

### *Capital Punishment*

nates. It discriminates between the victims and imposes a greater penalty for the murder of a police officer than for an ordinary citizen. Mr. Speaker, this is one of the reasons I intend to vote against the bill. In her remarks before ten o'clock last evening, the hon. member for Vancouver-Kingsway (Mrs. MacInnis) coined a phrase when she said that this bill should be debated in "quiet reasonableness". I think this was a particularly apt observation on her part, and I think that in bringing forward this legislation the government has shown a singular lack of appreciation of priorities and a singular lack of timing.

I have some sympathy with the Solicitor General (Mr. Allmand). From my knowledge of him, I realize that he is a forthright and frank minister. I would say that this is quite a contrast to his predecessor for whose policies he is now responsible. When one hears of the almost ridiculous things that are happening in the administration of our penal system and realizes that under the doctrine of ministerial responsibility he has to bear the brunt of much of the criticism, one can feel a certain sympathy. I noticed with some amusement that in answer to a question put by the Leader of the Opposition (Mr. Stanfield) earlier today, when the minister referred to what is commonly known as "the hole" in Dorchester, he called it the "disassociation area". As far as convicts are concerned, I guess the whole prison system would be called a "disassociation area". Convicts can hardly wait to disassociate themselves from it, and are doing so quite regularly. Hopefully, things will improve in this area.

The thing that concerns me about this legislation is that the chaotic state of the administration of justice is infringing to a large extent on the primacy of the judiciary. Those of us who practise law and who have had an opportunity to participate in criminal trials and murder trials, realize that under the present system the accused has a great deal of protection. There are the rules against self-incrimination, the protection of the preliminary inquiry, the grand jury which makes sure that the case is judicially sound and should be sent to the petit jury, the knowledgeable judge, the jurors, who are selected from a man's peers, who sit in judgment on him. It is still the tradition in our courts to say to the jurors "Look upon the prisoner and harken to his cry; he puts himself upon his country, whose country you are" and I believe that this gives the accused the greatest guarantee of a fair trial. This system should be cherished.

What disturbs me, as one who has practised law, is that a judge who, after careful consideration as to what is appropriate under the circumstances, gives a sentence which he feels is appropriate, often finds that this sentence means nothing because the effect of it is changed by some functionary or a parole board. This is an unfortunate atmosphere as far as the primacy of the judiciary is concerned. In light of the chaos that is presently abroad in the administration of our prisons, I think it is a shame that this issue of capital punishment comes up for debate in parliament. The "quiet reasonableness" that is so desirable cannot be created in this House under the present circumstances. I think the people of Canada are fed up with the undermining of judicial authority and the bizarre events that take place when dangerous prisoners escape, almost casually, from maximum security institutions because the guards are out having lunch. I would not be surprised, Mr.

[Mr. MacKay.]

Speaker, if it came out in evidence that box lunches were requested and given to these prisoners at eleven o'clock so that they could escape without having to miss their lunch, but perhaps that is unkind.

On the issue of whether a Member of Parliament should vote according to conscience or reflect the will of his constituents, I am fortunate because I find no conflict there. I feel, as do the hon. member for Leeds (Mr. Cossitt) and the hon. member for Montmorency, that when it comes down to it a Member of Parliament would be remiss if he sought to impose his own will in an issue that he knows enjoys the almost overwhelming support of his constituents, to the detriment of the clear conscience of the majority of the people he represents.

I think parole and penitentiary boards are relative to the matter under discussion. I am under the clear impression, perhaps erroneously, that there is not only this conflict between the legitimate sentences passed down by Supreme Court judges and the carrying out of those sentences, but there is even conflict and a grabbing for jurisdictional influence between the parole services and the penitentiary boards. I believe that when weekend leaves are granted it is often on the initiative of penitentiary boards without the compliance or knowledge of the National Parole Board. I may be wrong and no doubt the Solicitor General will deal with this topic. If I am correct, however, this situation is not conducive to a proper atmosphere for debating the subject. I cannot see how, within the context of the present social fabric of Canada, this is the time to consider the abolition of the death penalty. I say that this is a poor time in terms of priorities because there are many social needs in this country, people who are suffering from malnutrition, who do not have work or who have been hurt by inflation. These are legitimate concerns on which the government should do something constructive yet here we are, debating an issue that has been debated before, being asked to give a continuing trial period to that which has been tried before and has been frustrated.

The hon. member for Scarborough East last night referred to the professional criminal, the Mafiosa, the hit man or the soldier. I suggest that, like other professionals, these people have their own rules, their own argot. They know the odds, Mr. Speaker, and that they are engaged in an illegal and highly dangerous occupation. If they can be assured that no matter how heinous the crime they commit, whether it is a cold-blooded mercenary killing, a political assassination or an extreme case of putting cyanide in a water reservoir, something that is absolutely despicable and unspeakable, there is not the slightest chance of being executed, that will improve their odds. That is the kind of game these men understand.

● (1610)

As the Minister of Justice (Mr. Lang) pointed out, there is also the need to consider the argument whether there are some crimes which perhaps do require the ultimate in penalties. As a Member of Parliament, a lawyer and someone who is basically a very reluctant retentionist at this time, I find it very difficult to say unequivocally that under no circumstances should anyone in this country be executed for any crime. My logic may be erroneous, but I feel strongly that if the government would put its house in