

### *Capital Punishment*

been a deterrent to murder. The important point is that if you dilute the effect of deterrence, you must wonder why we should impose a penalty in respect of any lesser crime. That is why I find it difficult to follow the words of my leader. Immediately after referring to the deterrent effect, he castigated the government for being too liberal in its use of the royal prerogative of mercy in the commutation of sentences. I do not understand the connection. If capital punishment has no deterrent effect how can there be any deterrent effect in the penalties for lesser crimes?

The leader of the NDP presented a basic argument that statistics cannot prove that capital punishment is a deterrent to murder. He also referred to the inhumanity and brutality of the state in taking a life. He supported his case by developing the argument that juries are reluctant to convict when there is the possibility of a murderer paying the supreme price. He did not once mention the fact that there is a distinction between capital and non-capital murder. Juries can convict a man of a non-capital murder where there is no possibility of execution. That hon. member did not mention that fact, and for that reason I think his argument is a little confusing intellectually, as no doubt he will think my argument is intellectually confusing, if he takes the time to read my speech.

The leader of the NDP then went on to say there were no statistics to prove the deterrent theory, and advanced his own argument that juries would be reluctant to convict if they knew the man would swing, without pointing out the distinction between capital and non-capital murder. What the hon. member did not mention, and what has not been mentioned often during this debate, is the other side of the coin. This is the situation which exists when you do not have capital punishment for capital murder, those murders being of a very different kind from non-capital murder.

Perhaps a sociologist or a student of penal reform could use this subject as the basis of a thesis. Perhaps such a thesis has already been written on this subject. You might have the situation in which a man, alleged to have committed a murder, is being apprehended and in the process kills a policeman. Perhaps the policeman is attempting to apprehend him and there is a shoot-out. Who is to say that, because the policeman knows there is no possibility of this man paying the supreme penalty, he will not take the law into his own hands? There have been cases in the country to the south of us involving policemen who have broken into the residences of members of the Black Panther organization, and have caused a shoot-out which has resulted in the death of several people. Investigations have shown that guns were drawn and people were killed. I suggest that where there is no supreme penalty at the end of the judicial role, there will be a possibility of an increase in the number of incidents of this kind. Such incidents will result in the quick administration of justice and the snuffing out of more lives than would be the case if the proper judicial process were followed.

My personal dilemma lies in the fact that I have been on both sides of this issue. The first time the bill came before the House I voted for retention. Five years ago, I voted for qualified abolition or retention as long as capital punishment was invoked in the case of the murder of a policeman or prison guard. Perhaps there was no logic at

[Mr. Nowlan.]

all in my support on that occasion of qualified abolition or retention, because we ended up with an unnatural discrimination as between policemen and prison guards and other citizens across Canada. I have come to the conclusion that I must face this issue on the straight basis of abolition or retention, without trying to discriminate between citizens; in other words, making out that policemen and prison guards are in a different category than other citizens. That is the way we must face the issue, hence my dilemma.

I might suggest I am a reluctant retentionist. I am reluctant because I have no more fervour for retention than I have enthusiasm for abolition. Therein lies my quandary. When we change the law there should be an onus on those who want a change to show a positive reason for the change. The abolitionists suggest you cannot support the deterrent theory of capital murder statistically. If you cannot support abolition statistically, on what grounds can you support partial retention? I suggest more evidence is required to bring about a qualified state of abolition than the mere suggestion that this would result in a blissful and ideal society which we would all love to see in existence. At this very moment throughout the world many people are not dying peacefully in their beds. Men have not died peacefully in their beds since the beginning of history. Without being cynical, I would venture to guess that it will be a long time before mankind can be assured of a peaceful death in bed. I would guess that more people have died as a result of some kind of armed conflict somewhere in the world during one day of this debate than will ever face execution under this bill.

In times of emergency, crisis and war, it is necessary for the state to protect itself against attack. It is abhorrent that we train men to kill for the defence of society, but this is a necessity. Cold-blooded and calculated murder by execution is a form of defence, just as cold-blooded and calculated murder itself is a form of war against society or a form of war by individual against individual. Anyone who engages in this form of war should face the possibility of paying the supreme penalty after due process of law. This is retribution, revenge or reality, and frankly I am not sure which. We have laws that must be obeyed and penalties that must be paid in respect of breaches of those laws. If there is logic to the idea of penalties in respect of lesser laws, there must be logic to the penalty of capital punishment for capital crimes, keeping in mind always the royal prerogative. If it is logical to have penalties for infractions of lesser laws, then it must be logical and reasonable to have at least the possibility of the supreme penalty for the supreme crime. Surely, that must follow.

● (1650)

It is for those reasons I intend to vote against Bill C-2 tonight so that the government can bring in a bill, either for or against capital punishment. Then, Members of Parliament can make up their minds on that issue, and not try to hide behind the sham that is implicit in this bill.

**Mr. G. W. Baldwin (Peace River):** Well, Mr. Speaker, I have listened with some interest to this debate and what I have not been able to hear I have read. This will be the fifth debate on this subject in which I have participated in