

*Criminal Code*

the provisions of the Criminal Code respecting homicide and I made some reservations on the definition of this crime in our statutes.

The legislation on homicide, as defined in the act passed in 1960, does not satisfy me. At that time, I had suggested that capital punishment be suspended as long as the legislator would not succeed in establishing various degrees in murders.

I had also suggested that in the spirit of the legislation enacted in 1960, judicial error could cause irreparable wrong to some criminals.

But since that date, Mr. Speaker, after a review of the question and a closer study of the various reports of the royal commission appointed to investigate this important issue, I am not prepared, today, to uphold the argument for the abolition of capital punishment, as I had done in 1960.

However, what mostly influenced my opinion on this matter was obviously the amendment to the Criminal Code which was moved in this house, by way of Bill C-92, on May 23, 1961 by the former Minister of Justice, the hon. member for Kamloops (Mr. Fulton).

● (7:20 p.m.)

As a matter of fact, the intention of this Bill C-92 was to divide murder into two classes, namely capital murder and non-capital murder.

This bill was the long-awaited answer to a judicial need and contributed to eliminate, in several cases, judicial errors resulting from the appreciation of essential facts submitted to the consideration of judge and jury.

Since this bill was passed, the judge must impose capital punishment only in cases where a premeditated murder was committed, and even in such a case, this legislation gives the jury the authority to recommend that the convicted individual receive the clemency of the court.

Under that act, an accused sentenced to death for capital murder may *de plano* appeal to a higher court against his conviction.

As far as those who are convicted of non-capital murder, the legislation provides as punishment a sentence of life imprisonment. That, I think, was a great improvement over the former provisions of the Criminal Code.

Therefore, pursuant to that Act, persons accused of being indirect accomplices to a crime of homicide, either before or after the fact, can avoid the death penalty and be sentenced to life imprisonment.

[Mr. Asselin (Charlevoix).]

Such was not the case before. Indeed, under the former provisions of the criminal code concerning homicide, persons indirectly implicated in such a crime were treated in the same way as the main murderer and were liable to the same penalty, that is the death penalty.

To my mind, the adoption of bill C-92 has had for effect to greatly reduce the risks of judicial errors.

In the history of our courts, It has never been proven beyond doubt, that miscarriages of justice had caused irreparable prejudice to some convicts.

Statistics show that one error out of 250,000 cases was committed in all the history of some countries' courts.

I say "irreparable prejudice" because under our present legal set up, the case of a person sentenced to death can be reviewed by judges of different courts of appeal, and as a last resort, the cabinet reviews carefully each case where the death penalty has been imposed.

Bill C-92 goes still further than the recommendations in the reports from the joint committee of the Senate and the House of Commons on capital punishment; it may be remembered that this committee sat for two years, namely in 1954 and 1955.

Members in this house will recall that this committee had recommended the retention of capital punishment and had also recommended that murder should not be qualified. However, Bill C-92 defined homicide as capital and non-capital murder, thereby going beyond the conclusions of the report presented by the joint committee of the Senate and the House of Commons.

What incites me also to change my mind as regards this question is the large increase of crimes in this country. I know that the abolitionists are going to say that this should not be considered as a determining factor as far as reaching an objective conclusion on this question is concerned.

Some of the members in this house will quote statistics so as to prove that, in some of the states in the United States and some other countries, the abolition of capital punishment did not contribute to any crime increase in those countries.

This is obviously a matter of interpretation. However, I should like to emphasize the fact that, in the province of Quebec, the incidence of homicide rose sharply during the last few years.