

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Third Session – Thirteenth Legislature
30th Day

Thursday, March 26, 1959

The House met at 2:30 o'clock p.m.

On the Orders of the Day:

ABOLITION OF CAPITAL PUNISHMENT

The Assembly resumed from Tuesday, March 24, 1959, the adjourned debate on the proposed motion of Mr. Neibrandt:

“That this Assembly, believing that capital punishment is incompatible with Christian concepts of justice and the value of human life, and recognizing that the death penalty has not, in practice, had the deterrent effect for which it is imposed, recommends that the Government of Saskatchewan request the Government of Canada to abolish capital punishment.”

Mr. A. Lopton (Saltcoats):

Mr. Speaker, in looking over this resolution, I just wonder why it was ever brought into this Legislature. It appears to me that most of us have lived in the peaceful atmosphere of law-abiding citizens for most of our lives; at least I have lived for over 65 years in a community, and I cannot recollect a single murder during that period in that community, or even in my constituency. In view of this fact, it seems that we have not had the experience of dealing with cardinal criminals, or to pass judgment on what method should be used in dealing with them, especially in view of the fact that we are asking in this resolution to change entirely the method that is and has been used by nations for centuries past. Surely I think we are expressing an opinion of rather superior knowledge to over-rule those who have the experience of dealing with the subject matter in this resolution.

I venture to say that, if the hon. member for Yorkton (Mr. Neibrandt) or the Minister from Saskatoon (Hon. Mr. Sturdy) had had a member of their family a victim of the vicious attack of some of these criminals, they would not be asking now for sympathy for them. No, Mr. Speaker, I feel that we have little knowledge to pass any reliable judgment on how these people should be punished. I may say there is no place for pigeon hearts or pious sentiment in dealing with hardened criminals, such as those culprits who will walk into old-age pensioners' homes and batter them to death for the few dollars they might find on

the premises. Nor do I think there is any place for pious sympathy for those who allure our teen-age girls and boys into a secluded place, and batter or strangle them to death, and throw them into ditches, or other places either dead or to die. Nor do I find any room for pious sympathy for those who will walk into a bank or other business place and, in cold blood, shoot down members of the staff for what money they can gain by their action. Nor can I see any pious sympathy for those who will hire a taxi-driver to take them out to the outskirts of the city, or any secluded spot, and knock him over the head for the few dollars they might find in his possession.

I feel that this is a serious matter, and it is a matter of our responsibility, and the responsibility of authorities, to protect our society against these criminals. There has been something said about capital punishment being responsible for not getting convictions by jurors, and I think the hon. Minister from Saskatoon indicated that it was hard to get a conviction on a charge of murder, for fear that they might be sentenced to death by the judge. That is not exactly the case. A jury, when it finds the accused guilty of murder, can by recommending mercy, invariably assure the convicted person of a life sentence. Secondly, I understand under our law that if the jury thinks the charge of murder is more severe than the facts justify, they can ask for it to be changed to manslaughter, which would carry life imprisonment.

Furthermore, I would like to mention some of the reasons brought out by other authorities after they have carried out investigation. The hon. member for Maple Creek (Mr. Cameron), when speaking here a few days ago, referred to a Parliamentary Committee that had been set up by the House of Commons at Ottawa as late as 1956. Their report indicated that capital punishment was deterrent to capital crime and, therefore, in the interests of the safety of the people, and further, that the provincial Attorney Generals of Canada had agreed to this, except the Attorney General for the province of Saskatchewan that expressed that opinion, or whether it was the former Attorney General, but in any event, I presume there was more political reason for his action in not agreeing with the others than any particular sentiment with the matter under consideration, especially since Saskatchewan has a government that is foreign to the complex of all other provincial governments.

Then, further, the United Kingdom has probably had more experience in this matter than most other countries of the world. It set up a Committee in 1948, which brought down a report in late 1953. I understand that, during the period of this investigation, capital punishment was suspended (I may be corrected on that). But in any event, at the end of this suspended period, it was not extended, and continuation of capital punishment was recommended. Similarly in New Zealand, they suspended capital punishment for a period of time, and after that period ran out, they re-imposed capital punishment. so the actions of these people ought to be some direction to the Members of this House. No member of the British Commonwealth of Nations, as far as I can gather, has abolished capital punishment.

Then we have been told that a conviction of murder does always carry with it the capital punishment of hanging. That is not the case, as far as the records show, for I have a report by this Royal Commission of the United Kingdom to which I referred, that, during the 10 years 1940-49, there were 262 convictions in the United Kingdom which carried the death penalty. Out of that number, only 127 executions were carried out. I have checked on the Canadian records . . .

Mr. E. Kramer (The Battlefords):

At least one of them was an innocent man.

Mr. Lopton: — Yes, but you don't care how many innocent men and women were killed by these people, either. The Bureau of Statistics indicates that, during the same years, there were some 479 murder charges laid, 196 death sentences were passed, and only 104 were carried out.

So I say, Mr. Speaker, that this matter is not for the legislature of this province to pass its judgment on. A vote for this resolution is an expression of tolerant leniency for capital crimes, and will encourage, rather than deter such crimes. There are no records to show that, where capital punishment has been abolished, that crime might not have been less than what it is, if the capital punishment had been kept on. So, when our hon. friends say that abolition of capital punishment is a deterrent to capital crime, it does not hold water.

In view of this, Mr. Speaker, I want to move an amendment to this resolution, because I don't want to ask the members of this House to reject it entirely, although I think it deserves it, but rather to modify it so that it might partly agree with the sponsors of it. The amendment will read as follows, seconded by Mr. Danielson:

“That the motion be amended first by deleting the words ‘believing that capital punishment is incompatible with Christian concepts of justice and the value of human life, and recognizing that the death penalty has not, in practice, had the deterrent effect for which it is imposed’;

and secondly by deleting all the words after ‘Canada’ and substituting therefore the words ‘to continue to investigate the advisability of abolishing capital punishment, or alternatively, of changing the methods of administering them’.

Mr. Speaker, I want to add this. In this resolution, where it refers to the Christian concepts of justice — that our present system is not consistent with it — it is contrary to the facts. It is the right of everyone to defend himself and his family, and this method of prosecuting criminals is, in essence, defending society from the attack of criminals.

Premier Douglas: — Mr. Speaker, I had not intended taking any part in this debate, but I think there have been some remarks made, both by the member for Maple Creek (Mr. Cameron) and the member for Saltcoats (Mr. Loptson) that impel me to say just a few words regarding this resolution, and the amendment which has now been moved.

The member for Saltcoats said, just now, that the Attorney General of Saskatchewan was the only Attorney General who had filed objection to capital punishment with the Parliamentary Committee, and this was undoubtedly more for political reasons than for any other. I want to say very frankly, Mr. Speaker, that, of course, this is not a political question at all. This is a matter which depends entirely upon each individual's conscience as he feels regarding this very important question. This is not a C.C.F. proposal, or a Liberal or Conservative or Social Credit proposal. I notice in the debate which has just finished in the House of Commons at Ottawa, that there were members of different parties on different sides. I can remember as far back as 1937 and 1938, a Bill was introduced every year in the House of Commons while I was there, moved by Dr. Blair, who was a Liberal member for, I think, North Renfrew, and seconded by Mr. Woodsworth, who as at that time leader of the C.C.F. Party. Resolutions for the last two years have been moved alternately – one year moved by a Liberal and seconded by Mr. Winch, another year moved by Mr. Winch and seconded by a Conservative. If a recorded vote were taken in this Legislature, I don't think we would be voting on party lines. I am not sure that all my colleagues on this side will agree with what I am going to say, or necessarily agree with the resolution, and I am not sure that all the people on that side agree with the member for Saltcoats. I don't think it is a political question at all. It is just a matter of how we feel about this particular matter.

Mr. Loptson: — I agree with the hon. Premier that it should not be a political matter yet. We, as a Legislature, have a greater responsibility than an individual outside the Legislature.

Premier Douglas: — Absolutely. But we are discussing this as a Legislature, and because it is much an important matter, that is why I was hoping that no political note would be introduced, and that it would not be suggested that the Attorney General had opposed capital punishment, as my hon. friend said, for political reasons. It was because the majority of the Government so instructed the Attorney General, because that was our considered opinion.

In the first place, it is not easy to argue on the basis of what has happened elsewhere, because we have not too much information. My hon. friend, for instance, referred to the United Kingdom where, it is true, that a Parliamentary Committee was set up to study this matter, and it is true, as he said, when they reported back, much the same as our own Parliamentary Committee in Canada, they recommended retaining the death penalty. But it is interesting to notice, since the Committee reported in the Parliament of Great Britain, that three times a Bill has been passed by a majority vote in the

House of Commons to abolish the death penalty, and that in all three cases it has been vetoed by the House of Lords. If the hon. members read the last issue of Maclean's Magazine, the article there written by Beverly Baxter, who is a Conservative, and who lead the Conservative wing which broke way from the Government to support the Bill to abolish the death penalty, they will have noticed there the arguments that he presents. He tells the story of a woman who was accused of murder during the time when he was editor of a very large London newspaper, and now presents the evidence to show that, in his opinion, she is entirely innocent of the actual murder in which it was claimed she was implicated, and that the death penalty was largely passed against her in a mood of revenge and public hysteria, as against what was a very careful murder which had taken place.

This is not uncommon. When my friend speaks of the United Kingdom, I can recall, in 1953 in Great Britain, the papers were still filled, during the Coronation with a story of a man called Evans, who was hanged. It will be remembered that he is claimed to have put to death four or five women and buried them in the garden of his little house in London. He was convicted on the evidence, mainly, of one witness, and 12 months later that same witness was proved to have been the murderer. The man who was then responsible, was of course, put to death. This could not give life back to Evans, and this was one of the cases, along with this case of Mrs. Edith Horton, that has helped to sharpen the feeling in Great Britain that this is an irrevocable penalty, and that when justice has misfired there is no way by which you can rectify this error which has been made.

I think it is rather significant that, three times in the last six years, the members of the House of Commons by a majority vote have asked for the abolition of the death penalty. It is rather significant that it has been the House of Lords, and the appointed bodies, who have retained it. There are other countries in the world, of course, and pretty progressive countries, pretty enlightened countries, who have abolished the death penalty, and who maintain it has had no effect insofar as increasing crime or making people more careless about the carrying of fire-arms or the taking of human life.

The whole argument, it seems to me, settles around a matter of, first, this question which my friend has called, or challenged, by asking that it be struck out, and that is whether or not capital punishment is incompatible with Christian concepts of justice and the value of human life. This is not something on which people can be dogmatic. Different people have different ideas of what a Christian concept of justice is, a Christian concept of the value of human life. I think what the mover has said in this resolution is that capital punishment belongs to the old Mosaic idea of "an eye for an eye; a tooth for a tooth"; that society must take its revenge, and that is if a person has committed a crime, he must be punished. But increasingly, the concept of today is that our attitudes to the criminal ought not to be penal. They ought, first, to be corrective, and secondly, ought to involve rehabilitation; that, for the sake of society, we must take an anti-social person out of circulation, so that he or she cannot continue to hurt other members of society, but that having, for the safety of the community, taken him out of circulation, we have a responsibility to retrain

that person and rehabilitate him, in order that he may go back into society at some future time possibly as a useful member of society. That is why I have believed for years that our whole Criminal Code ought to be altered, and provide for indeterminate sentences. I have never agreed, for instance, with the idea that a sex criminal, who has probably criminally assaulted a child, be given three years in jail. Are we any more convinced that in five years and one day, it will be that that person is not fit at the end of five years to be turned loose in society to hurt some other child. I think a person who is a menace of that sort ought to be confined – I think the term the British use is ‘confined at the will and pleasure of Her Majesty’ – and that a panel of psychiatrists, jurors, penologists decide when that individual is safe and fit to back into society. That may mean keeping them for not five years, but for 15, 20 or 25 years.

It seems to me that we must have to keep this fact in mind that punishing the individual is not enough, because society itself has some responsibility insofar as the individual is concerned. I remember, some years ago, when I was a student in Chicago University – in the days when the Al Capone gang-wars were going on, there was a young killer who had shot some policemen in a bank robbery and went fleeing across the country, and shot several other policemen who tried to capture him. There was a great hue and cry. One of the leading Chicago papers had a blazing headline saying, “Where is Crowley?” A prominent columnist of that time wrote a column which he headed, “Why is Crowley?” I have never forgotten what he said. He said, “A much more important question than where Crowley is, why is Crowley. Why do we get this dangerous young hoodlum who takes human lives?” He went back over his story – he was the child of an unmarried mother, tossed into an orphanage at 14 years of age, tossed out on to the streets, getting into gang wars. At 17, he had two or three convictions for stealing cars and breaking and entry. By 19, he had several bank robberies to his credit and by the time he was 21 he had already been involved in the shooting of several policemen. The columnist made the point that, while this young man is undoubtedly to blame, and must be taken away out of society before he kills anybody else, society itself has some responsibility for having produced this diabolical monster. You cannot throw youngsters on to the streets at 14. You can not have poor housing and inadequate recreational facilities, and the lack of all the formative influences that help to build character and morals, and not pay a price for it. It is not enough to simply take a man and break his neck, and say, “This settles the whole question.”

We, as members of society, have some responsibility for the fact that he is a criminal. For the environment in which we have allowed him to grow up, and the conditions that we have allowed to obtain in the community, have certainly played a part in introducing this kind of person.

That is the whole argument which has been presented, both by the member for Maple Creek the other day, and by the member for Saltcoats: it rests on this question of whether or not capital punishment is a satisfactory deterrent, and that if we remove it we are practically inviting the hardened criminal to have a hey-day in the community. I don’t think any member of this House wants to invite that.

I want to point out that all the arguments which have been presented are exactly the same arguments that were presented 100 years ago, and 150 years ago, when reformers were asking for the removal of the death penalty for other crimes. 150 years ago, I think the estimate is there were 148 crimes for which you could be hanged – robbery, and a whole host of things for which a person could be hanged, and you have only to read James Boswell’s biography, read of him traveling from Edinburgh to Glasgow and seeing the bodies of highwaymen hanging in chains along the highway. Did it lessen crime? Was there more crime then than there is now? Do you prevent people from committing crimes by having public hangings or any kind of hangings, or do you brutalize society so that human life becomes cheap, and concern for human welfare becomes negligible? It has never been shown that hanging people is a deterrent. There were times when a man stealing sheep, or a footpad stealing a person’s purse, could be hanged. This did not stop robberies; this did not stop purse-snatching. There was more robbery and more crime; and there is no evidence to my mind that it has been an advantage, that this is a deterrent.

I was very interested in the report of the debate which has just taken place in Ottawa. This is a newspaper report of March 25th, (Canadian Press). I notice the statement made by Margaret Aitken, who is the Progressive-Conservative member for York-Humber. She said she was a member of the Parliamentary Committee that studied capital punishment, and in 1955 she voted for the retention of capital punishment. This is what she said then:

“I must confess that I have changed my mind. The prospect of life imprisonment seems to me to be a much more severe punishment than the painless form of death.”

I think maybe there is something to be said for that. I am not sure that we have done any good at all by having death penalty as a deterrent. To argue, as my friend has done here this afternoon, that we are trying to set ourselves up as knowing more than everybody else by suggesting that we should not question what is being done and has been done for years, would just be as silly as saying we question slavery, that John Howard should not have questioned the condition of the gaols, and the people 150 years ago should not have questioned the idea of capital punishment for purse-snatching.

Mr. Lopton: — That’s nonsense.

Premier Douglas: — People’s concepts of human propriety change from generation to generation, and surely it is not enough to say that we have been hanging people for hundreds of years, and that anybody who thinks we should stop it, is now setting up themselves as being insincere.

To me, there is one much more compelling reason why I would like to see capital punishment abolished. It’s not out of sympathy to the hardened criminal. I am against capital punishment because of what I think

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it does to society. I don't think that you can provide a deterrent against murder by society itself becoming a murderer. The mere fact that we collectively come together as a group to put a man to death, does not lessen the act that we have murdered somebody. We have done it with all the rigmarols of the law, but we have still taken a human life, and I think every time we take a human life we debase and brutalize the society which performs the act. I think society is a little less human, little less humane, and has lost a little of its gleam of immortality every time collectively it participates in the act of taking a human life. It is all right to talk about this thing in the abstract, but I can remember we had a couple of boys, 19 and 21 out at the gaol, and we were going to have to put them to death, and the long struggle we had to try to get it commuted to a life sentence. Finally the boy of 19 had a life sentence commuted, and the other boy of 21 was put to death.

This is an awful thing, to have to be part of a society that takes a young man out at 21 years of age, early some morning, and deliberately breaks his neck. I think by doing it, we have not deterred anybody else; we have cut off his life, so that, if our information was wrong and he was not guilty, we remove any opportunity to rectify the situation. Above all, we have collectively done something which, I think, leaves us a little less the kind of people that we want to have in a Christian society. For that reason I think we ought to be prepared to take this step forward, as they have done in so many other countries, and abolish capital punishment.

Mr. J.W. Gardiner (Melville):

Mr. Speaker, I don't intend to take up very much of the time of the House, this afternoon, in dealing with the question which is before us; but I do feel I would like to say a few words with regard to the resolution, which would ask the members of the Assembly gathered here to recommend to the Government of Canada that capital punishment be abolished.

In 1954, I had the opportunity of attending the General Council of the United Church of Canada, and the opportunity of hearing men in the field of Christian work, those who have been educated in Christian work in this country in one of our largest church bodies, debate the issue as to whether capital punishment should be abolished or not. I don't think, after listening to the arguments of that assembly of some 1,000 people, representing both the ministerial level and the lay level of the United Church of Canada, that there were many who had their minds changed, one way or the other, as to whether capital punishment should be abolished in this country. But when the vote was held at that particular council, there was a majority of three of all the delegates present that voted in favour of abolishing capital punishment. The Minister who was chairman of the meeting stated he felt that a body of that type should not send a recommendation to the Government of Canada, with a small majority, or a statement saying that only slightly over 50 per cent of all those gathered, representing one of the greatest churches in this country, had recommended that capital punishment be abolished. So it was decided by the Assembly that that recommendation not be forwarded to the Government of

Canada, because it was felt that it might not, under the circumstances, represent the true feeling of the membership of the United Church of Canada across the country.

I can well appreciate the view of both the Premier and also the member for Saltcoats, because of the fact that here at this Council which I had the opportunity to attend, I heard men speak on both sides of the question, and ministers of the United Church, men who, I believe, have a true realization of Christian principles, men who were leaders of the Christian church right across this country, but who differed personally in their views as to whether or not Christian ethics definitely pointed out that capital punishment should be abolished in this country of ours. So I cannot myself say that, except perhaps in my own mind, whether I would believe, or whether the people of Canada would believe, or whether the majority of those who take part in Christian teachings actually believe that Christian ethics prevent us from carrying out protective force for the well-being of the general public in our country as a whole.

So I say here today, that I feel that the amendment which has been offered to the Legislature, still places the question before the public; still permits further investigation of this question which might eventually, if it is found to be in the best interests of the people of Canada, mean a change in the law in relationship to capital punishment in this country. So this afternoon, I feel, for that reason, I would have to support the amendment, although with regard to the question of capital punishment itself, there is no doubt, as the Premier has stated, there are strong arguments both for the abolition of capital punishment and its retention.

I would also like to point out that one of the examples used by the Premier with regard to the fact that in many cases, in murder trials, mob violence or the wishes of the majority of the people that want revenge, quite often enters into the picture; but I don't think that particularly in the last number of years, in Canada you would find many examples of this mass hysteria that has led to the execution of anyone who has been convicted for the crime of murder, largely because I believe that the people of our country have a greater sense of the importance of justice in our country, and are not the type who will go out to try to use this type of pressure on the courts of this land in order to see someone put to death for an act which he might have undertaken. I don't think you will find that that circumstance has existed in the court annals of this country to the same extent as has in other countries of the world, where things of the same nature have taken place.

I do believe, in deference to the views of the Premier, that there definitely is proof in many cases, in many of the stories in criminal annals, that the death penalty has been a deterrent to the criminal who might otherwise have committed murder, except for the fact that he had facing him this fact that he might have meted out to him death on the gallows by the responsible government of the country in which he lived. So I would say, as the member for Saltcoats has said here, that I believe we, as others in this country, should undertake further study.

Therefore have been examples of errors that have taken place across the seas, but I believe that, as far as Canadian court annals are concerned, there has yet to be an example of a case here someone has been committed to the gallows and has been an innocent individual. There was a rumour for a while, this past year, that the first case might take place, but it was finally wiped out by the fact that the story of the individual concerned, as far as the law enforcement bodies are concerned, was proved false. That would have been, had it proved correct, the first time in the annals of legal history in this country when it had definitely been proven that someone was put to death for a crime that he had committed. So we have not the same example to go by that the people of Britain have had, in the annals of their court justice. I think it is for the reason that we have sufficient safeguards in our laws, as was stated by the member for Saltcoats. I believe we had sufficient safeguards to prevent occurrences of that type, and to see to it that proper justice is meted out, according to the laws of our country.

Of course, our Federal Government has the final authority – not the courts of the land. After the courts of the land have decided, it is still the prerogative of the representatives of the Queen in this country, to finally decide whether or not a person should be put to the gallows for the crime he has committed. I think the protections that we have for those who break the law at the present time, are sufficient until such time as further study can bring certainty to the minds of the majority of the people, at least. At the same time as we are safeguarding the rights of the individual who has committed the crime we have to be sure that we are sufficiently safeguarding the rights of others in the country; that we are safeguarding those who have the responsibility for undertaking the protection of the people, as police officials in this country. Until we have sufficiently proven that to the satisfaction of the majority, in the meantime we have, I believe, sufficient safeguards to protect those who would carry out acts of the type we are discussing in the Legislature under this resolution.

So, Mr. Speaker, with those words I am going to say now that I feel, for those reasons, I will have to support the amendment.

Hon. T.J. Bentley (Minister of Social Welfare):

Mr. Speaker, I just wish to say a word or two. The evidence in support of both sides is so confusing that one, as the Premier said, must depend upon his own feelings and conscience to decide what is right and what is wrong. I must confess that, until not so very many years ago, after a prolonged and, I suppose, what might be called a misspent life in some respects, I did not support the idea of capital punishment. One reason was that at that time I believed it would be a deterrent; and the other reason, I suppose, I was prompted by the very human feeling that if somebody murdered a friend or relative of mine that I would want to have revenge. Those were the opening statements of my friend from Saltcoats, if I heard him correctly, this afternoon. He suggested that any member of this Legislature who had a member of his family murdered would feel that he would want the murder dealt with in the way he recommended. That, of course, Mr. Speaker, is prompted by revenge.

Mr. Lopton: — Mr. Speaker, I never passed any judgment as to the methods of dealing with a person who had committed such an act. I said that the members who moved this motion might not have the same pious feeling towards the criminal, as they have now, if a member of the family was a victim.

Hon. Mr. Bentley: — I accept the correction, Mr. Speaker. The inference, however, is there – and again I am not holding this against anyone because I recognize that this is probably a feeling held by many people that we would want the one who wronged us to pay retribution. However, I do think, in the studies I have tried to make and the reading I have tried to do on this matter, that there is a good deal of evidence to support the belief that much of the desire to retain capital punishment stems from the desire of the individual, or society as a whole, to exact revenge for a wrong done one of its members.

Looking at it the other way, in assuming that one of us were afflicted this way, and, therefore, had these feelings, I think if we waited a while, or as they told us when we were young – “count 10 before you lose your temper”; if we counted to maybe 1,000 or 10,000 we might conclude that the execution of the offender, while it may satisfy some feelings, would leave us with a terrible feeling of sympathy and regret for the members of his family – his father and mother, his sisters and brothers, his wife and children (if he had any) and his circle of close friends who have to live with the knowledge that one of their family or close circle of friends, offended society and was hanged. That is a terrible thing to live with.

I notice that mention was made by previous speakers or the member who preceded on that side of the House of what had been done in the House of Commons examination. I have here a report of that, and the last paragraph does do the very thing that the hon. member for Saltcoats suggested in his amendment. This is three years old; it was printed in June, 1956. Their recommendation No. 94 was:

“The Committee concluded the most satisfactory method of execution is by electrocution, and accordingly recommends the law be amended to replace hanging by electrocution . . .”

It does go on to say that if the electric chair has some of the bad effects that some people say it has, then further consideration should be given to substitute the gas chamber as a method of execution. So all that the amendment which the member for Saltcoats moved this afternoon is, to examine alternative methods of execution.

Again in this I find (I am reading here from the Votes and Proceedings of the House of Commons, Ottawa, Wednesday, June 27, 1956): Chapter 21, Statistics on Incidence of Murder and Homicide:

“The Committee carefully considered, during the course of its enquiry, statistical material relating to the incidence of murder and homicide in Canada and other countries. The Committee concluded there are gaps in Canadian statistics which cannot be filled up,

and from the evidence presented to it assumes that apart from the United Kingdom with a few other jurisdictions, this lack of complete statistical data is common to most countries.”

So, therefore, it can be assumed again, that a person will be influenced by the statistics he reads according to the beliefs he has arrived at. I note there are a number of bodies. There is, of course, the National Campaign for the Abolition of Capital Punishment – this is from the old country. They give statements here about the number of countries, and some states of the United States, where capital punishment has been abolished. They produce evidence to indicate, so far as their statistics are concerned that there is as much support for the belief that capital punishment is not a deterrent as there is for the other side, and, in their opinion, more.

I want to mention another point. The hon. member for Saltcoats indicated his belief that the previous Attorney General, made his feelings known to the Federal Government during this investigation I was speaking of a moment ago, for political reasons. That was hardly a fair statement, and I don't think it can be supported by the facts, because a great many people, who are not supporters of the C.C.F. either here or elsewhere, certainly have made representations along the same lines. The Canadian Welfare Council, which I expect cuts across all political parties and possibly has among its membership people who are not very strong supporters of any political party but have great humanitarian instincts and desires. They made a submission to the Joint Committee of the Senate in the House of Commons against capital punishment. But I think the most convincing evidence, for myself (again I am not going to argue the two sides from a point of view of statistics) is that we do know there are a tremendous number of countries that have abolished capital punishment by statute, and some, including Denmark, who had had no executions long before they made the formal abolition.

The Royal Commission on capital punishment in 1949-53 in Britain was headed by a gentleman by the name of Sir Ernest Gowers. Since then he has written a book called “A Life for a Life – Capital Punishment.” He was, as I say, the chairman of the Royal Commission on capital punishment during that time. He wrote a book. It would be interesting, if I had the time and you had the patience if I read it all through to put it on the record, but it can always be available to anybody who cares to read it. I would like to read the latter parts of it – starting on page 135, and all through the book he has pointed out that, prior to the time he became the Chairman of this Commission, he had believed that capital punishment was probably right. If he had any firm convictions at all, it was on the side of capital punishment; and it was only during the hearing of the evidence that he finally changed his mind. He changed his mind on the rational rather than the emotional aspects of it. For instance, he says:

“Even though the dogma of life for a life may settle the question for those who believe in it, and make utilitarian reasons superfluous, the rational arguments will no doubt continue to be much stronger. As I have said, they are felt to be much more respectable than the emotional ones. It is clear from the opinions cited in previous chapters, that the principal rational arguments used in favor of the death penalty are four. One is that public opinion demands it. (2) is that to punish all murderers by imprisonment, some of them for a very long time, will present insuperable difficulties to the prison authorities. (3) that death is a more humane punishment than long imprisonment, and (4) if the deterrent effect of the death penalty were removed, more murders would be committed.”

Then he goes on, page 137, to say:

“There remains the argument that without the more uniquely deterrent value of capital punishment, more murders would be committed, this is the only serious utilitarian argument in favour of capital punishment, and the one on which thoughtful supporters of it almost wholly rely.

It is also the argument that can be put most readily to the test of evidence in the proper sense of the word, and, as we have seen, such evidence as there is goes to show that the abolition of capital punishment does not have this result.”

Then he goes on to quote Professor Sellin who also gave evidence before the Canadian Joint Committee of the Senate and the House of Commons, and Professor Sellin gave a good deal of evidence to support his theory.

It is true, again I have to admit, these things are not convincing to those who do not believe them. They did not convince, completely, anyway, the British people. It has not convinced our Canadian Joint Committee, and therefore, our Canadian Parliament. But they do convince a lot of us and I am among those. With all the argument that can be produced to rationalize thinking one way or another, I still think there is something left to the conscience of the person who is trying to make up his or her mind, and mine has convinced me that it is wrong to take a life, whether I do it illegally or later on, whether I do it to the person who has done it illegally, as a member of society, in the name of the law. The evidence that supports the

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abolition from a rational point of view, I think, is excellent evidence and support for my feelings of emotion (if you like, Mr. Speaker) that I call my conscience, in trying to decide between right and wrong. Because of that I am, this afternoon, doing my utmost to convince as many members of this Legislative Assembly, when they vote on this question, to defeat the deferring effects of these amendments and to vote for the resolution proper.

Mrs. Mary J. Batten (Humboldt):

Mr. Speaker, I had no intention of speaking on this motion whatsoever, because I have to admit, first of all, that I am emotionally biased for the motion in the sense of the effect of the motion. I hate to even think of the idea of a human life being taken, and I think that applies to most of us.

At the same time, I have absolutely no intellectual conviction one way or the other, simply because I have not studied the problem sufficiently, and I am not sure, even someone has spent years studying it, that, on a purely rational basis, any decision could be reached.

I want to say, though, in regard to the humanity of the punishment that I, and I have no doubt other members of this House, have seen people who were imprisoned, who were suffering almost beyond human endurance. I have seen grown men shaking the bars in the waiting room where you interview them in the gaol, with tears running down their cheeks, and saying, "I wish they would shoot me, rather than keep me here" – not because our gaols are not as humane as they can possible be, but because the make-up of some people is such that merely to be shut up in a cell, or even kept within certain bounds, is just beyond their way of living. They simply cannot tolerate that kind of enclosure, and for myself I would rather than be imprisoned, accept personally the penalty of death. At the same time, I don't think there are very many of us who heard the words of the mover of this motion, who did not find it very difficult to listen to the details of an execution, and I think all of us are horrified at the idea of taking a human life.

I think emotionally we have become civilized, and I think we are at the point where taking a human life is something that we cannot even picture ourselves doing. I think there is not one person in this House who would not hope, if a choice came to him or her either to surrender his life or take another's life in self-defence, that he would have the Christian courage to accept death rather than kill the other person. But in actual practice, Mr. Speaker, how many of us could be capable of such heroic self-sacrifice? Surely almost all Christian ethics do permit the taking of another life in self-defence! I don't see how we can remove ourselves from all the emotional implications in a question of this kind, and I resent the fact that we are put in the position where we have to make a choice of this kind.

I think this is a problem that should face very citizen of every country, because it is, after all, on these citizens the decision depends as to whether we have capital punishment or not. I do not think this is a decision which should face me, as a legislator, or anybody else

in this House, because it is not our responsibility as a legislative body, although, as I said, it is our responsibility as citizens. Therefore, even if this motion is passed, what does it mean, Mr. Speaker? What does it mean to the Federal House? It means that we, as individuals, a certain number of us are prejudiced against capital punishment, and some of us think that we should have capital punishment. It doesn't give any sort of guidance to the Federal House whatsoever, and I personally feel that I am in no position to represent my constituency on a matter of this kind. I am certain that I could not speak for all of them, and I think that is true of every other person in this House. I could only speak for myself, personally, and I simply could not justify any type of vote on this question.

Therefore, I have to support the amendment first because at least it gives us an opportunity to look further into the matter, and to have competent people study the matter further. Secondly, I do not think I could possibly vote in favour of this motion, not because it condemns capital punishment – I could go along with that; but I could not vote for it because it also says that capital punishment is incompatible with Christian concepts of justice and the value of human life. By voting that way, I am condemning all those people who don't believe with me as being unChristian. I cannot imagine the arrogance that would accompany that type of vote. I cannot say, as a matter of statistics or as a matter of any known scientific analysis, that this death penalty has not had a deterrent effect. I simply don't know. In all humility, I have to admit that I cannot vote for the motion on that basis.

The amendment (Mr. Loftson) was negated on record division by 29 votes against 10.

The motion (Mr. Neibrandt) was then agreed to, on division.

The Assembly adjourned at 5:40 o'clock p.m.