

*Capital Punishment*

There are, of course, other considerations and there are other arguments, including the element of deterrent, the motive of revenge, the protection of society and on and on.

In the last three and a half years I would estimate I have received over 200 pounds of printed material on this subject in letters, telegrams, pamphlets, even books and petitions. I have received representations from thousands of my constituents. I have listened to or read every word of the 1973 House of Commons debates on the extension of the five-year trial period with respect to the murder of police officers and prison guards, and I have participated, as I am sure most of my colleagues have, in countless panels, talk shows, radio hotlines, etc.

From all of this I have concluded only one thing which is fundamental to the issue, and that is that there is no one right or wrong solution. There is no one argument that is so persuasive as to overrule all others. There is no one principle or consideration whose value is so important that one can disregard all other principles and all other considerations.

I have to ask myself where this leaves me as a federal representative. As I see it, and I hope I do not over-simplify, I have only two alternate courses of action. I can vote to retain or abolish death by hanging according only to the dictates of my own conscience, or I can vote in a way that will reflect the consensus of those I represent. Indeed there are some of us in respect of which the two coincide, where one's own conscience and the consensus of his riding are identical on this issue.

At this point, if you will permit me, I want to digress for a moment to comment very briefly on the so-called trial period of the past eight or nine years wherein only those persons convicted of murdering police officers or prison guards have been subject to a sentence of capital punishment. I reject this trial period outright as having any meaning in its resolution and its results, and really I suggest it was without acceptable principle in its original formulation. I say this for two reasons.

First, the application of the death penalty, depending on the victim's occupation, leads to some rather ridiculous situations. For example, the hired assassin who attempts to assassinate the Prime Minister for example, if his aim were accurate and he succeeded would not be subject to the death penalty because his victim, our Prime Minister, is not a law enforcement officer. On the other hand if his aim were not so accurate and he happened to kill the RCMP constable who normally is at the Prime Minister's side, then he would be subject to capital punishment.

The same situation would apply if a bank robber went in and deliberately killed a bank teller. He would not be subject to the death penalty. However, if in trying to escape he were to fire at random into the street and kill a police officer, then he would be subject to the death penalty.

I am the last to deny law enforcement officers the protection they need and deserve. I agree that the murder of such an officer must be deemed a capital murder. However, I point out that there are other murders which should fall into the same category and should be subject to the same sanctions.

[Mr. Jarvis.]

My second reason for rejecting this trial period as meaningless is the simple fact that since the trial period commenced there have been 36 police officers and prison guards murdered. In the cases where convictions were secured every murderer has either had his death sentence commuted by the cabinet or is in the process of making an appeal for commutation, or is simply awaiting the results of this debate.

The royal prerogative of mercy has been established for centuries in our common law, and I support it wholeheartedly and, furthermore, agree that it is the cabinet which should continue to exercise this prerogative. However, to say we have had a test period of capital punishment for murderers of police officers and prison guards is, in my judgment, ludicrous when every such convicted murderer has had his sentence commuted, virtually automatically, by the cabinet.

The Solicitor General (Mr. Allmand) may take exception, which is his perfect right, to my allegation of automatic commutation of death sentences. I do not withdraw it. In his March, 1975, statement entitled "The Prevention and Control of Violent Crime in Canada", the Solicitor General said:

I must make it clear, however, that the decision to commute in a specific instance does not establish a precedent in any way whatsoever.

I do not accept this statement as accurate, much as I regret saying so. Even if I did, I would have to ask the Solicitor General, who says he will resign if the death penalty is reinstated, what other conclusion or what other perception can Canadians have, except that no matter what the circumstances of the murder, the death sentence will be commuted automatically by the cabinet?

Let me quote very briefly from a recent article by Charles Lynch who says:

Politics, as now being practised blatantly by a government that has shown itself utterly unwilling to sanction the use of the death penalty, is trying to strike a bargain that will abolish the hypocrisy of pretending that the noose is still there, when it isn't.

● (2030)

I return to what I feel is the basic decision of a member of parliament: should he or she vote according to his or her own conscience, or according to the wishes of his or her constituents? First, I wish to emphasize, and I wish to make it abundantly clear, that I respect the right of any member of parliament to choose either course of action. Both alternatives are not only justifiable but indeed honourable.

It would never occur to me to be critical of some of my colleagues because they choose to vote according to their own personal feelings, any more than I would challenge the right of others to attempt to reflect the wishes of the majority in their constituencies. What is more important is that you, Mr. Speaker, my colleagues, and most importantly my constituents, have the right to know what course of action I propose to take, how I will vote, and why. I choose to reflect what I believe to be the feeling of an overwhelming majority of my constituents, and I will vote to retain the death penalty for those convicted of premeditated murder.

Let me acknowledge that my decision has been made a little easier because my own personal views have become