

Capital Punishment

Mr. Hugh Poulin (Parliamentary Secretary to Solicitor General): Mr. Speaker, I listened to all the persuasive arguments made this afternoon, but I was most impressed with those made by the hon. member for York-Simcoe (Mr. Stevens). I will deal with them in a moment, if I may. First of all, I should like to address myself to the remarks of the hon. member for Winnipeg North Centre (Mr. Knowles). I find myself in agreement with many of the things he said.

Those amendments which purport to substitute for that which the government has clearly put forward in this House, that is, that capital punishment shall hereafter and always be abolished, would be clearly out of order. To substitute the death penalty in certain circumstances for that which the government has suggested would clearly be against the principle of the bill. That is the matter to which I would address myself and that is the subject matter of many of these motions. May I indicate the motions that would attempt to amend and substitute death for what the government of Canada, and this House on second reading, have determined should not hereafter exist. They are motions Nos. 2, 3, 4, 5, 6, 8, 9, 14, 15, 17, 18, 19, 20, 35, 37, 38 and 40.

It is clear to most people on this side and, indeed, on the other side of the House, that those who argued against the bill with great conviction because they were for the retention of capital punishment in this land were arguing against the principle of total abolition of capital punishment as a sanction in respect of murder and other serious crimes as they exist in the Criminal Code. That is the principle against which they argued so vehemently for 17 days of debate in this House, in 119 speeches. Had they not believed that was the principle, I think they would have voted for the bill on second reading, particularly if it was only a bill to determine what ought to be done with persons who had committed the most heinous crime, namely, murder. They did not do that. They addressed themselves, in each and every speech from this side and the other side in respect of abolition and in respect of retention, to the issue of capital punishment.

In my humble submission, the matter which Your Honour ought to address and concern himself with in determining whether these amendments are or are not in order is whether the principle of the bill is total abolition of capital punishment as a sanction for murder and other serious crimes as found in the Criminal Code.

As the hon. member for Calgary North (Mr. Woolliams) indicated both in the committee and here, we are addressing ourselves to an issue of parliamentary procedure and how it affects the issue to which we are addressing ourselves—and that is the bill now before this House. It is a bill to amend the Criminal Code, not a bill to amend the National Defence Act or any other act. It is my submission that within the four corners of the bill it is clear, not only in the words of the bill but in the reactions of the people of this country and members on all sides of this House, that the one and only fundamental issue is whether this House and this country will abolish capital punishment at this time.

Therefore, I say to you, sir, that any amendments, and specifically those which I have enumerated, are out of order because they go beyond the principle of the bill. In support of that I should like to refer to some precedents,

[Mr. Knowles (Winnipeg North Centre).]

some quoted by the hon. member for Calgary North and included in the *Minutes of Proceedings and Evidence* of the Standing Committee on Justice and Legal Affairs for June 20, 1973. At that time we had a most distinguished chairman who said, among other things, when he was discussing the rules that the chairman of a committee ought to consider:

The third rule is that they must be within the scope of the bill or they must come specifically within the four corners of the statute that we are dealing with. This is particularly so—and this is perhaps a refinement of that rule—when you are dealing, as we are now, with an amending statute which seeks to amend the Criminal Code because it is clear that amendments to such a bill must not go beyond the amending statute and try to amend the Code, which we are doing, but must strictly deal with amendments to Bill C-2 itself.

There are restrictions on how far amendments can go; they cannot delete clauses in a bill. That obviously must be done by negating the clause when it comes to a vote, and if it is negated, by replacing it with another clause.

● (1710)

Further, that most learned chairman said, as recorded at page 20.5:

In other words, depending on your view, as it has been said many times in the argument, one of the principles of the bill is that there shall be a partial retention or a partial abolition of capital punishment in Canada. I think it is valid to say that if the view of the government which put forward Bill C-2 was different than that so that it favoured a total abolition of capital punishment, that was the principle which should have been put in the original bill.

Mr. Speaker, may I humbly say that that ruling and the subsequent reasoning from it was sustained in this House by your most distinguished predecessor in the chair who found that indeed the ruling of the chairman of the Standing Committee on Justice and Legal Affairs was proper and right in the circumstances. In the Debates of the House of Commons of July 20, 1973, as recorded at page 5841—I am sure Your Honour is well aware of this, so I shall not go into it—Mr. Speaker sustained the ruling by the chairman of the committee on justice and legal affairs.

Subsequently, when Bill C-2 went from this House to the other place, the chairman of the committee on the judiciary of that House, whose name has been referred to here as having been a Speaker of this House in 1969, I believe, when a similar question was before the House, sustained the decision made by the very learned and distinguished chairman of the committee on justice and legal affairs of this House and the Speaker of this House with regard to the decision he made on the amendments proposed in respect of Bill C-2. I am not unduly flattering you, Mr. Speaker, but I am referring to these very recent precedents to indicate that they are far more powerful than anything that may be quoted from other jurisdictions or from this parliament in earlier times.

Without going into detail in respect of what was said at those times, with which I am sure you are most familiar, the fundamental principle and rule is that there is no amendment acceptable in this House, in committee or at the report stage, which would violate the fundamental principle as defined at the time of passage of second reading. All those motions I enumerated violate that fundamental principle, as argued on both sides of this House with great sincerity but nonetheless passed, which is that capital punishment at this time as a sanction for capital murder and other serious crimes as defined in the Criminal