

of the Opposition (Mr. Stanfield) and the hon. member for York South (Mr. Lewis) again illustrate the symbolism of this parliament and its confusion.

Let me take their remarks in synoptic form and deal first with the remarks of the Prime Minister, who I thought gave one of his more sensitive speeches in this House. I did not say "sensible" but "sensitive". He said that members must take their responsibilities seriously. He said let us not avoid the issue; let us face up to the responsibility of voting. Yet we know from his very next words that we are not voting for abolition or for retention; we are voting for a sham. I say it would have been much more forthright of the Prime Minister not to have produced this hybrid bill.

**Mr. Allmand:** Would the hon. member permit a question at this point?

**Mr. Nowlan:** Yes.

**Mr. Allmand:** The hon. member says that if we vote for this bill we are voting for a hybrid bill, a sham that is neither abolition nor retention. Does not the hon. member realize that if he votes against the bill he will also be left with a law that, in itself, is a hybrid? The law now in effect is the law of 1961, which divided murder into capital and non-capital for different reasons. The only difference is that the bill now before the House provides for a much more restricted retention. If the hon. member votes against the bill, does he not realize that the situation will still be a hybrid?

**Mr. Nowlan:** All I can say to that, Mr. Speaker, having listened to the speeches of the three leaders, as did the Solicitor General (Mr. Allmand), is that I am prepared to accept the premise of the Prime Minister that we take our responsibility. I am against a hybrid situation. The Leader of the New Democratic Party never once mentioned the distinction between capital and non-capital crimes. The debate we had in 1961 was the culmination of much anxiety and soul searching on the part of members of the House in putting into the law provision for capital and non-capital murder. Very few members have mentioned this distinction between capital murder and non-capital murder, and it is only in the popular definition of capital murder that you invoke the supreme penalty. I fully appreciate that the fact that we have capital murder and non-capital murder leads to a hybrid situation, but I think members of the House are prepared to face that fact, as the Prime Minister suggested. It is a question of whether they want the law of 1961 or whether they want to vote for full abolition of capital punishment.

I interpret the present bill as providing a qualified abolition or a qualified retention. The bill still recognizes capital punishment, but its imposition, is limited to the murderers of policemen and prison guards. I appreciate the intervention of the Solicitor General, but what I am saying is that I would have followed with more conviction the premise of the Prime Minister regarding members facing their responsibility, rather than trying to hide under a sham bill which can be interpreted as providing for either abolition or for retention.

After having had a five year trial period, I ask, why have another five year trial period when we should be

### *Capital Punishment*

prepared to face the question squarely? I agree with the Prime Minister that the question posed in this bill is eternal. But we do not need another five year trial period. We had a false trial period previously, but let us assume that we do have another so-called trial period. What statistics or philosophical argument that we know of today is going to change over the next five years? This is my point. This House could make a definitive decision tonight and vote either for or against abolition, instead of hiding the vote under this sham bill. To the fervent abolitionists, I say that by voting for the bill they are creating a sham for their constituents. They want to hide under the cloak of the bill and have another five year trial period. The question of the sanctity of life as measured against the security of society is an eternal one, and we do not need another five years to determine it.

As far as the speech of the Leader of the Opposition is concerned, he used the basic argument that is used by all of those who support this bill, namely that there is no statistical evidence to show that capital punishment is a deterrent to the commission of murder. I am prepared to agree that that is so. Equally, I do not think he could disagree with me that the converse of the situation is true, namely that there are no statistics to show that the absence of capital punishment eliminates or reduces capital crime. As far as I am concerned, the statistics prove neither one side of the issue nor the other.

What bothers me about the argument that the statistics show that the commission of murder is not deterred by capital punishment, is that if you follow this to its logical conclusion we might ask why we impose any penalties or have any deterrents at all. Why not throw the whole thing into the laps of the sociologists and the philosophical do-gooders so we can all have an ideal society, try to rehabilitate those who can be rehabilitated, and then keep our fingers crossed when we let them outside prison walls?

With regard to the proposed amendment that may be moved in committee to provide that anyone convicted of capital murder be put behind bars for at least 25 years—indeed, some say a convicted murderer should stay in jail for life—frankly, I am wondering whether that is not even more inhumane. In this country there have been no executions since 1962. I do not know whether it is more humane to keep someone behind bars in a cage for the rest of his life than to resort to the law of 1961 of capital and non-capital offences.

I do not want to get into a dissertation on the law, but following some of the arguments that were raised at the time in this House concerning instances where juries were reluctant to convict if they thought the accused would hang, we decided to divide the category of murder into two and to provide capital punishment only for crimes of capital murder. It is only in such cases that a convicted murderer may be exposed to the threat of execution, but in such cases there is the royal prerogative of mercy which the government of the day can exercise at its discretion.

● (1640)

Coming back to this question of deterrence, I suggest you cannot say that statistics indicate a deterrent or, conversely, that the threat of capital punishment has not