

*Criminal Code*

In Canada, for the past three years, we have been abolishing capital punishment by commutation of the death sentence, by cabinet order. This, Mr. Speaker, I suggest, is a quite dangerous practice and one which is very unsatisfactory, unless the jury which has tried the case has recommended mercy for the accused.

After having made a rather careful study of what purpose capital punishment is intended to serve, and after having given careful thought to how it has achieved that purpose, I cannot but conclude that complete abolition would endanger the lives of our citizens and would do away with the greatest safeguard the police have in dealing with dangerous criminals. Complete abolition would, I maintain, endanger the lives of our citizens, because I do not think there is anything which will achieve the degree of deterrence so much as punishment by possible loss of life. It is true that it has failed as a deterrent after the murder is committed, but that does not mean that it may not have deterred many other people, and we will never know how many people have abandoned the idea of murder because of the fear of execution if they are caught and convicted. We are not able to examine the mental processes and attitudes of the potential murderer. We cannot look into his heart to see what actually goes on there.

● (9:30 p.m.)

Human nature being what it is, it is very difficult for me to be convinced that somewhere along the line—and I speak now of course only of deliberate planned murder—the person planning the murder did not think of the penalty. After all, it is only common sense to assume that what will happen if you are caught forms a part of your thinking. When murder is premeditated, I maintain that the consequences in the event of detection must certainly be taken into consideration. It has been very correctly said that no value is stronger than that attached to the preservation of life, and I submit that proof of this lies in the fact that every accused murderer fights for his life at his trial and will not give up until he has carried his case to the highest courts available to him, and has exhausted every means at his disposal to maintain and prove his innocence.

Abolitionists will argue that there is always the danger of an innocent person being convicted and put to death. That is possible, Mr. Speaker, because we do not have a perfect system; but it is not I suggest ever a practical argument because our system of law adminis-

[Mr. McQuaid.]

tration in dealing with murder cases provides the necessary safeguards to protect the really innocent.

First of all, we have an inquest into a death. Then we have a preliminary hearing before a magistrate. Then, in those provinces which still maintain the grand jury system, we have an inquiry by the grand jury to determine whether or not there is sufficient evidence against an accused to warrant putting him on trial, or to warrant bringing in a true bill against him. Should a grand jury determine that a true bill is warranted, then we have the trial itself before an impartial judge and 12 independent and impartial jurors—peers of the accused. A verdict is rendered not by the judge but by the 12 impartial men.

After all this, when an accused is convicted by a petty jury he then has the right to appeal, and this right is provided whether he requests it or not. During all these steps the accused is represented by competent counsel and if he cannot afford his own, one is provided for him at no expense. No man is allowed to plead guilty under our law to a charge of capital murder. I am satisfied that no accused is discriminated against by reason of wealth, race, colour or creed in so far as the application of the death penalty is concerned.

Justice is a relative concept which changes with the type of crime. This principle is recognized throughout all our codified law. I think it was the hon. member for Middlesex West (Mr. Thomas) who pointed out during his speech that a minor traffic violation, for example, is not subject to as severe a penalty as is a conviction for breaking and entering. A conviction for breaking and entering is not subject to as severe a penalty as a conviction for armed robbery, and so on down the line. The punishment inflicted should, and I submit it does, reflect our abhorrence of the crime. Planned and deliberate murder is one of the most abhorred and, therefore, the punishment inflicted should be a mark of our revulsion for it.

Having established, at least to my own satisfaction, that the death penalty has a specific deterrent, that it has a deterring effect which would not result from any other form of punishment, I must assume the position that it should be retained in respect of all cases of capital murder. I am therefore obliged to vote against the present resolution.