

He said: Honourable senators, as you can see from the explanatory note, the sole purpose of this bill is to ensure the total abolition of capital punishment in Canada. Usually when the subject of capital punishment is debated, it is done in relation only to the crime of murder, yet it is also a punishment that can be inflicted for various other offences. For example, it can be inflicted for piracy, for treason, and for quite a variety of military offences, acts which are offences under the National Defence Act. Let me give you just one example of what I mean. Section 63 of the National Defence Act reads in part as follows:

Every officer in command of a vessel, aircraft, defence establishment, unit or other element of the Canadian Forces who

(a) when under orders to carry out an operation of war or on coming into contact with an enemy that it is his duty to engage, does not use his utmost exertion to bring the officers and men under his command or his vessel, aircraft, or his other materiel into action

Then there follow six other subsections, which I will not read:

—is guilty of an offence and on conviction, if he acted traitorously, shall suffer death, if he acted from cowardice is liable to suffer death or less punishment, and in any other case is liable to dismissal with disgrace from Her Majesty's service or to less punishment.

● (1430)

There are many other such cases which can be found in the National Defence Act. However, in my remarks today I propose to deal mainly with the death sentence as a punishment for murder. I feel sure that there will be little if any reaction by the general public if the death sentence is abolished for offences under the National Defence Act.

Hon. Mr. Flynn: It is abolished in practice.

Hon. Mr. Macdonald: In regard to retaining capital punishment for the crime of murder there is considerable difference of opinion, and strong views are held on both sides of the question. It will be recalled that in 1967 the question was debated at length both in this chamber and in the House of Commons. In that year an amendment was made to the Criminal Code that provided for partial abolition of capital punishment for a five-year period. That amendment was a compromise. It abolished capital punishment for murder unless the person murdered was a police officer or a prison guard.

As I remember the debate at that time, it was thought that a five-year trial period would be a sort of experiment, and it was hoped that after the five-year period had elapsed certain conclusions could be drawn. I suppose the main conclusion would be based on whether the number of murders showed an abnormal increase, or the number of murders of policemen or prison guards showed any increase, over the five-year period. Admittedly, this would not be a very scientific method of studying the effect of the five-year plan, but it would at least give a rough and ready guide. However, I understand that at the end of the five-year period no definite conclusion could be drawn, so it is proposed to extend the experiment for another five years, and the bill to do so has been introduced in the House of Commons.

I expect that that bill, Bill C-2, will come to this chamber before the summer adjournment. I expect also that little time will be allowed for it to be debated here—although perhaps it is not necessary to debate it at length, as it was well and thoroughly debated here in December 1967.

Honourable senators, personally I am of the opinion that a further extension of the partial ban on capital punishment is of no value. It is only postponing a decision which has to be taken at some time. I think that decision should have been taken five years ago; I believe it certainly should be taken now. If it is postponed for another five years, then these postponements could go on indefinitely. Is anyone so innocent, is anyone here so politically innocent, as not to believe that in five years' time the circumstances will be the same. There will be a proposal for another five-year ban.

Let us face facts. There have been no executions of convicted murderers in Canada since 1962. All those convicted of these crimes between 1962 and 1968, and all those convicted of capital murder since the ban have had their sentences commuted to life imprisonment. Does anyone actually believe there ever will be an execution for murder in Canada in the future?

Let us face it. Capital punishment for murder has been abolished in Canada in fact, although not in law. So I say, let us stop playing games, let us make the law conform to the facts; and Bill S-8 does just this.

While this is one reason why I have introduced this bill, it is not my principal reason, it is not my main reason. My principal reason for introducing this bill is that I do not believe in capital punishment, period.

It may be that some honourable senators will feel there is no point in passing this bill as Bill C-2, now before the House of Commons, is a government measure, and in due course will be passed in that house. I do not agree. I would hope to have this bill passed here and sent to the other house before Bill C-2 is given third reading there. I would hope that the government would look with a sympathetic eye on this bill, and do nothing to impede its passage. From the speeches made in the House of Commons, I would say this bill would have an excellent chance of being passed there, and that Bill C-2 would be withdrawn.

Honourable senators, Bill S-8 has been drafted to provide for the total abolition of capital punishment. It goes much further than Bill C-2. It may well be that all the offences punishable by death are not mentioned. I believe they all are, but if by chance I have overlooked any, it is an oversight and not a deliberate omission.

It is not my intention to deal at length with the argument advanced from time to time for the retention of capital punishment. In my opinion, capital punishment, the deliberate taking of human life, is a harsh, dreadful and horrible punishment. Those who argue for its retention do so on one or two main grounds. In regard to murder, it has been claimed that the murderer must pay for his crime of taking a life by losing his own. Others claim that society must protect its members by taking the life of the murderer as a deterrent to others who may have the inclination to kill. It is only on one or the other—