

nature of the individual person charged with an offence, whatever it may be, that leads me to be and to want to be a little careful when it comes to the question of whether or not the state will take that life.

● (2030)

I will not argue that there have been occasions, and that there could be occasions again, when the taking of life as a punishment is necessary for the maintenance of law and order in a particular society. I will hold that as a possibility. The question which we have before us—which those who believe as I do, that this is theoretically possible, have before us—is whether it is indeed a useful, desirable or good thing to do now.

Individual members will refer to cases and they will say: In these circumstances, should capital punishment not follow if it could thereby stop the crime or avoid a future crime of similar import? They will never succeed in making the case that it would in fact have stopped the crime, and indeed in their examples—and I listened to the member for Abitibi who referred to them, and to most hon. members who spoke in favour of capital punishment in Canada—from those offences for which they argue capital punishment they move to others which they argue would not exist if capital punishment was in force. It is there that their logic falls down. They cannot make a statistical case in favour of the deterrent value of capital punishment.

I must say that I will not try to make a case in terms of statistics. I will not do so for two reasons: first, I am less than convinced that this is the basic way of determining the issue and, second, other hon. members who have spoken—notably, today, the hon. member for Ontario (Mr. Cafik)—have done an admirable job of analysing the statistical situation and showing what happens in certain circumstances with or without capital punishment.

The hon. member for Hillsborough referred to the Fattah study and the fact that crime other than murder rose faster than murder in a period of time when capital punishment may have been an issue in this country. These things at least raise the question of whether or not there is, in fact, a significant deterrent element involved. But I prefer to turn instead to the conjectural argument that in many murder situations the emotions that are involved in the committing of the offence are such that the punishment is not present in the minds of the committer of the offence; that often, in those circumstances, whether or not he will get away with it may not be important. I am referring to the husband or wife murder, the family murder, the close friend murder. In these situations emotions often rise to such a pitch that the exact punishment, and even the question of detection, are not likely to be present.

There is a whole range of cases where as a result of mental imbalance the mind is not likely to be focusing very clearly on the murder. There is another range of cases where one could say that the question of the exact punishment may make a difference. There, in any analysis of the thinking of the people involved, one finds that the question of whether they will be detected is far more influential than the question of whether punishment will be 10 or 15 years in jail, or death. The magnitude of 15 years in jail,

Capital Punishment

in terms of the way those people are viewing life, is indeed a pretty significant factor, but the question of whether they will be detected is apt to be a much more important factor.

So we have on this side of it the question of whether there is indeed practical merit and a practical deterrent value in capital punishment. On the other side there are those who ask: Should we pay money to keep alive people who have committed these offences? That becomes a very interesting argument in terms of economics against human life, if you have put the deterrent argument aside. It then becomes a fairly crass argument in terms of economics against human life. But against that, what do we have? We have the fact that in order to maintain capital punishment you must maintain the whole apparatus of execution. You must have someone who is executioner.

Would you, as an honourable man who is prepared to vote for capital punishment, volunteer for the job of executioner? That is an interesting question and I shall come back to certain aspects of it later. You must maintain the apparatus of execution which allows, in a cold-blooded fashion, the termination of a human life. I say "in a cold-blooded fashion" because one of the problems with capital punishment is that it does not happen in the heat of the immediate aftermath of the crime itself. I do not hear hon. members arguing for removal of the trial process and the determination of guilt or innocence, and therefore for the removal of a significant period of time between the time of the offence and the time of execution.

With that time interval in mind, hon. members should appreciate what is involved, that after a fairly long interval a human being who has done something grievously wrong to all of us is then to be dealt with. Is he the same man he was? Is there any place in the process for considering whether he is exactly the same, in terms of the punishment that will befall him, as he was when he committed the offence? That is the kind of thing which leads to a particularly interesting vote on the issue of capital punishment.

Hon. members have been in the habit of putting to their constituents the questions: Are you in favour of capital punishment? That is the wrong kind of question if you want a really careful answer to the issue, because to answer "yes" to it, all you have to do is to be able to imagine a single case where you would be glad to have capital punishment applied—and that single case involves many elements which are not always conveniently present. It involves the absolute certainty that the man to whom you wish the punishment to be applied was in fact the man who committed the offence. It involves the kind of terrible offence where we could not imagine any change at all on the part of the offender. It involves many such things.

The real question is quite different, namely: Do you favour capital punishment in circumstances where the man who is before you probably committed the offence, however horrible it may be, regardless of his present position? I ask hon. members to take a look at a certain piece of evidence when the question is put in that way. Lawyers know that when capital punishment was the usual sentence for murder in Canada, it frequently was not applied because as long as murder led to capital pun-