

some others, carry with them the maximum penalty of imprisonment for life. It seems to me to be inappropriate that in the case of culpable murder, whether it be of a policeman or whoever, the maximum penalty is exactly the same as for some of these other offences. I have illustrated that point before, and I will make some proposals to try to correct that problem.

I will not propose capital punishment. I think what the situation calls for is the imposition of some minimums, some mandatory regulations in respect of parole in respect of murder. I will suggest that all those who are guilty of culpable murder, whether the person murdered is a prison guard or a policeman or any other member of society, shall not be eligible for parole under any circumstances within a 15 year period. That is a change from 10 years to 15 years. Some people to whom I have spoken feel that perhaps it should be 20 years. It is difficult to make a value judgment on what it ought to be. I am simply saying that my personal view is that it should be 15, but I am willing to recognize that others who perhaps know more about the problem might want to change it, and if the change were from 15 to 20 years I would certainly go along with it.

Second, I should like to propose that all who commit murder while in the process of committing another criminal offence which carries with it a maximum sentence of life imprisonment shall not be eligible for parole in less than 20 years. This means, first, that a person who murders a policeman while committing armed robbery would not be eligible for parole in less than 20 years. Second, it means the same thing in most cases of the murder of prison guards, although there is a flaw in the formula which I think the committee should consider. My definition, while committing another crime which carries with it life imprisonment, would not include the person who, in attempting to escape from prison, commits murder. A specific reference would have to be made to that case, and I would be willing to go along with that. In my view this would provide a deterrent, and would provide a significant difference between a sentence of life imprisonment for offences other than murder and a sentence of life imprisonment for the offence of murder.

I would like to deal for a moment with the question of whether the death penalty is, in fact, a deterrent. I indicated earlier that I believe the state has the right to protect society. I believe that it has the right to impose the death penalty. But I do not believe that it should impose the death penalty if there is any other alternative available which is equally effective, and I believe that there are other alternatives available which are equally effective. In my view the death penalty for the offence of murder is certainly not a deterrent. People can argue this in both directions, but let me quote some of the statistics which have been quoted in the House before but which have led me to believe that the death penalty does not provide a deterrent. The study which I have before me reads:

New Zealand abolished capital punishment in 1941, restored it in 1950 and again abolished it in 1961. During the 1961 debate on the Crimes Bill, the Minister of Justice, the Hon. J. R. Hanan, noted that although the penalty for murder changed three times, in 1935, in 1950 and in 1957, the figures for murder were not affected. During seven years of capital punishment (1951-1957) 22 murderers were convicted. Eight of the murderers were hanged. In the nine years following the suspension of capital punishment the figure was 24.

### Capital Punishment

In New Zealand, from 1936 until 1941 the death penalty was never carried out in practice. If as a starting datum the year 1936 were taken, then it would be found that in the 15 year period during which the death penalty was not imposed in New Zealand (1936-1950) there were 148 murders; in the 15 year period before 1936 there were 154. In other words, there was a reduction of six in the number of murders after executions had stopped. This figure is very significant if examined in relation to what was happening to the population of New Zealand. At the beginning of the 30 year period in 1920, the population was approximately 1,250,000, and in 1950, the end of the 30 year period, the population was about 2,000,000. Such an increase demonstrates that the decline in the murder rate was substantial although the difference in the number was only six.

That certainly indicates to me that at least in that country, the abolition of capital punishment did not give rise to an increase in the murder rate. The same conclusion can be reached from a study of almost all the statistics you want to find. I believe the murder rates in the death penalty states and in the abolitionist states of the United States have been cited. The rate in the abolitionist states per one million of population was .510. In the death penalty states it was .570. So, it would seem to me that those figures as well would tend to lead one to believe that there is no direct relationship between abolition and the incidence of murder.

I should like to quote further in respect of this:

With regard to the United Kingdom figures, an article commenting on criminal statistics for 1966 said:

"In the statistics covering the first year since the suspension of the death penalty, the murder figures naturally attract particular attention. The murders recorded during the year numbered 143 which was 10 less than in 1965 and 12 fewer than 1964. Such a variation is within the normal range of variations in the crime over the years, and appears only to confirm the experience of this and other countries that the presence or absence of capital punishment makes little difference to the number of murders committed."

● (1600)

I think that ought to be enough to indicate that capital punishment does not have any significant effect on the number of murders committed. If it is not a deterrent then why use it, unless you want to use it as some form of revenge, adopting the argument of an eye for an eye and a tooth for a tooth? It seems to me governments should not exercise themselves in that kind of moral judgment.

Our responsibility is to protect society and we have to use every means available to us to do that, but we must never use the absolute punishment of death unless it is the only means available. I do not believe it is. I think the death penalty is a very effective deterrent with respect to some crimes, and to use a *reductio ad absurdum* argument, if you applied it for exceeding the speed limit, you would certainly cut down on the number of offences. But it would be an inappropriate penalty. You could impose the death penalty for all kinds of minor crimes. As a matter of fact, many countries do that, and it can have a great effect. However, in respect of murder, the worst of crimes, I do not believe that it has any effect at all. In cases where it does have a deterrent effect, I think it is totally inappropriate.

Over the passage of the last few thousand years, we have moved away from the idea of corporal punishment which was carried out with great abandon in many countries. People guilty of certain crimes had their right arms