

waiting in the death cells? That is the political implication, and that is the responsibility which the government must face.

Capital punishment was partly abolished in 1960 and 1961. All murder, except planned and deliberate murder, was made non-capital and anyone under 18 years of age could only be found guilty of non-capital murder. If the Truscott boy had been tried under that amendment to the Criminal Code no death sentence would have been passed, but it had to be passed according to the law at the time he was tried even though the sentence was commuted, and properly so, because of his age.

I believe the Criminal Code should always provide for commutation of sentences for all types of murder at all times. I do not go along with newspaper editorials which say that commutation is wrong because it is not part of our law. It is part of our law, part of our Code. Every case must stand on its own feet. Every case, as you know, Mr. Speaker, is always judged on its own circumstances. You never have two identical murderers any more than you every have two identical sets of fingerprints. It is the same thing when dealing with human behavior.

What are the arguments in favour of complete abolition? There are two main arguments. One is the possibility of judicial error, which is a serious one, and the other, which was dealt with this afternoon, is the question of the death penalty being a deterrent.

Dealing with judicial error, may I say it is easy to be a reformer. It is easy to get up and spell out the ways in which you are going to reform the world but is difficult to change and reform human behavior. Over the history of mankind man has not changed. Circumstances have changed but man's psychological behavior under those changed circumstances has not.

What about judicial mistakes? This is again very difficult to prove or disprove. During the 22 years I have been a lawyer and the 25 years I have been a student of the law—one must always be a student because if one stops one is no longer a capable lawyer—I have gained a tremendous respect for our judiciary. Judicial error, I repeat, is difficult to prove or disprove but I think that the British system of jurisprudence, which we have adopted in Canada is one of the finest in the world.

### *Criminal Code*

• (5:40 p.m.)

If it does not work or is not working, we are the ones who are spoiling it. It is not the rule of law which is at fault. Laws must operate for the good of the greatest number, but this is no excuse for errors. How can we minimize or eradicate errors? Let me name a few things I think we should do with regard to which we have been lax in our responsibility. We must appoint the best men to the bench. I know what the law societies have said. We must appoint men not only of intelligence and learned in the law but with patience and human understanding. The laying on of hands may make a bishop but it does not create one.

**The Acting Speaker (Mr. Rinfret):** Order, please. I regret to interrupt the hon. member but the time allotted to him has now expired.

**An hon. Member:** Let him continue.

**The Acting Speaker (Mr. Rinfret):** Does the hon. member have unanimous agreement to conclude his remarks?

**Some hon. Members:** Agreed.

**Mr. Woolliams:** Mr. Speaker, I will try to be very short. The best lawyers, with their skills at their intellectual fingertips, should be the men who defend those who are charged with murder or other heinous crimes. We have men like Marshall Hall of Great Britain and Clarence Darrow of the United States, and I think the Liberals might forgive me if I mention also our leader who is a very capable member of the bar.

These men were prepared to defend persons irrespective of consideration. This is not always true today. Some men are appointed by the law society who do not always have the proper experience. Courts of appeal must be prepared to declare new trials not on flimsy excuses but where there appears to be any real miscarriage of justice. Law is in the court's jurisdiction but where there has been a perverse finding of fact that in itself means that verdicts must be changed. There must be no lessening of responsibility. Proper financial assistance must come from the state so that the penniless accused can obtain as good a defence as the case against him financed by the state. Most persons charged with murder do not have the financial resources necessary to hire a good lawyer and above all to retain detectives to go out and obtain the necessary evidence to meet the crown's case. In the five murders with which I have been involved there have been few cases where the accused has had this financial ability.