

Amendments Respecting Death Sentence

Mr. Speaker: Order, please. A question of privilege is taken into consideration immediately, but the ruling of the Chair is not made immediately.

Mr. Grégoire: Your Honour has just made one.

[English]

CRIMINAL CODE**AMENDMENTS RESPECTING DEATH SENTENCE AND LIFE IMPRISONMENT**

Hon. L. T. Pennell (Solicitor General) moved the second reading of Bill No. C-168, to amend the Criminal Code.

He said: Mr. Speaker, I suppose in an issue of this nature we cannot entirely free our minds of certain emotional forces but my appeal is that the conclusion of the house will be animated by reason, knowledge and experience gathered from those jurisdictions where capital punishment has been abolished. I do not think it is necessary that I should trespass upon the patience of the house to recapitulate the provisions of the bill. However, before addressing myself to the merits of the bill I might perhaps be allowed to offer several general observations.

In the first place, I am authorized to say that the government does not look upon this matter through party glasses. The issue involved raises a matter of deep personal conscience and is a consideration that no party formula can satisfy. Therefore each member of the house, including the members of the ministry, will be free to exercise his or her own individual views on the merits of the bill. The view I have expressed is the considered view of the government and is the position sanctioned by precedent in the British parliamentary system.

A free vote tends to personalize the issue and, if I may enter a personal note, I wish to make it precisely plain that I do not approach this matter as a soft sentimentalist. I move the second reading of this bill out of a deep conviction that capital punishment is wrong in principle—

Some hon. Members: Hear, hear.

Mr. Pennell:—and not out of a misguided sense of sympathy for the enemies of society. The view I take has nothing to do with sympathy for murderers. I recognize the sincerity and the conviction of hon. members who oppose this bill and I hope, in turn, that they will acquit me of any lack of feeling for the victims of these revolting crimes.

I shall pass now to my second general observation. Bill C-168, while not dissimilar to the private members' bill of last session, introduces a significant difference. The bill now before the house has rolled up the two exceptions to a sentence of life imprisonment for murder with the five year trial period into a single package subject to a single vote. Members of the house will recall that the private members' bill of last session provided for total abolition. It is true that certain amendments were put, but they were put separately and voted upon separately. To illustrate, hon. members were placed in a position where they had to vote for total abolition for a trial period without either of the two exceptions in this bill or to vote for abolition alternately qualified by the two exceptions but without the five year trial period. Clearly, then, there is a substantial difference in principle between the two bills.

I would also respectfully remind hon. members that no man can be charged with inconsistency if his opinion, in the light of the changes introduced in this bill and in the light of further study and experience, has undergone modification. It is worth noting that during the past few years Mr. Chuter Ede, Home Secretary in a labour ministry, and Mr. Henry Brooke, Home Secretary in a Conservative government, have changed their position from being confirmed retentionists to total abolitionists.

The last preliminary observation I wish to make is that this bill, of course, is a compromise. I am deeply conscious of the difficulties under which I bring it before the house. I must clearly and candidly admit that the arguments I propose to offer in support of the principle of this bill could be applied with equal force and validity in support of total abolition. I recognize the fact that this bill may not be an ideal arrangement, but it seems to me that in its present form it is the most promising measure which can be introduced at this moment.

I believe that support for this bill is conditional on the inclusion of the trial period and the two exceptions to a sentence of life imprisonment. I believe also that it affords us the best opportunity to move forward and, if passed, certainly will be a gain on the position we now occupy under the law. This bill, like the 1961 amendment to the Criminal Code dealing with capital punishment, is a compromise and, like so many compromises, it cannot be defended on every count in terms of clear cold logic. Justice Oliver Wendell Holmes best dealt with this point more