says that no man shall be imprisoned, dispossessed of his land, or in any other way punished, without a fair trial before his peers and equals.

Mr. Speaker, let us examine the safeguards for an accused person in a criminal trial. I am not going to go into the matter in detail. I think every lawyer in this house will agree with me that there are no safeguards that could be added to protect and preserve the life and safety of a person accused of a capital charge. That applies even when the accused person is caught in the act; he is given the same protection as the person apprehended merely on suspicion.

What is the first safeguard? The first safeguard is our judges, and I disagree to this extent with the hon. member for Parkdale on this point. I think that we Canadians can be very proud of our judges. It is true that we have weak judges, that we have strong judges; but after all, a judge in a jury trial has not too much to say regarding the verdict of the jury. Bacon's advice to the judge I think bears repetition: "You shall be a light to jurors to open their eyes, not a guide to lead them by the nose." A judge might dislike the verdict of a jury, but there is nothing he can do about it.

Then we have the jury. Any ordinary individual tried before a jury of his peers and equals, if he has any kind of standing in the community, will certainly get a fair trial. An accused person in the case of a capital charge is allowed twenty peremptory challenges, which means he can say to a juror "I don't want you to serve". He does not have to give any reason. He is also entitled to challenge them for cause.

Those are some of the safeguards. More than that, the verdict of the jury must be unanimous. All twelve jurors must agree. That is another safeguard for the accused person.

**Mr. McGee:** I hate to interrupt the hon. member again, but would he permit another question?

**Mr. Stewart:** Certainly.

**Mr. McGee:** The hon. member has just stated that any person of good standing in the community is guaranteed a fair trial.

**Mr. Stewart:** I did not use the word "guaranteed".

**Mr. Winch:** There is the difference.

**Mr. McGee:** As I understood the hon. member, he said that any person of good standing will get a fair trial. Is this a condition he is attaching to a fair trial?

**Mr. Stewart:** I am sorry, I did not hear the question.

**Mr. McGee:** As I understood it, you said any person of good standing in the community will get a fair trial. This obviously excludes some other people.

**Mr. Stewart:** I said, if the hon. member had been paying attention, that any person with a reasonably good standing would.

**Mr. Winch:** Is not anybody worthy of a fair trial?

**Mr. Stewart:** I say that any person in the community is entitled to a fair trial and will get a fair trial if he is of decent standing.

**Mr. Winch:** That is the point. The hon. member means that he has to have a decent and good standing to get a fair trial. That is not British justice as I understand it.

**Mr. McGee:** The hon. member is attaching qualifications to the person who will get a fair trial.

**Mr. Speaker:** Order. I think the hon. member should be allowed to make his speech.

**Mr. Stewart:** I say, as I said before, under British justice whether a man is caught in the act of committing a crime or just picked up on suspicion, he is entitled to these safeguards under our law. That is what I said.

**Mr. McGee:** As long as he has a good reputation.

**Mr. Stewart:** In addition to the jury, the law has placed around the accused person, regardless of his innocence or guilt, certain rules that must be observed during the course of a trial. If these rules are not observed, if there has been wrongful admission of evidence or wrongful rejection of evidence, or improper identification, or a score of other reasons, then the case can be reversed on appeal.

Then we have further the appeal itself. A convicted person is entitled as of right to appeal to the appeal court of the province where the crime was committed. He is also entitled to appeal to the Supreme Court of Canada if there is dissent by one of the judges in the appeal court on a point of law, or with leave of the Supreme Court on a question of law.

In addition to those things we have the provisions of our Criminal Code relating to pardon, the review by the executive, the ordering by the minister of justice of a new trial or an appeal, just to the same extent as if the accused had made the appeal.

Those are some of the safeguards. I will admit that possibly there is a slight chance of error, and I will go this far and say to the