

### *Capital Punishment*

for his defence", or for instance, "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Mr. Speaker, there is also the International Covenant on Civil and Political Rights, whose aim is to ensure recognition, respect and protection of our fundamental rights and dignity, and especially of persons who are deprived of their freedom. Finally, I would like to mention other international agreements such as the Declaration on the Protection of All Persons Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Draft Resolution prepared by the Committee on the Prevention of Crime and Treatment of Offenders, which concerns guarantees for the protection of the rights of a person subject to the death penalty, both aimed at protecting the rights and dignity of prisoners and persons who have been convicted.

Mr. Speaker, I realize that in Canada as in other countries, our national law takes precedence. Thus, draft legislation that would not be in line with internationally recognized aims would not as a result become illegal. However, by signing international conventions or agreements, Canada has expressed its willingness to apply these principles and to consider them when preparing and implementing its own legislation. For instance, when interpreting our Canadian Charter of Rights and Freedoms, we could draw on the Universal Declaration of Human Rights. Furthermore, the purpose of the ratification by Canada of an international convention or covenant is to make their provisions binding on the federal and provincial governments vis-à-vis other signatory countries. Canada, for instance, ratified the International Covenant on Civil and Political Rights, and any contravention by Canada of the provisions of this covenant would be perceived as a violation of its international obligations.

Therefore, Mr. Speaker, Canada is bound by these international conventions and agreements, at least to a certain extent. We must take them into account in our legislation. And so, when we are discussing the reinstatement of capital punishment, we must take into consideration the various agreements to which we have given our support in the past. Unfortunately, the Bill before the House today does not entirely conform to these agreements and conventions.

The first point I want to make in analyzing Bill C-240 concerns procedural guarantees. In other words, the procedural rules that are to protect the rights of the accused.

Mr. Speaker, international agreements put a great deal of emphasis on the right of everyone to adequate representation before the courts. By adequate representation we mean the right to have the necessary time to prepare a good defence as well as the right to be represented by an attorney of one's own choice. A lot has also been said about the right to appeal to a higher court in cases where a sentence has been handed down. In the case of a death sentence, the latest international position which Canada is committed to consider as a result of the Sixth

United Nations Congress on the Prevention of Crime and the Treatment of Offenders provides that the appeal is automatic and mandatory. In cases where the accused is punishable by death, international agreements contain provisions concerning the burden of proof. A draft resolution of the Committee on the Prevention of Crime and the Prevention of Criminality, which Canada has endorsed, recommends that the death sentence be carried out, and I quote:

"only when there is absolutely no doubt whatsoever that the person accused of a crime is guilty, on the basis of clear and convincing evidence which does not leave room for any other interpretation of the facts."

Finally, still with respect to procedural guarantees, the international agreements also emphasize clemency and commutation of sentence. Certain people acknowledge that any person sentenced to death has the right to ask for commutation or to petition for mercy on his or her own behalf.

Does Bill C-240 contain all the guarantees I have just mentioned? For starters, Mr. Speaker, this Bill does not have any provision concerning adequate representation for the accused before the courts. Although this principle is spelt out in our Charter of Rights and Freedoms, not only does it need to be stressed but as well the participation of an attorney in the defence of any person accused of a crime punishable by death ought to be made mandatory. In such a case the seriousness of the punishment fully warrants the provision of clearly expressed guarantees just so there will be no doubt that the accused has the best defence available.

**The Acting Speaker (Mr. Charest):** I regret to interrupt the Hon. Member.

● (1800)

### PROCEEDINGS ON ADJOURNMENT MOTION

[English]

A motion to adjourn the House under Standing Order 46 deemed to have been made.

ENVIRONMENTAL AFFAIRS—ACID RAIN—PRIME MINISTER'S MEETING WITH UNITED STATES PRESIDENT. (B) APPOINTMENT OF CANADA ENVOY

**Mr. Bill Blaikie (Winnipeg-Birds Hill):** Mr. Speaker, I am glad to have the opportunity today to follow up on a question I asked of the Prime Minister (Mr. Mulroney) shortly after his Shamrock Summit meeting with President Reagan in March.

You will recall that at that time when the Prime Minister became so famous for his rendition of *When Irish Eyes are Smiling* that I suggested in the House that if we did not see more action on acid rain than we had coming out of the Shamrock Summit, at the same time next year we could all join the Prime Minister in a chorus of *Raindrops Keep Falling*