

*Amendments Respecting Death Sentence*

ask the Solicitor General, the Minister of Justice (Mr. Trudeau) and the minister of immigration (Mr. Marchand) whether it is intended to allow him to remain in Canada. Is he a desirable candidate for Canadian citizenship? Yes, Mr. Speaker, he was acquitted of this charge. But for taking the law into his own hands he should be returned to the country of his origin. I leave this question with the Solicitor General for whom I have the greatest personal respect, and with the minister of immigration, because I think it is a timely one. What is to be done in a case like this? I await their information regarding this case.

Mr. Speaker, I have outlined some of the thoughts which arise in my mind as I am confronted by my personal sense of responsibility for the continuance of responsible government, justice, and the protection of human life and property in this great country of 20 million people, all of whom are engrossed in the battle of life in all its stern severity across the far reaches of three and three quarter million square miles. I told this house 18 months ago that it is my firm opinion the state has the prerogative of retaining the right to demand the life of any of its citizens for any of the varied offences of capital crime, and crimes against the state. I have not changed that opinion and I cannot and will not support this bill because of the unwise and conflicting, discriminatory duplicity of its component clauses.

*[Translation]*

**Mr. Yves Forest (Stanstead):** Mr. Speaker, the house is once again called upon to vote on a measure designed to abolish the death penalty, under a different form this time, since capital punishment is being retained for the murderers of peace officers, prison guards, etc., in the performance of their duties and this, for a five-year period.

The Solicitor General (Mr. Pennell) made everything perfectly clear, and if I cannot agree with him and with the object of this bill, when every member must act and vote according to his own conscience, everybody acknowledges, however, his great sincerity and competence.

As he mentioned, it is a compromise admittedly designed to attempt to have the bill approved by a majority of members, because I say that the bill, as worded, is not logical and only gives more weight to the argument of retentionists by acknowledging capital punishment as an effective deterrent.

I also feel that the nature of the crime should be taken into consideration rather than the individual or the victim. In spite of the April 5, 1966 vote, we have known abolition in fact if not in law, as indeed we have since 1962, the present government having merely enlarged upon what was being done under the previous administration.

Every death sentence, without a single exception, since the last vote, was commuted by the cabinet. I am willing to believe that those few cases were studied according to their merits and the decisions made accordingly. Indeed, I shall not criticize. But if the act remains as it is, if this procedure continues and becomes established, that is, if all death penalties imposed by the various courts and confirmed by the courts of appeal are commuted automatically and without any distinction, then one must conclude that the law is not being respected, that discretionary powers cease to be so when they are exercised in such fashion as to suggest that discretion is no longer exercised.

During this debate and the previous one, it has also been mentioned that it was up to those who advocate the retention of the death penalty to prove the merits of their decision.

Without insisting on this suggestion, because the discussion should not take place in this way, I think it is up to those who want to modify or change legislation to submit forceful and decisive arguments. One cannot request the abolition of a measure which has been in existence for several hundred years without giving excellent reasons. It is not only an old and venerable law, but it has been fought against for a century and succeeding legislators have surely not maintained it only in a sadistic or revengeful spirit.

It must be said and repeated that the law was substantially modified in 1961, when the Criminal Code was amended, and that the death penalty was only retained for premeditated and deliberate homicide, when the accused acted in full knowledge and in full possession of his faculties. Even then, the jury had the right to recommend mercy for an accused thus convicted.

This measure, together with obligatory revision of the case by a court of appeal, the right to appeal to the Supreme Court without applying for permission, and the possibility of commutation of the sentence by the cabinet, are all guarantees which make sure that the conviction is fair, based on facts and