

*Amendments Respecting Death Sentence*

want to say that I have listened to the debate thus far with a great deal of interest. I feel impelled to make some remarks in connection with it. First of all, I should like to congratulate the minister on both the excellence and eloquence of his presentation. While I cannot say he has won me over to his point of view as yet, it was not the result of any lack of eloquence.

Before proceeding with any remarks in connection with the bill itself, I want to acknowledge that I was quite shocked when I heard we were going to have such a bill presented to us. It seems to me, Mr. Speaker, that we in this twenty seventh parliament had this proposal submitted to us and dealt with it about 18 months ago. I believe that having the present bill before us is to a degree irregular, and perhaps that is somewhat of an understatement. I am not so sure that a good lawyer could not prove it is illegal, and I propose to try to prove that point.

A debate took place in this chamber during the early part of the first session of the twenty seventh parliament. A decision was arrived at on April 5, 1966. I am sure it was the understanding of all of us that the Prime Minister (Mr. Pearson) was anxious, and the government was anxious to have an expression of opinion from this parliament on the whole matter of the abolition of the death penalty. He was anxious to have it from the spokesmen for the people of Canada, that is from those of us who are gathered together in this house. I feel it was altogether fitting and proper that he should have sought that opinion. An arrangement was made therefore by which a number of people from the various parties combined to have four private bills submitted to this parliament jointly and an opinion expressed on them. It was on these bills that we had a full debate.

Now, Mr. Speaker, you will recall that there was an amendment proposed to the original resolution at that time. The resolution read:

Resolved, that it is expedient to introduce a measure to amend the Criminal Code for the purpose of

(a) abolishing the death penalty in respect of all offences under that act;

(b) substituting a mandatory sentence of life imprisonment in those cases where the death penalty is now mandatory; and

(c) providing that no person upon whom a mandatory sentence of life imprisonment is imposed shall be released from imprisonment without the prior approval of the governor in council.

There was an amendment proposed to this resolution which, in substance, excluded the

prison guards and very much the same group of people who are included in this bill. I have just read the resolution which was debated at that time and I have given the substance of the amendment proposed by the hon. member for Cartier (Mr. Klein).

A clear opinion was expressed in the debate on that resolution, which states that it was expedient to introduce a measure to amend the Criminal Code for the purpose of abolishing the death penalty in respect of all offences under the act, and that opinion was that it was not expedient to introduce such a measure for that purpose. This was the decision of the twenty seventh parliament. Now, we have Bill No. C-168 before us which asks us to decide the very question this parliament decided on April 5, 1966. Here we have a bill which 18 months ago this parliament decided it was not expedient to introduce. In my opinion this represents a sort of deliberate defiance of the expressed wishes of this parliament. I believe it is capable of this interpretation. It seems to me, Mr. Speaker, there is an attempt here to override an already expressed opinion of this, the twenty seventh parliament of Canada. This is capable of being interpreted as a reflection upon the government, which seems to be acting with a sort of indifference, in defiance of parliament itself. This might properly be described as showing a contempt for this parliament.

● (8:30 p.m.)

Who are the members of the cabinet? I think that is a good question to ask, because this is a public measure. It is surely a measure for which the government takes full responsibility. It has the stamp of approval of the government in its presentation by the Solicitor General (Mr. Pennell), who is acting on behalf of the government.

It seems to me that the cabinet is a committee of parliament. Its members are obliged to be members of parliament—not like the United States, where anyone can be a member of the cabinet. You must be a member of this parliament to be a member of our cabinet. I know this rule is waived occasionally, but not frequently.

I am not a constitutional lawyer, Mr. Speaker, and what I am about to say may be subject to argument. However, it seems to me that the bill which is presented on behalf of the government by the Solicitor General, which seeks to make into law something that 18 months ago this parliament in session assembled decided it was not expedient to do,