

*Capital Punishment*

**Mr. Turner (Vancouver Quadra):** We are told that a majority of Canadians favour the return of capital punishment. We are told that that is justification in itself for bringing back the death penalty. I understand that some Members are polling their constituents to find out how they want them to vote.

I am glad that the Parliamentary Secretary recited those words of Edmund Burke, perhaps too oft-cited but never more clearly put. He is saying that to poll one's constituents and to rely merely on public opinion polls or on commentators is an abandonment of our responsibility as parliamentarians. It is a derogation of what we were elected to do, by exercising our own judgment here and on behalf of the people of Canada.

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

**Mr. Turner (Vancouver Quadra):** If there is one line that I would recite from the words of Edmund Burke put before the House in his famous address to his electors of Bristol: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion".

The duty to make that judgment is ours. It is our judgment, and ours alone. It cannot be decided on the basis of public opinion polls or in searching out the collective opinion of our constituents. It is a matter for us to listen to reason carefully together, to weigh the arguments pro and con and then, in a matter of conscience and the fundamental values of the country, to tell the country and Parliament in the House of Commons where we stand. That is what we will do.

Let us be perfectly clear. This morning we are not talking about a percentage shift in interest rates. We are not talking in terms of whether the Gross National Product has increased or decreased, or about our trade figures. We are not talking in terms of greys; we are talking about an issue that is clearly black and white. There is no grey area possible when it comes to arguing whether the state should kill or not kill those the state finds guilty of the ultimate crime. The decision, once taken, first by us, then by the courts, judge and jury in the individual cases that will undoubtedly be brought before the country, then carried out by prison officials, is a final and irrevocable decision.

[*Translation*]

Every group of people has the duty to protect the innocent against violence. That is undeniable. Since murder is the height of violence, the state has the duty and responsibility to prevent this most condemnable crime.

Nobody here in the House would question this point. But we certainly do have diverging views on the method we should use to prevent this crime. Death penalty advocates believe that execution by the state constitutes the only real deterrent.

That is not my opinion. I do not think that the evidence we have confirms this.

[*English*]

I repeat that one of the earliest duties of a country was to protect citizens against attacks on their person, their lives, their freedom of movement and their liberty. When these attacks take the form of violence, then it is the duty of the state by way of the criminal sanction to punish. If the sanction against a criminal act is not sufficient or is seen by ordinary people not to be sufficient, then the effectiveness of the criminal law suffers loss of credibility. If a crime is not punished, people lose confidence in our law. If the punishment does not fit the crime, then in the minds of reasonable people the law is sapped of its credibility. Crimes of violence are not to be treated lightly. Sentences must be meaningful, and for murder, we believe that there ought to be a mandatory life sentence and limitation on the parole.

[*Translation*]

Some people claim that executing the murderer protects society because never again will this individual commit murder. True indeed. But since Confederation the number of people who were guilty of murder and went on to commit a second similar offence is infinitely small, and only two of the 473 murderers convicted since 1976 did commit a second murder.

[*English*]

What if a mistake is made? What if the wrong person is convicted? Do we think it never happens? It happened in the case of Donald Marshall who spent 11 years unjustly committed to a Nova Scotia prison for a murder he did not commit. What if we had executed Donald Marshall?

**Mr. Shields:** Not first degree murder.

**Mr. Turner (Vancouver Quadra):** What if you execute the wrong person? It has happened before and it can happen again. Who then is guilty of taking that innocent life? Is it the judge, the jury, the prison official, or does the whole responsibility begin with us here in the House of Commons? I ask every Member to weigh that particular decision.

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

**Mr. Turner (Vancouver Quadra):** In this debate we are assessing an individual responsibility for applying to our law and imposing within the criminal sanction an irrevocable, final, irredeemable penalty. When we talk about equality before the law, we are generally proud as Canadians of having moved a great deal toward applying justice equally between rich and poor, between all members of our society.

But there is always the human condition. There is always the human variable, and the accused does not have the choice of those variables. What is the attitude of the particular judge before whom the accused is summoned? What is the particular attitude of that judge toward capital punishment? That attitude unconsciously determines in subtle ways the way that judge presides the trial.