

Criminal Code

should not go to the governor in council at all; but if a person be convicted of treason, piracy or capital murder as we presently understand them, then the application of part (c) with its open door feature should be of grave concern to all hon. members. I suggest to all hon. members that there should be a guarantee in the public interest that a person guilty of murder in one of the worst categories that we already have catalogued, and know as capital murder, should not be paroled or pardoned for at least 21 years. I submit this is necessary in order that this resolution may have the confidence of more members of this house and the confidence of the public.

So that there would be no possibility of any tampering with the carrying out of a life imprisonment sentence in what are regarded as capital murder cases or the equivalent, I was going to move an amendment, seconded by the hon. member for Norfolk (Mr. Roxburgh), but I was anticipated by another amendment; however, that amendment would have been that the resolution be amended by adding to paragraph (c) of the said resolution the following words:

Provided that no such release shall take place in a case where the death penalty is now mandatory before such person has served at least 21 complete years of such life imprisonment sentence in prison.

• (10:20 p.m.)

Mr. Speaker, I hope it will be possible for me to move that amendment to the main motion tomorrow.

Mr. G. H. Aiken (Parry Sound-Muskoka): Mr. Speaker, I should like to begin my remarks by pointing out something that this house and the country seems to have completely overlooked. There seems to be a general feeling that the final vote tomorrow night will settle something about the question of capital punishment in Canada. That vote will settle nothing and the outcome will make absolutely no difference in the law of this country concerning capital punishment.

What we are discussing is a motion made by four hon. members suggesting that legislation ought to be introduced. What we are voting on tomorrow night, including any amendment, is a sort of a straw vote in order to ascertain how members feel about the question of capital punishment. It is nothing more than that. We will be voting on a motion proposed by private members which suggests certain things to the government. If that motion passes the government may or may not bring in legislation and it is entirely

up to the government to decide how to act after the motion has been debated and voted upon.

After our vote, the government may bring in legislation which is entirely different from the wording or general intent of the motion. Although the government must give some general consideration to the result of the vote, it is not obliged to do anything that is suggested by the motion. If the motion fails, the government may still bring in legislation. Whichever way the vote goes, the government must make its own decision.

Even more difficult is the fact that if the vote is close, and it has been suggested it may well be, the whole question will be as unsettled as it is now. The real decision, if one is to be made, will be made at the second reading stage of any bill which is brought in.

I point out that fact for this reason. If the vote is close, either for abolition or retention of the death penalty, it is merely a straw vote which does not settle anything. If the vote tomorrow night is in favour of abolishing the death penalty it will not mean that a bill abolishing the death penalty would be carried on second reading.

The decisions of this house are made by the majority of those present and voting on a question before the house. If we have a close vote tomorrow, a vote on another occasion in respect of another question might easily produce another result. I merely point out that the vote tomorrow is not going to settle the question of capital punishment, unless there is a substantial majority on one side or the other. If there is a substantial majority, I think the government is safe in assuming that if it brings in a bill in accordance with that expressed substantial opinion of the house, it will carry.

I point this out at the beginning of my remarks because I read in the newspapers and keep hearing members of the house say that we are going to settle the matter on a vote, and thank goodness the vote is coming tomorrow night. But we are not voting on the question of capital punishment tomorrow night at all. We are not going to change the law. We are not voting on legislation. We are just taking a sort of general opinion on how members feel about this question. We will have to start the whole procedure over again and the government will in the end have to take responsibility in regard to legislation, whether the vote does one way or the other. I believe that a vote at this point is desirable and we should have it quickly. I support the