No. 141-206

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(Vol. 1)

Department of the Solicitor General
Ministère du Solliciteur Général

CONFIDENTIAL

Title ~~CRIMINAL CODE~~ Administration & Organization
Titre Acts & Legislation - Federal
Criminal Code - Capital Punishment

SUBJECT: ~~CAPITAL PUNISHMENT~~
Sujet

From
De

Cross Reference
Référence

s. 21

22

23

24

Part XX

47(1)(d)

is liable to imprisonment for fourteen years if he is guilty of an offence under paragraph (a) or (b) of subsection (1) of section 46, committed while he is in or on the grounds of a diplomatic or consular premises.

406 (a)
407 } ok except leave under
408 } in 406 (a) ? Nat'l. Def. Act?
448 ok
463 (1) (a)
(a) where an accused is charged with an offence other than an offence for which he must be sentenced to imprisonment for life, or an offence under paragraph (b) or (c) of subsection (1) of section 47 or an offence under section 50 to 53, he may etc. Nat'l Def Act?
464 is charged with an offence for which he must be sentenced to death or imprisonment for life or an offence under section 50 to 53 may admit etc.

492 A repeal

499 ok

515 ~~[illegible]~~

516(4) O/C.

519(2a) o/c ~~repeal~~

542

Drop (1)

(1) An accused who is charged with an offence ~~in respect of which~~ ~~upon conviction~~ for which a ~~sentence~~ of imprisonment for life must be imposed is entitled to challenge twenty jurors peremptorily.

(2) An accused who is charged with that is not referred to in subsection (1), an offence ~~other than an offence upon conviction for which a sentence of imprisonment for life must be imposed~~ for which he may be sentenced to imprisonment for more than five yrs., is entitled to challenge twelve jurors peremptorily

(3) An is

547(1)(c) o/c

556 (1) omit all words after "separate".

(2) omit words "cannot be given"

s. 69 (a) repeal

s. 77 repeal

s. 83 A repeal

s. 586 (2) delete words after "given"

(3) delete "of death or"

(4) delete "death or" and after "imprisonment" "or in the same way he,"

(5) repeal

s. 588 2 (d) (ii) delete

4 (a) delete

s. 597 (1) delete "the term or offence punishable by death"

(2) (a) delete "the term or offence punishable by death"

(b) ?

s. 597 A Repeal

s. 598 (1) delete "or 583.A"

642 Repeal

642 A "

643 "

644 "

645 "

646 — Repeal
Forms 40 + 41 — Repeal
647 — Repeal
648 — "
649 — "
650 — "
651 — "
652 — "
653 — "
654 delete "to death or" "power above"
656 Repeal but make provision for no release without approval of S.G. in C.

Repeal forms 40 + 41
Heading before 642

/ Notwithstanding any other law or
a person in respect of whom a ~~sentence of death has~~ been commuted to imprisonment for life or a ~~sentence~~ term of imprisonment or a person upon whom a
~~sentence of imprisonment for life~~ has been ~~im~~posed as a ~~minimum~~ punishment, shall

be released during his life or until

then, as the case may be, without the

prior approval of the G. in C.

Notwithstanding any provision
of this or any other Act of
the Parliament of Canada,
a person shall, after the
coming into force of this section,
(1) no person shall
be sentenced to death or
executed.

(2) where any person has been
sentenced to death, and such sentence
has not been commuted, he shall

the provisions of this Act

and the bail shall apply

dealt with as if the person had been

imprisoned for life.

where a person has been

charged with capital murder, all

subsequent proceedings shall be

taken as if he were charged

simply with murder and section

202 A had not been enacted

Notwithstanding any provision of this or any other Act of Canada, after the coming into force of this section,

(a) no person shall be sentenced to death nor shall any sentence of death be carried into execution;

(b) any person who has been sentenced to death, and whose sentence has not been commuted,

shall be dealt with and the law shall apply as if he had been convicted of non capital murder and sentenced to imprisonment for life.

(2) any person already charged capital with murder shall be proceeded ~~with~~ as if charged with non against and the law shall apply as though he were charged with non capital murder and if found guilty he shall

be sentenced to life imprisonment accordingly;

(d) any person to be charged and proceeded against with murder shall be charged as if section 202A had not been enacted and if found guilty shall be sentenced to life imprisonment

(e) any person convicted of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46

shall be liable to imprisonment for life;

(f) any person convicted of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46 shall be liable to imprisonment for life

(e) any person convicted under paragraph (a) of subsection (1) of section 47 shall be sentenced to imprisonment;

(f) any person convicted within paragraph
w paragraph (c)

(b) A subsection (1) of section 47
shall be liable to imprisonment for
life ;

(g) any person convicted within
paragraph d

Where any person has been sentenced to death before the coming into force of this Act, and his sentence has

any person ~~who~~ has been sentenced to death and been ~~commuted into exp~~ is commuted, the Cr. Code

(a) the provisions of ~~this Act~~ relating to appeal, ~~shall~~ as they existed immediately prior to the coming into force of this Act, notwithstanding this Act, continue to apply ~~to~~ in the case of such person, and

(b) such person, unless his conviction or sentence is set

made an appeal, shall be dealt with as if there were substituted for the sentence of death a sentence of life as a minimum punishment imprisonment and a certificate in the indictment signed by the clerk of, setting out the sentence of death, the appropriate court shall be sufficient ~~warrant~~ authority for such imprisonment.

1. Expiry date

2. P.M. offered + consent

3.

4.

5. Vote

At the expiration of
four years from the commencement
of this Act, the ~~[illegible]~~, without ~~[illegible]~~
both Houses of Parliament

before such expiration
, pass a joint resolution to the
contrary, the laws shall
~~remain to exist without any~~
~~automatically revert to what~~
~~the enactment of~~
it was before ~~changed by~~ this
Act in respect of all murders
committed subsequent to such
expiration.

No person shall suffer death
for any offence under the
C.C., & a person who is
convicted of an offence under
the C.C. [for] death, liable to
the [penalty of] death,
the death, and the person [who is]
to be sentenced to imprisonment for life
shall be sentenced to
imprisonment for life in
accordance with the provisions
of this Act

ELIZABETH II

1965 CHAPTER 71

An Act to abolish capital punishment in the case of persons convicted in Great Britain of murder or convicted of murder or a corresponding offence by court-martial and, in connection therewith, to make further provision for the punishment of persons so convicted.

[8th November 1965]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Abolition of death penalty for murder.

1.—(1) No person shall suffer death for murder, and a person convicted of murder shall, subject to subsection (5) below, be sentenced to imprisonment for life.

(2) On sentencing any person convicted of murder to imprisonment for life the Court may at the same time declare the period which it recommends to the Secretary of State as the minimum period which in its view should elapse before the Secretary of State orders the release of that person on licence under section 27 of the Prison Act 1952 or section 21 of the Prisons (Scotland) Act 1952. 1952 c. 52. 1952 c. 61.

(3) For the purpose of any proceedings on or subsequent to a person's trial on a charge of capital murder, that charge and any plea or finding of guilty of capital murder shall be treated as being or having been a charge, or a plea or finding of guilty, of murder only; and if at the commencement of this Act a person is under sentence of death for murder, the sentence shall have effect as a sentence of imprisonment for life.

(4) In the foregoing subsections any reference to murder shall include an offence of or corresponding to murder under section 70 of the Army Act 1955 or of the Air Force Act 1955 or under section 42 of the Naval Discipline Act 1957, and any reference to capital murder shall be construed accordingly; and in each of 1955 c. 18. 1955 c. 19. 1957 c. 53.

the said sections 70 there shall be inserted in subsection (3) after paragraph (*a*) as a new paragraph (*aa*)—

"(*aa*) if the corresponding civil offence is murder, be liable to imprisonment for life".

1933 c. 12. 1937 c. 37.

(5) In section 53 of the Children and Young Persons Act 1933 and in section 57 of the Children and Young Persons (Scotland) Act 1937, there shall be substituted for subsection (1)—

"(1) A person convicted of an offence who appears to the court to have been under the age of eighteen years at the time the offence was committed shall not, if he is convicted of murder, be sentenced to imprisonment for life, nor shall sentence of death be pronounced on or recorded against any such person; but in lieu thereof the court shall (notwithstanding anything in this or in any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct."

Release on licence of those sentenced for murder. 1952 c. 52. 1952 c. 61.

2. No person convicted of murder shall be released by the Secretary of State on licence under section 27 of the Prison Act 1952 or section 21 of the Prisons (Scotland) Act 1952 unless the Secretary of State has prior to such release consulted the Lord Chief Justice of England or the Lord Justice General as the case may be together with the trial judge if available.

Short title, repeal, extent and commencement.

3.—(1) This Act may be cited as the Murder (Abolition of Death Penalty) Act 1965.

(2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act, except as regards courts-martial, shall not extend to Northern Ireland.

(4) This Act shall come into force on the day following that on which it is passed.

Duration.

4. This Act shall continue in force until the thirty-first day of July nineteen hundred and seventy, and shall then expire unless Parliament by affirmative resolutions of both Houses otherwise determines: and upon the expiration of this Act the law existing immediately prior to the passing of this Act shall, so far as it is repealed or amended by this Act, again operate as though this Act had not been passed, and the said repeals and amendments had not been enacted:

Provided that this Act shall continue to have effect in relation to any murder not shown to have been committed after the expiration of this Act, and for this purpose a murder shall be taken to be committed at the time of the act which causes the death.

SCHEDULE

Section 2.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
33 Hen. 8. c. 12.	The Offences within the Court Act 1541.	Section 2, so far as relates to the punishment of persons found guilty of murder.
25 Geo. 2. c. 37.	The Murder Act 1751.	In section 9 the words from " or rescue ", where secondly occurring, to " during execution ".
4 Geo. 4. c. 48.	The Judgment of Death Act 1823.	In section 1 the words " except murder ".
24 & 25 Vict. c. 100.	The Offences against the Person Act 1861.	Section 1 (but without prejudice to the operation of sections 64 to 68). In section 71 the words " otherwise than with death ".
31 & 32 Vict. c. 24.	The Capital Punishment Amendment Act 1868.	The whole Act, except as applied by any other enactment.
50 & 51 Vict. c. 35.	The Criminal Procedure (Scotland) Act 1887.	In section 55 the words from " in cases in " to " conviction, or ". In section 56 the words from " except on conviction " to " 1829 ".
3 & 4 Eliz. 2. c. 18.	The Army Act 1955.	In section 70(3)(*a*) the words " or murder " (and the words added by the Homicide Act 1957). In section 125(2) the words " and any rules made under section seven of that Act."
3 & 4 Eliz. 2. c. 19.	The Air Force Act 1955.	In section 70(3)(*a*) the words " or murder " (and the words added by the Homicide Act 1957). In section 125(2) the words " and any rules made under section seven of that Act."
5 & 6 Eliz. 2. c. 11.	The Homicide Act 1957.	Sections 5 to 12. In section 13, in subsection (1) the words from " and " to " Part III ", and subsection (2). Section 15. Schedule 1.
5 & 6 Eliz. 2. c. 53.	The Naval Discipline Act 1957.	In section 42(1), in paragraph (*a*) the words from " or " to " 1957 " and in paragraph (*b*) the word " other ". In section 80(2) the words " and any rules made under section seven of that Act ".

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Capital Punishment
3014

CANADA

House of Commons Debates

Volume 112 • Number 56 • 2nd Session • 27th Parliament

OFFICIAL REPORT

Thursday, October 12, 1967

Speaker: The Honourable Lucien Lamoureux

ROGER DUHAMEL, F.R.S.C.
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CONTENTS

(Daily index of proceedings appears at back of this issue.)

NORTHERN AFFAIRS AND NATIONAL RESOURCES

CHANGE IN PERSONNEL OF STANDING COMMITTEE

Mr. Bernard Pilon (Chambly-Rouville) moved:

That the name of Mr. McKinley be substituted for the name of Mr. Kindt on the standing committee on northern affairs and national resources.

Motion agreed to.

HOUSE OF COMMONS

Thursday, October 12, 1967

The house met at 2.30 p.m.

[*Translation*]

LABOUR CONDITIONS

TABLING OF REPORT ON AGREEMENTS WITH THE PROVINCES

Hon. Jean Marchand (Minister of Manpower and Immigration): Mr. Speaker, I should like to table a copy of the correspondence exchanged between federal government and the provinces concerning vocational training, as I had promised the hon. members for Royal and Winnipeg North (Messrs. Fairweather and Orlikow).

[*English*]

Mr. Speaker: Has the minister leave to table these documents?

Some hon. Members: Agreed.

FINANCE

TABLING OF REGULATIONS RESPECTING INTEREST DISCLOSURE

Hon. Mitchell Sharp (Minister of Finance): Last Thursday I promised to table in this house the regulations under the Bank Act concerning interest disclosure. With the leave of the house I would like to table today copies in English and in French.

Mr. Speaker: Has the minister leave to table these documents?

Some hon. Members: Agreed.

• (2:40 p.m.)

[*Translation*]

CANADIAN CITIZENSHIP ACT

AMENDING LEGISLATION

Mr. Maurice Allard (Sherbrooke) moved for leave to introduce Bill No. C-160 entitled "an Act to amend the Canadian Citizenship Act".

Some hon. Members: Explain.

Mr. Allard: Mr. Speaker, according to section 26 chapter 15 of the Revised Statutes of Canada 1946 and sections 21 and 23 (a) and (b) of the Canadian Citizenship Act, every Canadian citizen is considered as a British subject.

Furthermore, any passport issued in Canada specifically mentions that all Canadian citizens are British subjects.

Considering that since December 11, 1931, under the Statute of Westminster, Canada is no longer a British colony but has become a sovereign and independent country;

Considering that it is proper through political and constitutional evolution that Canadians should henceforth be recognized solely as Canadian subjects;

The present bill proposes that the Canadian Citizenship Act be amended so that the status of British subject which is now given to all Canadian subjects be changed so and that henceforth a Canadian shall be designated solely as a Canadian subject.

I hope that in this year of the centennial of Canadian confederation—

Mr. Speaker: Order, please. The standing orders do not permit more than a brief explanation of the bill.

Motion agreed to and bill read the first time.

[*English*]

EXTERNAL AFFAIRS

VIET NAM—ALLEGATION RESPECTING CANADIAN MEDICAL AID PROGRAM

On the orders of the day:

Mr. Heath Macquarrie (Queens): Mr. Speaker, my question is directed to the Secretary of State for External Affairs, who I presume is also Acting Prime Minister. It deals with the very serious allegations regarding Canada's medical aid program in Viet Nam made by Dr. Michael Hall. Can the minister advise whether Dr. Hall's charges are being thoroughly and promptly investigated, and whether the five man investigative team now en route to Viet Nam under assignment from the external aid office sought information from or made any contact with Dr. Hall regarding our medical program in the area prior to their departure?

Hon. Paul Martin (Secretary of State for External Affairs): Mr. Speaker, I dealt with

these charges, so-called, yesterday as far as they could be dealt with on orders of the day, when I was faced with a question by the hon. member for Royal. I indicated that we would be very happy to deal with Dr. Hall's views when the external affairs committee meets.

However, in fairness to the position and to the merits involved in the situation I wish to say there is no foundation for Dr. Hall's observations. Canada is contributing more to Viet Nam than any other country except two. I indicated that yesterday, and the detailed program of what we have done in the medical field—which was outlined in one of the morning newspapers and which I could not outline on orders of the day yesterday—is a pretty good indication of the invalidity of the observations made by Dr. Hall, about whom I will have something to say at the appropriate time in the appropriate place, the external affairs committee.

Mr. Macquarrie: As a supplementary question, in view of this answer and in view of the widespread concern throughout the country as a result of Dr. Hall's statements, will the minister take an early opportunity to contact the chairman of the standing committee on external affairs so that Dr. Hall may be given an early opportunity to appear before it in order that the committee may hear *in extenso* Dr. Hall's information and impressions, and give the minister a chance to refute them?

Mr. Martin (Essex East): That is a reasonable suggestion and I have already acted on it. I may say incidentally that the fact that a representative of the Red Cross and a doctor representing the rehabilitation centre of Notre Dame in Montreal are now on their way to Viet Nam is a pretty complete answer to many of the things Dr. Hall alleged. I wish personally that when the Canadian Broadcasting Corporation decides to make time available—

Mr. Nielsen: Be careful now.

Mr. Martin (Essex East): —to people to put forward certain views, at the same time they would give an opportunity to others to reply.

Hon. D. S. Harkness (Calgary North): Mr. Speaker, in view of the fact that in recent days the minister has said that this and several other matters would be referred to the external affairs committee and that he would answer fully at that time, when will he take steps to have this committee meet so these matters can be gone into without undue delay?

[Mr. Martin (Essex East).]

Mr. Martin (Essex East): As my hon. friend knows, no member of the government can control the actions of a parliamentary committee, but I have already taken steps which I hope will be persuasive and will result in such a committee meeting.

Mr. Harkness: May I ask the minister whether anything has been referred to the external affairs committee which would make it possible for that committee to meet to consider these matters?

Mr. Speaker: Order, please.

Mr. P. B. Rynard (Simcoe East): I wonder whether the minister would like to give the house his assurance that Dr. Hall was supplied with the proper medical and surgical equipment.

Mr. Martin (Essex East): My hon. friend is asking a specific question. I am sure Dr. Hall was given every assistance that could possibly have been given in the circumstances. I asked Dr. Venema to come back from Viet Nam to report on a number of matters and I am satisfied that what Dr. Venema reported to me represents the true situation.

Mr. Heber E. Smith (Simcoe North): Will the minister assure the house that in the meantime he will not continue condemning Dr. Hall by innuendo both in and outside the house.

Mr. Speaker: Order, please.

THE CANADIAN ECONOMY

CO-OPERATION TO ACHIEVE STABILITY IN PRICES AND WAGES

On the orders of the day:

Mr. T. C. Douglas (Burnaby-Coquitlam): Mr. Speaker, I should like to ask the Minister of Finance a question regarding his statement of yesterday that he had sought the advice and co-operation of both labour and management and other persons, concerned with the present economic situation in the country. I should like to ask him whether this was a general invitation contained in the speech he made in the house or whether he has had some specific correspondence with these various groups asking for their co-operation and advice.

Hon. Mitchell Sharp (Minister of Finance): The invitation I had reference to was the one

I made in the speech and on other public occasions. I have not yet had correspondence with these associations and groups, but I intend to do so when the time is ripe.

Mr. Douglas: Is it the intention of the minister to set up an advisory committee, and is it his intention to invite the various groups who are concerned with the economy to be represented on such a committee so they will be in a position to advise him and so he will be in a position to secure their co-operation from time to time?

Mr. Sharp: Yes, Mr. Speaker. The government naturally would not embark upon a policy of trying to mobilize public opinion in the interests of greater stability in prices and wages without consulting all those concerned and seeking their advice and counsel.

Mr. Douglas: Is it the intention in the near future to directly approach these groups and, if so, what groups does the minister intend to approach?

Mr. Sharp: I am not in a position to answer that question, but I should hope the groups I invite to discuss this problem with me would be thoroughly representative of all sections of public opinion.

CANADIAN BROADCASTING CORPORATION

INQUIRY AS TO APPOINTMENT OF PRESIDENT

On the orders of the day:

Mr. Howard Johnston (Okanagan-Revelstoke): Mr. Speaker, in the absence of the Secretary of State my question is for the Acting Prime Minister. In the light of renewed speculation on the subject, can we expect an early announcement concerning the appointment of a president for the C.B.C.?

Hon. Paul Martin (Secretary of State for External Affairs): Mr. Speaker, I hope some indication can be given by the Prime Minister when he returns tomorrow.

HOUSE OF COMMONS

TIME OFF FOR STAFF TO VOTE IN ONTARIO ELECTION

On the orders of the day:

Hon. R. A. Bell (Carleton): Mr. Speaker, I should like to direct a question to the government house leader, the Minister of National Health and Welfare. Will he make arrangements with his fellow members of the internal economy commission, including Your Honour, to provide members of the staff of the House of Commons and the library with appropriate time off to assure them of the opportunity to exercise their franchise in the Ontario provincial election next Tuesday, October 17.

Hon. A. J. MacEachen (Minister of National Health and Welfare): Yes, Mr. Speaker.

EXTERNAL AFFAIRS

VIET NAM—REACTION TO U.S. OFFER TO CEASE FIRE

On the orders of the day:

Mr. L. R. Sherman (Winnipeg South): Mr. Speaker, my question is for the Secretary of State for External Affairs. In light of his contention on the C.B.C. last night that the onus is on the United States to explain its position in Viet Nam to the people of the world, will the minister tell the house whether he has articulated this interesting attitude to Washington and, if so, what was the reaction there?

Hon. Paul Martin (Secretary of State for External Affairs): Mr. Speaker, if my hon. friend will read the story, the headline of which constitutes the basis for his question, he will see that I said if the bombing stopped the onus would then be on Hanoi.

Mr. T. C. Douglas (Burnaby-Coquitlam): Mr. Speaker, I have a supplementary question. In view of the statement of the Secretary of State for External Affairs to the effect that he had not recently received any indication from Hanoi as to whether they would agree to come to the negotiating table in the event of a cessation of bombing, may I ask him whether his emissary to Hanoi, Mr. Chester Ronning, brought back any assurance from the government in Hanoi that they would come to the negotiating table providing there was a cease fire?

Mr. Martin (Essex East): Mr. Speaker, I have made it clear that as a result of commitments made during the discussions we had regarding this matter, including those in Hanoi, it is not possible to reveal the nature of the exchanges which took place. I am sure my hon. friend would not press me any further, but in asking that there be a stop to the bombing at this time. I naturally took into account my assessment of the situation.

Mr. Douglas: Mr. Speaker, I have no desire to press the minister unduly, but in view of his statement yesterday in the house as it appears at page 2980 of *Hansard*, to the effect that he had received no recent assurance, is he now telling the house that no such assurance was transmitted to him by Mr. Chester Ronning?

Mr. Martin (Essex East): Mr. Speaker, I was not necessarily referring to Mr. Ronning when I made that reply. I have no further comment to make.

Mr. Eldon M. Woolliams (Bow River): I have a supplementary question Mr. Speaker. In view of the minister's statements yesterday and today in reference to the governments' position, does the minister take the position that if they do not come to the negotiating table the United States should withdraw from Viet Nam?

Mr. Speaker: Order, please. This question appears to be in the form of debate and is out of order.

Mr. Woolliams: Mr. Speaker, with the greatest respect, the minister was about to answer, and I suggest this is not a debate but a very important question. I should like to debate it at ten o'clock.

Hon. J. A. MacLean (Queens): Mr. Speaker, I should like to ask the Secretary of State for External Affairs a supplementary question. Is it not the position of the government that even now there is at least an equal onus on North Viet Nam to try to bring about a peaceful solution of the Viet Nam problem?

Mr. Martin (Essex East): Of course there is, Mr. Speaker, and this is what I said at the United Nations.

Mr. Sherman: Mr. Speaker, I have a supplementary question for the Secretary of State for External Affairs. In light of all that has been said on the Viet Nam question in the last 48 hours, can the minister tell the house whether the authority for initiating a bombing pause has now shifted from Washington to Saigon?

Mr. Martin (Essex East): I could not answer that question, Mr. Speaker.

POLLUTION

COMMUNICATION FROM U.S. RESPECTING NIAGARA RIVER

On the orders of the day:

Hon. Paul Martin (Secretary of State for External Affairs): Mr. Speaker, while I am on my feet I should like to answer a question put to me by the hon. member for Parry Sound-Muskoka, who asked whether I had received any communication from Secretary Udall regarding pollution of the Niagara river.

I have no knowledge of any such communication, and none has come in. I may say that the International Joint Commission has received a report on this subject from its international advisory board on lakes Erie and Ontario. The commission is now considering this report in consultation with the provincial, state and federal authorities of both countries. I am informed that the commission expects to make an announcement shortly concerning the course it intends to pursue in order to encourage early and effective control of pollution in this international waterway.

[*Translation*]

AIRPORTS

DORVAL, QUE.—ATTITUDE TOWARDS FRENCH OF CERTAIN CONCESSIONARIES

On the orders of the day:

Mr. Maurice Allard (Sherbrooke): Mr. Speaker, I wish to put a question to the hon. Minister of Transport.

Has the minister been advised that, at the Dorval airport, certain concessionaries, such as the duty free shop, prevent and dispute the use of the French language on the part of the customers who shop there and will he take immediate steps to ensure that no discrimination is exercised with regard to the two official languages of Canada?

Mr. Speaker: The hon. member made representations in the second part of his question which doubtless the minister has noted. As for the first part, I suggest that it be put on the order paper.

Mr. Allard: Ten o'clock, Mr. Speaker.

[*English*]

HUMAN RIGHTS

VANCOUVER, B.C.—SUSPENSION OF LICENCE OF NEWSPAPER "GEORGIA STRAIGHT"

On the orders of the day:

Mr. R. W. Prittie (Burnaby-Richmond): Mr. Speaker, yesterday I attempted to ask the Minister of Justice a question concerning the suspension of the licence of a Vancouver newspaper. Your Honour ruled my question out of order. I have checked *Hansard* and found that both Mr. Speaker Macnaughton and Your Honour have usually allowed questions concerning civil rights. My question has

to do with the arbitrary suspension of a publication. I wonder whether the question might be in order today.

Mr. Speaker: Order. The hon. member knows what his rights are. If he feels that a question which has been ruled out of order should have been allowed, he can give notice for the question to be dealt with at the adjournment debate. I realize that we have a difficult situation at this time, in that because of the budget discussion there is an accumulation of questions to be debated at the time of adjournment. In view of this special circumstance the hon. member's question might be allowed.

Mr. Prittie: Thank you, Mr. Speaker. The minister did receive notice of my question. It has to do with the suspension of the licence of the hippie newspaper in Vancouver, *Georgia Straight*. Has the minister taken note of the implications of press censorship involved in this action, and has he received representations from interested groups in connection with this matter?

Hon. P.-E. Trudeau (Minister of Justice): On the second part of the hon. member's question, Mr. Speaker, I had received no representations up to the time the question was asked yesterday. I will have to check to see if any such representations were received today. With respect to the first part of the question, as to whether I have taken note of the implications in regard to civil liberties, the answer is yes. But it is not obvious to me from the report which appeared in the newspaper, namely the suspension of a licence because of alleged obscenity, that this is a matter of civil liberties over which the federal government has jurisdiction.

[*Translation*]

LOTTERIES

REPRESENTATIONS CONCERNING LOTTERIES

On the orders of the day:

Mr. Heward Grafftey (Brome-Missisquoi): Mr. Speaker, my question is also for the Minister of Justice and Attorney General.

I would like to know if he gave his support yesterday or the day before to the representations made at his office for the institution of lotteries in Canada?

Hon. P.-E. Trudeau (Minister of Justice and Attorney General): Mr. Speaker, yesterday and also on previous occasions, I did meet people who made representations to me in this respect. I took note thereof, and I even indicated that it was the intention of the government to introduce for this purpose a bill to amend the Criminal Code.

[*English*]

BUSINESS OF THE HOUSE

LEGISLATION TO BE CONSIDERED BY STANDING COMMITTEES

On the orders of the day:

Mr. H. E. Gray (Essex West): Mr. Speaker, I have a question for the Minister of National Health and Welfare in his capacity as government house leader. On Tuesday last, on behalf of the government, the minister tabled a list of legislation which the government wishes to have discussed during this session. Would it be possible for the government to also indicate now which items of this legislation it feels should be considered by the standing committees of the house, so the necessary preparatory work can be undertaken and the work of the committees properly planned?

Hon. A. J. MacEachen (Minister of National Health and Welfare): Yes, Mr. Speaker, I would be glad to consider that suggestion.

NATIONAL DEFENCE

REPORTED PROPOSAL TO REORGANIZE INFANTRY FORCES

On the orders of the day:

Hon. D. S. Harkness (Calgary North): Mr. Speaker, I have a question for the Minister of National Defence. Is the defence department presently engaged in or planning for a reorganization of the infantry component of our forces which will result in the disappearance of some of the regiments and a reduction in the number of battalions of others?

Hon. Léo Cadieux (Minister of National Defence): Mr. Speaker, we are reviewing the situation generally, but a report to the minister's level has not yet reached my office. Therefore I have not had the opportunity of making any decision in this respect.

Mr. Heber E. Smith (Simcoe North): A supplementary question, Mr. Speaker. Can the minister say whether the report that is being prepared will have the effect of diluting the French Canadian character of the Royal 22nd regiment?

Mr. Speaker: Order, please. I wonder whether this questoin is not argumentative and hypothetical.

Mr. Harkness: Mr. Speaker, is the study being made with regard to a possible reduction in the number of infantry battalions related to the roles which our defence forces have to perform, and is any reduction in these roles being planned which would mean that a reduced number of infantry battalions would be sufficient?

Mr. Cadieux: I think I should repeat that I am not planning to reduce the number of regiments. The study in progress is a theoretical study of what the implementation of the unification process should be. That is all there is to it. No decision has been taken yet, and after this matter has been studied by the defence council, which has not been the case until now, it will have to be submitted to the minister for his consideration.

CAPITAL PUNISHMENT

REQUEST FOR REISSUE OF GOVERNMENT WHITE PAPER

On the orders of the day:

Mr. G. W. Baldwin (Peace River): Mr. Speaker, I should like to direct a question to the Solicitor General, who I think is charged with responsibility in this matter. In view of the fact that we will shortly be debating the very important issue of capital punishment, will the government give consideration to reissuing the excellent and fairly balanced white paper on this subject, and supplementing it with up to date statistical and other relevant information?

Hon. L. T. Pennell (Solicitor General): Mr. Speaker, the hon. member's suggestion is very reasonable, and I will be pleased to give it my immediate attention.

POST OFFICE DEPARTMENT

POSSIBLE INCREASE IN INTERNATIONAL POSTAGE RATES

On the orders of the day:

Mr. Barry Mather (New Westminster): Mr. Speaker, I have a question for the Postmaster General. Having in mind the fact that if the government is successful in increasing the ordinary letter rate in Canada from five to six cents it will cost more to mail a letter from Ottawa to Toronto than from Ottawa to Los Angeles, is the minister considering applying for a similar increase in the international mail rate in the unlikely event that the house approves this local increase?

[*Translation*]

Hon. Jean-Pierre Côté (Postmaster General): Mr. Speaker, the agreements—

Mr. Speaker: Order, please. The question as put is hypothetical.

[*Later:*]

Hon. Jean-Pierre Côté (Postmaster General): Mr. Speaker, in order to remove all doubt from the public mind, would you allow me to say that the premise of the question put to me is wrong.

[*English*]

HEALTH AND WELFARE

REQUEST FOR LABELLING OF HAZARDOUS PRODUCTS

On the orders of the day:

Mr. William Dean Howe (Hamilton South): Mr. Speaker, yesterday I put a question which was considered too general in nature. Today I have a specific question which I should like to ask the Minister of National Health and Welfare.

In view of the fact that a coroner's jury last night recommended that lemon oil products be labelled "poison" and that a child-proof lid be used because of the death of a 20-month old child last August, can the minister inform the house whether any specific action will be taken in this regard? If so, what will be done to protect children from this type of hazard?

Hon. A. J. MacEachen (Minister of National Health and Welfare): Mr. Speaker, the question would require a very lengthy answer. However, let me say that it is proposed in this session to introduce amendments to the Food and Drugs Act which would have the effect of meeting this situation.

[*Translation*]

NAVIGATION

INQUIRY AS TO ACTION TO BE TAKEN TO ENSURE WINTER NAVIGATION ON THE ST. LAWRENCE

On the orders of the day:

Mr. Gilles Grégoire (Lapointe): Mr. Speaker, about 10 days ago I put a question to the Minister of Transport and he was supposed to answer.

Can the minister tell us today whether his department is now considering the action to be taken to maintain winter navigation on the St. Lawrence this very year?

[*English*]

Hon. Paul Hellyer (Minister of Transport): Mr. Speaker, I am still studying this question. As my hon. friend can appreciate, I would like to have it thoroughly reviewed and understand it very well so I will not find myself skating too far out on thin ice.

[*Translation*]

Mr. Grégoire: Mr. Speaker, may I direct a supplementary question to the minister.

I understand that the minister is now seriously considering the matter, but can he tell us whether we can expect that as early as this year, the plans of the department will be implemented?

[*English*]

NORTHERN AFFAIRS

ALBERTA—DEATH FROM MALNUTRITION OF INDIAN CHILD

On the orders of the day:

Hon. Arthur Laing (Minister of Indian Affairs and Northern Development): Mr. Speaker, on October 5 the hon. member for Brandon-Souris asked if I had received the report of an inquest held to investigate the death of an Indian child on the Peigan reserve in Alberta.

I have to advise the house that I have not yet received the report. In the meantime I would like to say that the child's death does not seem to have been due to any lack of cash income in the family. The family received welfare assistance from my department in the amount of $3,376 between September 1, 1966 and September 1, 1967. In addition to this sum the usual family allowance cheques, in this case in the amount of $57 a month, came into the household.

The welfare assistance is provided by my department from funds voted annually by parliament for the welfare of Indians. However, while there is no special federal legislation on child welfare, this field is covered by provincial laws. Accordingly the department of Indian affairs requested the provincial authorities in November, 1966 to take steps to protect these children. At that time and in the light of the circumstances then prevailing the provincial authorities decided that no steps should be taken by them.

The coroner's jury which investigated the case recommended that a federal-provincial commission be established to investigate welfare and social conditions on the reserves. The department is attempting to have the provinces extend to the Indian people in the provinces and on reserves those welfare and other services which the provinces extend to all other residents. My colleague the Minister of National Health and Welfare and I have had discussions with the province of Alberta on this subject, and we are hopeful that a satisfactory arrangement can be made.

The second recommendation was that a full time welfare officer be appointed to serve the Peigan reserve.

Mr. Speaker: Order, please. I wonder whether the minister would not agree that his answer is perhaps too long.

Hon. W. G. Dinsdale (Brandon-Souris): I have a supplementary question, Mr. Speaker. In view of the obvious importance of the report of the coroner's jury, as indicated by the minister's interest, could the minister make copies available to members of the house, and particularly those on the Indian affairs committee, when he receives it?

Mr. Laing: I agree with the implication of the hon. member that this is a very important matter, because it strikes at the heart of the Indian people and our relations and the responsibilities of the provinces thereto, and I would be very happy to see that copies of the report are sent to hon. members who are interested.

Mr. T. C. Douglas (Burnaby-Coquitlam): I have a supplementary question, Mr. Speaker. May I ask the minister, when considering the recommendation that the provincial departments of welfare extend their programs to cover Indians and their dependants, whether the government is offering to the provincial governments some financial compensation for assuming this responsibility, or is it merely asking the provinces to assume the responsibility without any financial remunerations?

Mr. Laing: In the case of all the provinces we made an offer to carry 90 per cent and we asked the provinces to cover 10 per cent of the costs. Representations have been made to us by the province of Alberta that we should carry 100 per cent of the costs.

Hon. D. S. Harkness (Calgary North): Mr. Speaker, in view of the fact that the evidence given at the inquest indicated that there was

a considerable number of other families whose circumstances were very similar to those of the Crow Shoe family where the death occurred, has the department placed any welfare officers at work in order to ensure that further deaths due to malnutrition do not take place?

Mr. Laing: Mr. Speaker, had I had the opportunity to complete my statement I would have said that the jury also suggested that band parents and the band council accept more responsibility for the education of their children, and that adult education programs be extended to the reserves.

The second recommendation was that a full time welfare officer be appointed to serve this particular reserve. Although this is not a federal responsibility, in the absence of full and proper services a full time social worker was appointed on July 1.

Mr. Douglas: I have a supplementary question, Mr. Speaker. In view of the fact that the Indians are wards of the federal government and are solely a federal responsibility, is there any reason why the federal government should not pay 100 per cent of the cost of welfare extended to them by the provincial governments?

Mr. Speaker: Order. I believe the supplementary question is argumentative.

Mr. Robert Simpson (Churchill): Mr. Speaker, I should like to ask the Minister of Indian Affairs and Northern Development how many of the provinces have accepted the federal government's offer to administer these welfare programs.

Mr. Laing: We have an agreement with the province of Ontario in respect of community development and welfare. We have one agreement with the province of Alberta in respect of community development, and we have other agreements under which we are carrying most of the costs in respect of some of these services. However, they are not formal agreements.

NORTHWEST TERRITORIES—REQUEST FOR NAVIGATIONAL AIDS FOR AIR TRANSPORT

On the orders of the day:

Mr. Erik Nielsen (Yukon): I should like to direct a question to the Minister of Transport. Has his attention been drawn to the recent crash and burning in the Northwest Territories of a Beaver aircraft carrying a newly elected member of the Northwest Teritories council? Is the matter under investigation, and is his department planning the installation of any navigational aids where there are none now in the territories?

Hon. Paul Hellyer (Minister of Transport): I understand, Mr. Speaker, that an official inquiry is to be held. Once I have seen the results of this inquiry I will be in a better position to know what action might be justified to help prevent further tragedies of this kind.

HEALTH AND WELFARE

EQUIPPING OF MOTOR VEHICLES WITH EXHAUST CONTROLS

On the orders of the day:

Mr. P. V. Noble (Grey North): Mr. Speaker, I should like to direct a question to the Minister of National Health and Welfare. Is the minister giving any consideration to following the example set by the health minister of Ontario by way of making the use of exhaust control devices on all 1969 model cars mandatory across the nation?

Hon. A. J. MacEachen (Minister of National Health and Welfare): Yes, Mr. Speaker, this matter is under consideration.

REGULATIONS GOVERNING THE SALE AND DISTRIBUTION OF VITAMINS AND MINERALS

On the orders of the day:

Mr. T. S. Barnett (Comox-Alberni): I have a question for the house leader in his capacity as Minister of National Health and Welfare; I will not involve myself in the other discussion. I should like to ask the minister, in view of what appears to be quite widespread public concern over the proposed amendments to the drug regulations in respect of the distribution of vitamins and minerals, whether he can tell the house if such changes are to be made or have been made, and if so what is their purpose. According to the correspondence I have received it is alleged the requirements will be—

Mr. Speaker: Order, please. The hon. member is asking a question of the type which should be answered on motions.

Mr. Barnett: Then may I ask the minister if he would be prepared to make a statement on this subject to the house under motions, because there appears to be quite widespread public concern.

Hon. A. J. MacEachen (Minister of National Health and Welfare): Yes, I will consider that suggestion.

EXTERNAL AFFAIRS

INQUIRY AS TO MEETING OF STANDING COMMITTEE

On the orders of the day:

Mr. Heath Macquarrie (Queens): I should like to direct a question to the hon. member for Restigouche-Madawaska in his capacity as chairman of the external affairs committee. When does he contemplate calling the committee into session?

Mr. Jean-Eudes Dubé (Restigouche-Madawaska): At the present time there is no reference from the house to the committee, so the committee cannot meet. I presume that very shortly there will be such a reference. As soon as there is a reference I shall be pleased to call a meeting.

Hon. D. S. Harkness (Calgary North): This brings up the question I asked the minister, Mr. Speaker, and upon which you called me to order. I thought the minister should have been able to answer it. When will the government make a reference to the committee so the committee can meet and consider this question?

Hon. Paul Martin (Secretary of State for External Affairs): I have just been discussing the matter with the house leader, and I hope I have the persuasive powers with him that I think I have.

Mr. Harkness: The minister, I am afraid, is being evasive again. Can he not say definitely when this reference will be made, say tomorrow?

Mr. Martin (Essex East): My hon. friend is one of the last members of this house—

Mr. Speaker: Order, please.

BUSINESS OF THE HOUSE

REQUEST FOR DEBATE OF QUESTIONS ON ADJOURNMENT MOTION

On the orders of the day:

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, this question is directed to the Minister of National Health and Welfare in his capacity as government house leader, or perhaps it might be regarded as a point of order. As hon. members are aware, the list of questions for debate at adjournment time is getting rather lengthy because our rules provide that there is no late show when a vote is ordered late at night. My question to the government house leader is this. In view of the fact that there is not usually a recorded vote on a final motion such as we will have tonight, would it not be possible to have agreement of the house that we will have a late show tonight and take up two or three of the questions that are on the list? I am not asking that any of mine be taken up tonight, but by doing this we might get started on the list.

Hon. A. J. MacEachen (Minister of National Health and Welfare): If there is no vote, and if there is unanimous consent, I am agreeable to the suggestion made by the hon. member.

Mr. Speaker: Is there unanimous agreement of the house to the procedure suggested by the hon. member for Winnipeg North Centre?

Some hon. Members: Agreed.

Mr. Speaker: It is therefore agreed that there will be adjournment proceedings tonight, provided there is no vote.

THE BUDGET

ANNUAL FINANCIAL STATEMENT OF THE MINISTER OF FINANCE

The house resumed, from Wednesday, October 11, consideration of the motion of Hon. Mitchell Sharp (Minister of Finance) that Mr. Speaker do now leave the chair for the house to go into committee of ways and means.

Mr. David MacDonald (Prince): Mr. Speaker, as I stand here today to speak on the last day of the budget debate I realize that I face tremendous competition for attention in view of the fact that the world series is currently being broadcast to almost every nook and cranny. I have often wondered why we call it a world series when only one country participates. However, since there is a world series on today perhaps it is fair for me to deal with some of the great issues that face us in terms of international relations. I should like to set before you three or four concerns I have in that field as my own world's series. I think these issues in particular are of paramount importance to the future security, normal development and improvement of the world situation as we see it today.

It seems almost predestined that the first speaker this afternoon, in the light of the

considerable exchange during the question period, should deal with the overriding crisis that faces us in international relations, the problem of Viet Nam. There is, I think, no greater issue nor one more fraught with danger in the year 1967 than the immediate outcome in the next few months of developments in that perilous little country. About two weeks ago now our own minister of external affairs dealt with this subject in his address to the opening session of the United Nations. He made a number of statements, some of which pleased this member at least in particular and I am sure many other members in this house, because we have been concerned for some time that some new initiatives be taken by this country with regard to the increased and prolonged bombing of the north. Many of us, in fact, were almost surprised that our minister should have put himself on record, strongly I hope, as being opposed to the perpetuation of this bombing.

But perhaps if we were surprised it was only because of what seemed to be his previous attitude, not because there seemed to be any unusual suggestions in his statement. He has had many good examples to follow. One can think of His Holiness the Pope, the secretary general of the United Nations, U Thant, church leaders in the World Council of Churches. One might even find some evidence of late conversion on the part of the United States secretary of defence himself, Mr. McNamara. It is not, therefore, an unusual position, though no one can doubt that it is an important one. I hope that regardless of the opposition, either subtle or overt, that may be directed toward our administration, we shall not fall back from the position that there can be no movement toward negotiation in this dreadful war unless there is a cessation of the bombing.

• (3:20 p.m.)

I do not think it is enough for leaders and governments to advocate this policy without treating with absolute seriousness the many other initiatives that may or may not be waiting to be tried. I have been somewhat disturbed by the attitude of our Secretary of State for External Affairs. While he is, I think, holding firm to his requirement for a cessation of bombing he has not indicated in this house or in any other place that further initiatives are being taken, that Canada is doing everything in its power to look for approaches and possibilities of any kind that might present themselves. Indeed, more alternatives have been discussed within the United States than in some of the other countries which have been less caught up with the question. I do not know what is behind the military thinking that suggests certain enclaves, or some kind of electrical fences, be used for deaccelerating the conflict. I do know one thing; this is not a static war. Anyone who believes that we have achieved some kind of balance of enmity or hostility is deluding himself to a grand degree.

I do not believe that week after week the government of the United States or the powers that be in Hanoi will accept the cost of this conflict without looking for some value in return. Unless there is strong initiative to defuse and deaccelerate the conflict one may expect in the next few months not a decrease but an increase in hostilities. One can imagine, in terror, all the possibilities that such an increase may hold for us.

Today I am concerned not only with our new position, as evidenced by the minister's speech at the United Nations, but also with the definition of our fundamental approach or policy to that conflict in Viet Nam. During these past few years it has never been easy to determine the attitude of the Canadian government. When one has gone through all the generalizations, all the comments about how the war started and Canada's role in the I.C.C., and after one has spent hours and hours examining documents and speeches, one is left with a vague impression that the attitude of the government was that there had been communist aggression from the north which, five or six years ago, had moved to the south. It was to stop that aggression that the United States government had committed itself.

When one looks at more recent speeches, and particularly those of the last few months, one finds—at least I find—no mention of communist aggression as such. There seems to be no position; we are confronted with a sort of function or tactical situation which suggests that Canada's interest in Viet Nam at the moment is to see that war is ended as quickly as possible.

That is good. No one, not even the most militant person in the Pentagon, I think, would be opposed to that point of view. Surely no country or administration worth its salt can view the complex problems that beleaguer Viet Nam without adopting some position. The positions might range from a stand that it would be good if Viet Nam were abandoned by the United States military, to one that might hold that it is tactically possible for the United States to gain firm control,

perhaps not of all Viet Nam but of South Viet Nam.

Surely Canada in general, and this house in particular, has a right to know what is our government's position. What do we view as good ends, as opposed to bad ends, in the resolution of the Viet Nam dilemma? We have found one thing, Mr. Speaker, and that must not be overlooked. The minister and, I assume, the government have turned away from and left what was the hallmark of Canadian diplomacy, that which was called euphemistically throughout the years "quiet diplomacy". Last night, on Wednesday, October 11, the Secretary of State for External Affairs appeared on the television program "20 Million Questions". When asked why Canada should adopt a new position with regard to the bombing he said, in the latter part of an extended answer, something to the following effect:

> —my experience has been that we have been under a misapprehension in Canada for a long time in thinking that we would destroy our position with the United States by speaking up.

Conversions are always welcome, no matter if they are death bed repentances. It is important to realize, I think, that the minister has said it is perhaps safe now for Canada to look in the mirror at the reflection of her international posture and regard herself as an adult. She can say that she thinks there are issues of importance.

Mr. Martin (Essex East): Would my hon. friend permit me an interjection? He is making a constructive speech and touching an important point. The observation I made in that connection is not a new one. I have made it a number of times. It was not because of any new position we have taken on the bombing that I made the statement that we should stop it. I have never felt there was anything in our relations with the United States that would cause us, in the right situation, not to speak our minds.

Mr. MacDonald (Prince): The minister has again indicated through his own words and qualifications that what he has suggested previously has been fine. The minister has never carried out what he has suggested. We want acts, not words. We welcome the actions of the minister at the United Nations; I and every other member of this house congratulate him on his actions at the United Nations. We welcome the fact that the minister has made plain that Canada now is an adult and may take positions which may not always be received with good will and thankfulness in Washington. Nevertheless we must have our unique position, not only that we may enjoy some kind of self respect in international gatherings and in the whole international milieu but also that we may be a real asset to the United States. I mean this. I have never seen any value in our being a pale, second sister. Often there have been wonderful opportunities for us to indicate our position to the United States. Had we done so that would have been of immense assistance and inestimable value to that country.

I wish to say this: While the minister has taken the first timorous step in the uncertain waters of international affairs with regard to Canada's position, there are still some ways in which he seems to shy away from espousing a position which is our own position rather than that of the United States. In last night's broadcast the minister defended, as I intimated a moment ago, the value of Canada having a channel or open line through to Hanoi. It is important for us to have that in order that at some point—we are not sure when—we may act as a valuable liaison between Hanoi and Washington. Without getting into a long debate on this point now, let me say it is abundantly clear to me at least that there has never been a lack of communication between Washington and Hanoi. There are all kinds of contacts available. Difficulty arises because of what has been transmitted back and forth along those lines of communication.

• (3:30 p.m.)

What disturbs me about Canada's foreign policy in this regard is that the minister should have elevated a role as a note-runner or message carrier into one of the supreme virtues in international affairs. As Mr. Lynch said to the minister last night on the television program: "You are talking about a channel as though it were a policy itself," to which the minister replied: "Well, it is." I fail to discern any overriding strength in an answer of that kind or to feel much enthusiasm for it. I think it is more important that Canada should take a position about the future of this little country than that it should be just an errand-boy between Hanoi and Washington.

So far I have dealt with affairs which, whether we like it or not, are largely beyond our control. We are not a great nation militarily, thank God, and we are not involved in many of the military aspects of events in Viet Nam with the exception of our supervisory activities as they are carried on

in the control commission. But we could be playing a role of tremendous importance to the civilian population of Viet Nam, and we have failed to play such a role. If there is any sin of omission on the part of the present government, surely this is where the fundamental issue lies. I have never been more aware of this than in the past ten days because I have before me on my desk a letter from Dr. Michael Hall, a man who has been the subject of considerable public discussion during the last day or so. He wrote me a letter 11 days ago following a question of mine in the house when I asked the minister for the umpteenth time whether or not the government was prepared to assume some responsibility—because of its new policy position on Viet Nam, if for no other reason—for providing some practical assistance to the hundreds of thousands of suffering people in that country. Surely no country has ever had the opportunity which Canada has today to meet at least some of the needs which face this terror-ridden and tormented country.

I should like to put on record some of the things Dr. Hall said to me in this letter because his words and his own personal experience of three years in Viet Nam speak much more eloquently about our gross failure in this regard than anything I can say. At one point he writes:

> We have the second highest national income per head population of the world, but even though most of the funds are spent in Canada we allocate to external aid only two-fifths of the recommended United Nations minimum, and are thus the second least generous of the donor countries—second only in our frugality to Denmark, noticeably also a leading critic in the United Nations of United States policy.

He goes on:

> We have sent two food commodities: for a country whose people do not eat butter we have given them $60,000 worth; for a country where the people eat rice we have given them $790,000 worth of flour.
>
> As you know we do not even send these "gifts" but Viet Nam has to pay the shipping costs out of her own limited foreign currency. The food commodities are not to be given to the poor and hungry, but are to be sold to the moneyed class, to generate "counterpart funds", that devious system of double bookkeeping requiring a country to show it has available for further expenditure the cost of the commodity "given" to it, regardless of whether it has chosen to sell this commodity, has even found it was saleable, or has given to the needy. Not surprisingly Viet Nam declined further Canadian "gifts" of food. The counterpart funds have been used to start a medical school extension and a university assembly hall, but these were abandoned a year and a half ago in their early building stages, to stand as skeletal monuments to Canada's skeletal generosity, while year long arguments were held between the Canadian delegation and the Vietnamese government over non-existent funds.

[Mr. MacDonald (Prince).]

Perhaps it would be helpful if I were to give hon. members something of the background of Dr. Hall. He is not a man who has had merely a casual acquaintanceship with the problems of Viet Nam. He writes:

> I first went to Viet Nam in 1963 working as an orthopaedic surgeon exclusively for the civilian wounded. I struggled until April, 1967 with External Aid to get them interested in helping the civilian injured, but to no purpose, and finally in great sorrow abandoned my efforts. Despite the support of the head of the Canadian commission in submitted recommendations for improving the treatment facilities in the university hospitals, my letters were either unanswered or turned down summarily with expressions such as "Canadian content too low".
>
> Other Canadian doctors have had the same experience—one surgeon quit the country after only a few days, another physician completed a six month contract and was so dissatisfied he would stay no longer. A proposed children's rehabilitation centre was abandoned, very quietly, because Canada wanted Viet Nam to pay for its local costs—and Viet Nam had already found out from my housing costs that the Canadian government made them pay, that they should beware of any future similar arrangements.

He goes on to write in another part of the letter:

> Canada has not provided any surgical team—excluding my solitary person—to assist the war wounded although these have been provided by the U.S., the U.K., France, Italy, Switzerland, Germany, Japan, China, Korea, Thailand, Philippines, Iran, New Zealand and Australia in South Viet Nam, and by several communist bloc countries in North Viet Nam.

There is much more in this letter than there is time to read but the indictment it contains is sufficient testimony to the shabby way in which an opportunity which could have been most glorious for this country has been abandoned without, it seems to me, any real degree of interest being shown in the possibilities which were there. Dr. Hall writes:

> The world knows Canada's "utmost" is two-fifths of the minimum recommended by the United Nations, and that we are "our brother's keeper" to the extent that we will sell armaments to our neighbour, then tell him he should not use them.

It would seem to me that if we do have any sense of responsibility and if we do have any opportunity to deal with the difficult and terrible situation in Viet Nam, then surely the way of rehabilitation, the way of education, was open to us. Yet time and time again when questions have been asked in the house the minister has fobbed us off with his usual kind of non-answer. To my mind at least the

minister has never shown, either in this place or outside it, that there is a genuine or strong interest in serving the cause of thousands of suffering people in that country.

If there were genuine interest on the part of this government in the plight of the civilian population of this stricken country we should not have to wait, as the minister suggested yesterday, until the subject comes before the external affairs committee, which could take weeks or even months. We should not even have to wait until the minister had left this chamber. If this government is really concerned about the possibilities for service of the kind attempted by men like Dr. Gingras, Dr. Venema and Dr. Hall, then this house is surely the first place in which the minister should put on record in detail particulars of what this government is willing to do.

• (3:40 p.m.)

I for one find it very difficult to respect either a minister or a government who can become very concerned about what the actions of other countries should be in this regard and who can ignore, with such little obvious disturbance, what our own responsibilities are. I am glad that Dr. Hall has spoken out. I hope that many Canadians will now speak out and register their opinions with the government. Now that we know that little has been done when much could have been done, there may be some new policy with regard to external aid since there has been evidence of a new policy with regard to the future of the Viet Nam conflict.

Some hon. Members: Hear, hear.

[*Translation*]

Mr. Gaston Clermont (Labelle): Mr. Speaker, on the budget debate, I should like to comment on questions of general interest and on regional subjects.

The first comment I should like to make, Mr. Speaker, is on the Small Business Loans Act which was amended this year to enable owners of small businesses in the building field, in transport and communications to benefit from this loans program. The amendment has raised from $250,000 to $500,000 the approximate yearly gross income that a borrower is required to have to be eligible for a loan. But the borrower can only obtain a maximum loan of $25,000 which was set at the time this act came into force in 1961. Such a loan may have been sufficient in 1961 to enable the owner of a small business to undertake a rather substantial expansion of his operations but, in 1967, such a maximum is not practical and a higher amount is required.

Furthermore, another section of this act should be amended. It is the section providing for a maximum interest rate of 5½ per cent. I admit, Mr. Speaker, that it is most important for the operator of a small business to borrow at a reasonable interest rate so as not to overly increase his operating costs, but what is a 5½ per cent interest rate worth if he cannot obtain credit from the bank?

When this 5½ per cent rate was set in 1961, there was a ceiling of 6 per cent on chartered bank loans, but since May 1967, the maximum rate has been raised to 7¼ per cent, and it is possible that early in 1968, that restriction on interest rates will be abolished. The Industrial Development Bank, a crown corporation, is not subject to such a rate. If the owner of a small business could get a loan more easily in order to improve or enlarge his plant, he might be able, by the same token, to increase his staff.

The other matter I would like to discuss is that of banking operations. At the first session of the 27th parliament, the house passed Bill No. C-222, an Act respecting Banks and Banking. I feel that this piece of legislation allowed more competition among chartered banks, as well as among other financial institutions. In its report, the royal commission on banking and finance made several far-reaching recommendations designed to promote imaginative thinking, to strengthen competition within the banking and financial system, and to make the financial policy more effective.

I have noticed, however, that since the act came into force, chartered banks, through various media of information or communication, offer their depositors an array of interest rates varying from 3½ to 5½ per cent. I admit that people can expect reasonable returns for their savings, but I have certain apprehensions with regard to the struggle for funds. Must it be waged to the detriment of borrowers, especially where personal loans and consumer loans are concerned? That is not what was intended by the legislator and the Porter commission.

At the present time, the interest rate ceiling on bank loans is 7¼ per cent, under section 1, subsection 3, paragraph (a) of Bill No. C-222. But it may be that early in 1968

the ceiling will disappear, and that to the 7¼ per cent interest rate discount fees will be added in some cases.

I hope, Mr. Speaker, that the government is going to keep a close eye on banking operations and that it will not hesitate to give directives to the banks if the interest rate on loans becomes exorbitant.

The Minister of Finance (Mr. Sharp) was very wise to extend until the end of October the period of time during which taxpayers, associations and other groups will be able to send him their comments and suggestions as to the recommendations of the royal commission on banking and finance.

As for the provinces, they will have until the end of November to give the minister their opinion about the views and the suggestions publicly stated by Canadians or handed over to them by those organisations.

Before a white paper on the report of the commission comes out, it is extremely important, Mr. Speaker, to emphasize the fact that the recommendations of the Carter report do not commit the government, legally or otherwise, to accept these recommendations, in part or in full.

When the white paper is printed, I hope the Minister of Finance and Receiver General will submit it to the committee on finance, trade and economic affairs in order to allow the members of this house to study its recommendations thoroughly and also express their views on the recommendations of the Carter report.

• (3:50 p.m.)

There is another subject I should like to deal with, Mr. Speaker and that is water pollution. In our region, we have the same problem, the pollution of the Ottawa river and its tributaries.

A study of the purity of the Ottawa river water, recently published by the Ontario water resources commission, reports that in many places the waters of this river, from Pembroke to Hawkesbury, are not up to the prescribed standards of purity and that the necessary control measures will entail considerable expenditures which the municipalities concerned cannot afford.

Moreover, since that river is an interprovincial boundary, the federal government, through the Minister of Energy, Mines and Resources (Mr. Pepin), must continue to take steps with the provincial authorities of Ontario and Quebec, by calling upon them to co-operate with the federal authorities and join in with their technical and financial resources to solve that serious problem, as the municipalities and cities on both shores of the Ottawa hope it will be.

A few months ago, the federal government offered a $2 million grant to those provinces for the undertaking, as a pilot project, of a study not only of the causes and degree of pollution, but also of the cost and ways of correcting that situation. To date, the offer has not been accepted.

But I know that the minister is aware of this menace to public health and that he will certainly continue his efforts with the provincial authorities concerned.

On Tuesday, September 26, 1967, the hon. Minister of Forestry and Rural Development (Mr. Sauvé) inougurated the new fishing complex at Rivière-au-Renard, to which the federal government contributed $3,192,940 towards a total cost of $7,617,880. The federal government's participation has been obvious in a number of projects, such as the construction of two trawlers, dredging operations and the building of wharves, a processing plant, sewers and water conduits, et cetera.

As was stated by the minister in Chandler on May 28, 1967, at the founding convention of the regional development council, there is a possibility that the government of Canada and the Quebec government may come to an agreement for the development of the pilot area covering, I think, eight provincial ridings of the lower St. Lawrence, the Gaspé peninsula and Îles-de-la-Madeleine.

That document will no doubt follow the pattern set by the B.A.E.Q., where the government of Canada paid half the cost or more than $2 million.

Mr. Speaker, I have listed those achievements and others which might become feasible in a rather near future because the people in the provincial ridings of Labelle, Papineau, Hull, Gatineau, Terrebonne, Pontiac and Argenteuil, are wondering when they too will be able to take advantage of large scale projects which come under the program known as ARDA, and the new program which this government passed in 1966 and amended in 1967, namely the act providing for the establishment of $300 million fund for the economic and social development of special areas.

Some will say that, according to one section of those two pieces of legislation, the initiative must come from the provinces, but again I urge the minister, when he meets along with his officials the people responsible for the ARDA program in Quebec, to clearly lay out before them the great needs of those areas.

In June 1963, pilot study No. 5044 was initiated with a view to classify and assess the major resources, and to improve employment and living conditions in the Rouge valley, which includes the provincial counties of Labelle, Papineau, Terrebonne and Argenteuil. It led to a number of recommendations to the authorities concerned. Amongst others, there was:

1. The development of an 855 acre community pasture for sheep breeding purposes in Marchand township;

2. The planting of 25 million trees on 25,000 acres of land, at an estimated cost of $1,300,000;

3. The construction of a 38-mile road connecting St. Sauveur des Monts and St. Remi d'Amherst;

4. The building of a tourist centre in St. Remi d'Amherst;

5. The construction of a vocational training centre for the retraining of rural workers.

I hope, Mr. Speaker, that the cost of such a study will not be useless, that it will be implemented and that other projects will result therefrom.

Going through the list of legislation that the government wishes hon. members to consider during this session, I find that the proposed legislation covers many fields but I also note that certain items mentioned in the speech from the throne at the opening of the second session of the 27th parliament have been left out, such as, for example, the increase in funds to broaden the scope of the program aimed at stimulating regional development; an act to provide long-term loans to farming and fisheries associations and corporations to permit them to develop facilities commensurate with the needs of such communities; and the amendment to the Farm Credit Act to enable young men and farmers' sons to develop and acquire efficient and economic productions units.

Mr. Speaker, a study of the loans granted by the Farm Credit Corporation shows that a large number of farmers take advantage of the benefits offered by that organization in order to increase their acreage, buy land and put their operations on a more economic basis. As a matter of fact, according to a study of the corporation's annual report, most of the new loans made during the last fiscal year, that is a total amount of $100,600,000 was used to that effect. Since most farm owners are well on in years, it is very important that the Farm Credit Act should be amended as indicated in the speech from the throne and I would hope, that those three measures will get a high priority during the 1968 session.

In closing, Mr. Speaker, I wish to say that a few weeks ago, as a member of the Canadian delegation to the meeting of the ministers of finance of the commonwealth at Port of Spain, Trinidad, and in Rio de Janeiro, Brazil, at the annual meeting of the International Monetary Fund and the International Bank for Reconstruction and Development, I was deeply moved by the respect and consideration Canada enjoys in international circles.

Mr. Paul Beaulieu (Saint-Jean-Iberville-Napierville): Mr. Speaker, I do not intend to take too much time and to rehash all the arguments that were advanced during the budget debate.

However, what surprised me most was the enormous increase in the revenues of our country since the party now managing our affairs took office. In fact, these revenues increased from $6 billion to $10 billion. In other words, the Canadian people has been taxed in an incredible manner.

• (4:00 p.m.)

Furthermore, we found that instead of a balanced budget, we face a deficit of nearly $750 million without taking into account other capital expenditures that are needed. And as an example, I shall quote a report I received recently from an Ontario university professor in which he stated that the government intended to set up a research centre at an approximate cost of $75 million for research in the field of electricity and nuclear energy.

This professor was of the opinion that the estimate of $75 million would unquestionably reach some $300 million. Well, there is no provision in the government's budget for such a capital expenditure, which would easily increase our country's deficit from $740 million to more than $1 billion.

What we find more striking is that, at a time when all the provinces are clamouring for financial assistance, for a better apportionment of the tax base, the Canadian government, which has stated through its ministers that the situation was normal and favourable, that 3 or 4 per cent of workers only were unemployed, which was normal, that our commercial balance with other countries was maintained at a practically normal level, has selected this period for a frightening deficit of almost $1 billion.

From a sound financial point of view, it is recognized that there are some periods of recession when it is permissible for a country, a province and even municipalities to show a deficit. But in a normal period such as the one we just went through, it is unthinkable for a government to submit such a financial statement.

What is going on? This is what I want to talk about. When—as I heard twice yesterday —government supporters specially from Quebec blame the previous governments for the unfavourable financial situation prevailing in Quebec, for instance, they are spreading those slanderous rumours heard throughout the country, and this can hurt not only Quebec but Canada as a whole.

Now, the truth is altogether different. It was alleged by the hon. members for Lotbinière (Mr. Choquette) and Verdun (Mr. Mackasey) that if the province of Quebec had to make so many capital expenditures it was on account of her previous reactionary governments. As a matter of fact, the province of Quebec was managed by Liberal administrations during forty-five years out of a total of sixty years. As I have been a member of the provincial government, I know whereof I speak. At one time, the province of Quebec realized that it should earmark several million dollars for education. Now that such expenses are deemed necessary today, some people try, nevertheless, to blame the administration which governed the province for some fifteen years for the present situation. Now, the Quebec government of which I was a member in those days—and I mention it because it is important from the educational point of view—was as imaginative as the one we have today but it did not have its astronomical budget.

When I entered provincial politics, the total revenue of the province of Quebec was $100 million. When we left in 1960, this revenue was only $600 million. The people were not overtaxed. Since then, the total revenue of the province of Quebec has climbed to $2 billion, in less than 4 years. People say: We had to move fast, we had to spend fast. But what was this money spent on, Mr. Speaker?

When the government of which I was a member came into power, the University of Montreal was almost bankrupt, and the government I supported had it rebuilt on the top of Mount Royal.

People said that nothing was done about education, that the province of Quebec was backward, yet the government of which I was a member rebuilt Laval University in Quebec city with the funds at its disposal, making do with what it had, without overtaxing the people.

Is the University of Sherbrooke the product of a backward government, of a shortsighted government? Well, it was established under that same government.

But today the people of Quebec wonder where those $2 billion are going. Into the construction of highways perhaps, and, no doubt, into essential expenditures.

Mr. Speaker, we also hear that Quebec is a reactionary province with a reactionary government, and that this is the reason why Quebec is behind the other provinces. But this is further nonsense, Mr. Speaker. Who was responsible for Montreal being chosen as the site for Expo? The government of which I was a supporter.

At that time, Senator Fournier was mayor of Montreal. The Diefenbaker government was in power, and I was a member of the provincial administration. It was I who suggested that steps be taken in Paris to get Expo. Those were not the doings of a reactionary government, Mr. Speaker; today, we are reaping enormous propaganda benefits. Of course, what is past is past; one does not came back on it. After Canada had deposited $40 million, namely, $20 million from the federal government, $15 million from the Quebec government and $5 million from the city of Montreal, Mayor Fournier accompanied me to Paris to submit our application.

Three consecutive votes were held before the selection was made. If I insist on that point, it is because everybody is talking about Expo and yet, those responsible for it being held in Canada, in the province of Quebec

and particularly, in Montreal, are being called reactionaries.

Russia was chosen after the third vote, the result of the first two being 13 to 13 and the third, 12 to 14. But since Russia had three months in which to make specific plans, there happened the phenomenon expected by everybody: the Soviet union was reluctant to see all the countries of the world cross the iron curtain. If the world fair had been held in Moscow, one can imagine what would have happened: every country in the world would have gone over there.

Now Mr. Khrushchev withdrew and, automatically, as there were only two candidates, Canada and Montreal got it. At that time the government had changed; the Liberals were in power in Quebec, and Mayor Drapeau was elected in Montreal. We congratulate him and all those who took part in the project. On the other hand, to say that it was reactionaries who conceived of and gave birth to the project is sheer nonsense. Do not forget that the project is not one that Canada will see again for at least another hundred years, because first class world exhibitions such as the one we have had here used to be held only every seven years or so. Now, I think, they will take place every five years, alternating between continents and member countries.

• (4:10 p.m.)

And if, in spite of all their economic power, the United States did not succeed in obtaining it, it was because they were not members of the International Bureau of Exhibitions. The application must come from the country, from the state, not from a province or a city. Well, according to our information, when Washington was asked for its vote, it stated: "We are not members of the bureau." Why were they not? Because Washington would have been embarrassed to choose the site of the world exhibition. Would it have been New York, Los Angeles, Detroit, Boston or Chicago. Fortunately, as that intricate situation arose—and the hon. Mr. Diefenbaker was faced with it when he was asked the question—at that time, we were the first and only ones to apply.

Therefore, Mr. Speaker, it is unfair of the hon. members from the province of Quebec to criticize constantly past and present developments in their province. We hear the members from the maritimes, on the contrary, praise their province, and the members from the west try to help their people. That is why I wanted to say a few words to do justice in part to the province of Quebec as well.

The budget presented by the minister contains the following danger. It shows us a deficit of $1 billion on the very eve of the provincial premiers' conference. The premier of Ontario, Mr. Roberts, has arranged a meeting of all the premiers in Canada to take place in November. Apparently the government will not officially take part in the conference. That is a pity. At that interprovincial conference, the financial problem of the provinces will be considered. And the federal government is the only one which can meet their needs. Will the Minister of Finance give them an artless answer, as he often does. We remember the former minister of finance. He was anxious to keep foreign capital away while the present minister does not object to attracting it. The best proof of that is that there is now a bill before the house for the construction of another pipe-line to transport oil from western Canada. The charter is to be granted to a foreign country. Was not the party in office against that? If we cannot recover lost ground, what others have already taken, at least let us not lose more. We must be logical.

If, following a new distribution of revenues, provinces do not have the means, to make their economic situation viable, to what will they resort? New taxes? That is practically impossible. Loans? The federal government drains practically all of the people's savings for its own needs. The municipalities are now practically unable to secure loans. School boards which are reorganizing themselves throughout the province of Quebec, at least as far as I know, have all the trouble in the world to get financing. And, once again, the key is in the hands of the federal government.

The amendment to the National Housing Act increases the interest rate to 8¼ per cent. Of course, there are reasons for that. If it is only to stimulate construction and encourage private investments in addition to the funds supplied by the state in the field of housing, the interest rate makes sense. It would make it possible to get financing from other sources. But if the aim is really to help the poor, those who earn less than $7,000 or $8,000 a year—they are the ones who are in need of help—it is a failure. The others can get along quite easily. When people earn from

$8,000 to $15,000 a year, they can build themselves a house or quite easily find accommodation at an appropriate rent.

But what happens in the large cities? Just the other day, one of my clients told me: "I have a property valued at $15,000. I paid 1¼ per cent municipal taxes and 1 per cent school taxes, for a total of 2¼ per cent a year or approximately $300. The assessment system was changed and the assessment is now to be based on the real value. That man told me: "The same house, without anything having been done to it, is valued at $30,000, and the 1 and 1¼ per cent rates have gone up to 3 per cent. That means that on an assessment of $30,000, it costs him nearly $1,000 a year in school and municipal taxes only.

If you consider that in addition to this he has to obtain financing at the rate of 8¼ per cent to build, that he must heat the house and maintain it, you will realize that a $15,000 property is very modest nowadays, especially if you take into account the 11 per cent tax on building materials which the government was to eliminate but which it has decided to maintain because, apparently, it needs it. So, it is now practically impossible for average income people to build a house. That is why, Mr. Speaker, I felt it was important, in the interest of the people living back home, a working community of about 40,000 population, to raise these points that need to be emphasized during this budget debate.

For the information of those who criticized the legislation it enacted at the time I was there, the province of Quebec has a housing act which provides that insurance companies make loans at the rate set in the act. On the other hand, the borrower gets a 3 per cent refund of the interest rate back from the province so that the rate is reduced to approximately 3 or 3½ per cent. In fact, that encouraged the construction of new homes; it truly helped the people.

Now, if the federal government is really anxious to help the small people, it can set a limit. Those who earn less than the limit should be entitled to a reimbursement from the government so that they may have a reasonable interest rate.

Since we are on the budget, I want to mention an urgent problem that is prevalent in my area, that is the milk problem which has not been settled to our satisfaction. In fact, I am sorry that the minister is not here so that I could speak to him about it.

If we want to keep our people in the rural areas, we must give them a reasonable price for their milk, just as we must assure our farmers that they will be able to take advantage of crop insurance like the unemployed are entitled to unemployment insurance benefits when they are out of work. Farmers who lose a crop because of bad weather or for any other reason beyond their control, are, the next day, on the verge of bankruptcy.

We have also requested—and we shall continue to ask for it—the $100 a month old age pension which, of course, has been partly granted but that is not enough yet. Lots of people cannot meet the requirements of the legislation and are deprived of an income essential to their subsistence. Had the minister concerned been here, I would have liked to say a word to him about retraining. We want to retrain our workers and we say that men of 35, 40, 45 or 50 cannot carry on their trade, we shall pay them a salary of $75 a week; they will leave industry and go and retrain in our schools.

Now it is basic that what we need first are schools. There is a shortage of schools throughout the province of Quebec. Everyone knows that prefabricated schools are now being erected in several of our cities to meet the need of elementary and high schools until such time as the "polyvalent schools" are built. We need at least three, each one of which will cost several million dollars. How do you think we will find the space to train our workers for new trades?

Secondly, there is also a shortage of teachers in the province of Quebec. I looked into the matter trying to find competent people. Retraining demands competent teachers and not just a manual; you need someone who knows the trade, who is a master, an expert.

Now, I suggest that retraining should be done on the job. It would be better to help industry when it buys, or rents equipment, for in some cases the machines are not sold but rented and come with a technician to operate them. That is when the workers are told: you are not qualified to touch that machine. That is where retraining should be done. The man who accompanies the machine can easily give courses. If financial aid is

warranted, let it be given the industry, and let the worker stay where he is.

• (4:20 p.m.)

If our workers leave the plants to attend specialized schools which do not exist, and take courses from professors who are not available because they are now working for the governments, I doubt that having left their plants, the workers will be able to go back to their jobs.

Mr. Speaker, I wish to salute and congratulate the new Minister of National Defence (Mr. Cadieux) who is one of our distinguished fellow countrymen and a brilliant man. I wish him a better fate than that some of his colleagues have known in the Liberal party.

I take the opportunity to put the following question to him. He knows that the military college at St. Johns gives a university course. It is, it seems, on the same footing as or ranks second to the university of Kingston. Why is it that the students at the military college in St. Johns have to go to Kingston to complete their last year? Would it not be possible eventually to classify the military college at St. Johns as a first class university, so that its graduates are recognized. It is a bilingual school which has been visited by several members. It is high time that it receives its final christening and is considered on the same footing as the university of Kingston. That would add considerably to its prestige and especially to that of our young fellow-citizens.

I have already asked questions about the airport at St. Johns, but now we have a new minister. Today, in the difficult period we are going through in Montreal, we realize more than ever the importance of developing the airport in St. Johns.

St. Johns, in relation to the Expo islands, is located approximately 15 miles away. One gets there via Longueuil and St. Lambert. There is no need to go to Montreal at all. And I deplored, Mr. Speaker, the failure to continue the work started at St. Johns airport. The Minister of National Defence knows that hundreds of cadets are taking courses there at the present time.

The take-off run could be easily extended. As a matter of fact, it would be very simple, because the land now belongs to the federal government and it would be only a matter of completing the work. Instead of landing at Dorval, aircrafts could go on to Saint-Jean and from there, passengers could reach the islands of Expo or Montreal in a third less time.

When I referred earlier to the province of Quebec, I wanted to show that the federal government and the provinces must get together, if not to settle the matter once and for all, at least to start negotiations with a view to drafting our future constitution.

At the present time the complications are such that if we fail to take seriously the criticism voiced from various quarters, we will be faced with a serious problem. I am not ready to say that most of our people are dissatisfied, but I can say that Quebec is unanimous in asking for a new constitution.

The Liberal party in Quebec stated its position through the voice of its leaders. The Union Nationale party did the same. The Créditistes said a word about it in the house. Only one group is against it. But if we leave it up to those who would probably prefer to solve the problems through violence rather than discussions, we will be sorry sooner or later.

In view of the fact that our party has just chosen a new leader who before long will take a clear position on this issue, and that all the provincial premiers will hold a meeting in November, I believe the federal government would be well advised to take immediate steps to call a conference where the provisions of the constitution that lend themselves to more than one interpretation, would be clarified once and for all.

Personally, I have no hesitation, Mr. Speaker, in expressing my opinion. I have been in politics for nearly 25 years, including 20 in the province of Quebec, and everyone knows where I stand. I am in favour of the maintenance of the Canadian confederation, provided Quebec is given what it believes to be entitled to and French Canadians obtain what they have a right to expect according to the provisions and the spirit of the constitution.

Now, certain points of the confederation pact must be clarified as soon as possible. The longer this matter remains in abeyance, the more difficult it will be to solve. Those who often ask: "What does the province of Quebec want", I answer that, in my opinion, it is both simple and complicated. But what it wants especially is an absolute right to its educational system.

The Acting Speaker (Mr. Rinfret): Order. I regret to interrupt the hon. member, but the time allowed to him has expired.

[*English*]

Mr. A. B. Patterson (Fraser Valley): Mr. Speaker, following the usual pattern in a debate such as this our discussions have covered a wide range of political, social and economic problems. We have listened with a great deal of interest to many of the speeches made in the course of the debate and have noted that they have ranged all the way from problems of local or constituency concern to the major problems that confront us in the international field in far distant regions of the world. Therefore it may be rather difficult for anyone entering the debate at this stage to make any contribution that is truly original. However, running the risk of repeating some of the statements that have been made and the observations advanced, I want to deal particularly with some of the problems that cast a shadow across the doorsteps of hundreds of thousands of Canadians at the present time.

I think that much of the criticism levelled against the government at the present time is predicated on the charge that the government is not concerned about the problems that are facing the people of Canada or the problems that are facing the world. Personally I do not subscribe to this view. It appears to me that the government is aware of the problems but is seemingly unable to come up with the right answers. I would like to think that every member of the house, whether on the government or the opposition side, is endeavouring to face the problems of our relations in the world in an objective manner, earnestly seeking to find a solution, keeping an open heart and an open mind to suggestions that come from whatever source, and then endeavouring to resolve these problems in the interests of our people and the people of the world. Perhaps the developments in the field of technology to which the President of the Treasury Board (Mr. Benson) referred the other day will help to bridge the gap, and where human judgment and human wisdom fail machines will be able to solve our problems. As I have said, Mr. Speaker, this afternoon I intend to deal with some of these issues that are very close to the doorstep of a great many Canadians today.

• (4:30 p.m.)

First of all, I should like to refer to the continuing concern of our people about the cost of living. It is true that recent reports have brought to our attention the fact that there has been a slight decrease in the cost of living, particularly in regard to food. But when one considers the increases that have taken place over the past several months, the past several years in fact, the decrease is extremely small and should not give us any cause for jubilation. We should be reminded rather of the continuing problem that faces our people in their endeavour to obtain the food necessary to maintain a balanced diet and therefore contribute to their health in the days that lie ahead.

Much has been said in recent days about the increased cost of housing. I believe that this is one of the major problems facing the people of Canada from coast to coast. Just today I had a visit from one of the partners in a construction company in my own area. He outlined to me some of the problems facing the construction industry in the province of British Columbia and the absolute inability of so many people to meet the requirements for home ownership that exist today. One only has to consider, for instance, the skyrocketing cost of land or the increasing cost of construction, to which has been added the increase in interest rates, to understand why it is that so many people not only in the low but in the medium income brackets are unable to provide themselves with their own homes.

Just the other day it was announced that interest rates or N.H.A. loans were to be increased to a maximum of 8¼ per cent. In making this announcement the Minister of Finance (Mr. Sharp) expressed the hope that this move would contribute to a greater supply of capital in the housing field. It remains to be seen whether or not this will prove to be a fact. Of course, a great many people who should know are saying that it is not going to solve the problem.

So we have the increasing cost of living which is affecting particularly those on fixed incomes, those who have various pensions and those who have a stated income from month to month. Perhaps it is expecting too much that retired civil servants, our veterans or our senior citizens should be able to attain the objective of owning their own homes. However, I do suggest that they should have the wherewithal to provide for their own immediate needs in a way that is consistent with the dignity of the individual. I should like to refer to a statement made by the Minister of Finance as recorded on page 2810 of *Hansard*:

> The costs of our own operations increase as prices and wages increase and certain of the benefits we pay, such as veterans' disability pensions,

must in all fairness be adjusted from time to time.

I appreciate the fact that the minister recognizes the necessity of making further provision for our veterans by way of disability pensions. On many occasions I, as well as many other hon. members, have raised this question with the Minister of Veterans Affairs (Mr. Teillet). He has stated that the matter is under consideration and the department is still awaiting reports from committees that have been set up. He has, however, refused to fulfil a commitment that if a long delay should be involved in the tabling of these reports, further interim increases for the veterans would be considered. I suggest, Mr. Speaker, that in view of the constantly increasing cost of living those individuals to whom I have referred should be given consideration in order that they may be better able to meet the cost of living and provide the necessities of life. We hope the government proposals will, in fact, halt the spiraling cost of living, but I think even the minister is doubtful that the suggestions he is making are going to have the desired effect.

A great many Canadians are very disturbed about the increase in the cost of operating the federal government. The minister has indicated, according to a reading of page 2809 of *Hansard*, that restraint must be exercised in the various fields of endeavour in the different sectors of our economy. I do not believe that the federal government should be relieved from the responsibility of practising what it preaches. Expenditures should be curtailed wherever curtailment would be desirable.

I read with a great deal of interest the speech made by the hon. member for Coast-Capilano (Mr. Davis), who pointed out in a clear, concise manner, some of the areas in which he felt the government ought to act and act decisively. I agree with the hon. member for Coast-Capilano and I hope the representations he made will have the desired effect upon the government.

The minister referred, as is indicated on page 2810 of *Hansard* to the increase in public debt charges. He said that our public debt charges are increasing. If we refer to the statistical sheet which is included in the book of estimates for the year ending March 31, 1968, we see that interest on the public debt will be $1,273,906,400. This is a colossal amount to pay annually solely for interest and carrying charges. It includes nothing at all by way of payment on principal. We pay $1,273 million odd for interest charges alone. No wonder the minister is becoming alarmed. The public is becoming alarmed. The government should give careful consideration to this item in its annual spending and make provision for its reduction and eventual elimination.

• (4:40 p.m.)

The minister said, as found on page 2811 of *Hansard*:

We must of necessity restrain our demands on the capital market.

The Social Credit party has advocated that for a long time. We have said that it is not necessary for the federal government to borrow money on the open market for various types of projects because the government has access to the Bank of Canada and the Bank of Canada can make available to the federal government sufficient capital to meet its obligations in various fields of activity. The bank can meet the needs of provincial and municipal governments also. We have recommended for a number of years that the Bank of Canada should progressively take over the national debt of the nation. Even if interest were collected it would go into the consolidated revenue fund, with the desirable effect of reducing interest charges and to the greatest extent eliminating them.

Some days ago the President of the Treasury Board indicated that what I have spoken of was being done to a certain extent. We urge that this program be expanded and that the Bank of Canada be used more and more to meet the needs of the federal, provincial and municipal governments in regard to social projects. This would leave additional money for commercial and industrial development and, should the government so desire, would lead to a lowering of the taxes imposed on Canadians.

There is nothing revolutionary about this suggestion. It has been put forward many times. I appreciate the constant support of the hon. member for Kootenay West (Mr. Herridge) in this respect. Our group appreciates the support he has given to these proposals.

Mr. Knowles: Do not forget the President of the Privy Council (Mr. Gordon).

Mr. Patterson: We appreciate the support of the President of the Privy Council as well.

I wish to raise another matter which has possibly, been implied already in my observations. I refer to the problem of increased taxation. We all know that throughout the years the dollar has lost a great proportion of its purchasing power. A dollar is not a dollar any more; it is worth a few cents. We find, nevertheless, that more and more of the

Canadian taxpayers' money is being drained off in taxes. The government's attitude seems to be that the people of Canada are absolutely incapable of handling their own affairs or of using their income in a proper way. As a result a paternalistic government has drained off a great percentage of the taxpayers' income and handled it for them. Apparently the government does not trust the people to handle their own affairs. The present tax load is intolerable; yet we are threatened with a further increase in taxation. I ask the Minister of Finance, how much more can he take from the taxpayer without killing the goose that lays the golden egg?

For years our group has advocated a revision of our entire tax structure. Presumably the commission that was set up to look into this field was engaged in this task. Its report has been tabled. Instead of seeking to reduce the taxes imposed on Canadians the Carter commission report tells the government how it can take more money from them. Instead of revising our tax structure to reduce the burden it has revised the tax structure to increase the burden. Many of its recommendations will require careful analysis. The government is aware of this. Contrary to the first suggestion that the commission's recommendations would be put into legislative form this year, action with respect to them has been delayed for a considerable period—perhaps the longer the better.

Instead of finding ways to increase taxes the Minister of Finance, if he cannot find ways of reducing taxes, ought to hold the line. If he wishes to have suggestions we can given him some.

Mr. Sharp: May I ask the hon. gentleman a question? I wonder how he explains that the Carter commission was not converted to the philosophy of Social Credit?

Mr. Patterson: I beg your pardon? I did not hear that.

Mr. Sharp: I asked the hon. gentleman, Mr. Speaker, how it was that the Carter commission was not converted to the principles of Social Credit.

Mr. Patterson: Possibly the Carter commission did not learn some of the lessons the government has learned. The government has begun to implement some Social Credit principles. The President of the Treasury Board (Mr. Benson) acknowledged that the other day. If we keep hammering away long enough even the commissions that are set up will take note of our suggestions. Perhaps the government will incorporate them in its thinking. I can assure the minister that our suggestions will prove beneficial for the economy and will have a happy effect on the people of Canada in general.

I have dealt with three matters that I wished to discuss this afternoon. I have several more but I will not take up the time of the house. I trust that the government will consider the problems which are so close to the doorsteps of hundreds of thousands of Canadians, the cost of living and the government's spending program which results in a continuing increase in the tax load, a tax load which has become intolerable and which, if made heavier, will result in a decrease in the government's revenues rather than an increase.

Mr. R. W. Prittie (Burnaby-Richmond): Mr. Speaker, I intend to say something about the budget and about economic conditions generally, as others have done in this debate. First, however, I wish to say something briefly about external affairs.

• (4:50 p.m.)

The minister was the recipient of a few brickbats today from the hon. member for Prince (Mr. MacDonald) and they were probably deserved. I have a bouquet for him. I was at the United Nations as a parliamentary observer when the minister made his statement to the general assembly and I was very pleased to hear the statement he made concerning Viet Nam. He suggested that the United States should cease bombing North Viet Nam as a necessary step toward peace negotiations. He did not say this would necessarily bring about peace negotiations between Washington and Hanoi but he did say it was worth trying. I give the minister full credit for making that statement though I must say it was long overdue. An increasing number of Canadians has been wanting the minister to make such a statement for years. Certainly members of this party have brought up the subject in the house on every occasion when it has been possible to do so. We had an ally later in the person of the President of the Privy Council (Mr. Gordon) who expressed a similar opinion. Others in university faculties, in the Christian student movement and so on have voiced this idea. The minister might like us to think he was choosing his own time in making the statement he did before the United Nations but I have too much respect for him as a politician to believe he was not affected by the growing public opinion in Canada in favour of such a move.

When people ask me whether it is any use writing letters to members of parliament or

sending petitions to the government, I tell them it is. It may take a long time to achieve the desired result but if they wish to make their openions known to the government these efforts must be made, and I am certain the Secretary of State for External Affairs (Mr. Martin) was influenced by the opinions of large numbers of Canadians who wanted the Canadian government to make a statement on Viet Nam such as he ultimately made.

To return to the subject of this debate, the budget and the economic health of the country, may I say I have listened to the discussion with a great deal of interest. There have been numerous quotations from the report of the Economic Council of Canada. Some hon. members have condemned the level of government spending and a number have made specific suggestions as to the manner in which reductions might be effected. Later I shall make some specific suggestions in that connection, as well as suggestions as to how money might be spent.

Listening to the speeches of some hon. members I got the impression that they believe the Economic Council has called for a reduction in government spending. This is not the case. Let me quote directly from the fourth annual review of the Economic Council, as others have done. On page 261 we read:

> These developments have led to a growing uneasiness in Canada about the current pace of the over-all advance in government spending. The Council shares this uneasiness, but we feel that it is important to place it in the proper context.

The council is not referring here to the federal government alone but to all governments, the ten provincial governments as well as to the municipalities. The council does not call for a decrease in government expenditures. It points out that government expenditures—again, I emphasize, the expenditures of all governments—have been increasing at a rate faster than the increase in the gross national product and suggests that a hard look should be taken at existing government spending and proposed new programs. The council does list criteria for examining future programs. Before proceeding, may I add that the Economic Council has made a number of suggestions which have called for increased government expenditure. In its report last year it emphasized the importance of education, telling us that Canada was behind the United States and that a great deal needed to be spent in this field. This year the council places great emphasis on housing, another field which will call for great expenditure by all levels of government.

The council did, nevertheless, establish some criteria which it felt should be borne in mind before new spending is undertaken, and on page 262 of the report it lists four questions which it says should be asked before any new expenditures are approved. But we need to be clear about one thing: government expenditure is not going to decrease, either in Ottawa or in any of the provinces or in any of the municipalities. It must increase. It cannot be otherwise in a growing country where services are required for a growing population at a time of increasing productivity. But though I believe the amount of government expenditure must increase, this is not to say that certain economies cannot be made in the total amount. I think some should be made but I believe the amounts saved should be transferred and spent in other directions.

In his column last week Mr. Charles Lynch made an interesting observation. He wrote that the Economic Council had been less than helpful to the Minister of Finance (Mr. Sharp) by recommending in general terms that certain obsolete programs supported by the government should be cancelled and not saying which programs would be affected. I also noticed in a column by Douglas Fullerton a suggestion that there were many programs in connection with agriculture and fishing which were no longer necessary, were a drain on the public treasury and might well be abandoned.

It seems to me that the Economic Council would be of great help to any minister of finance if it were more specific about what it means when referring to obsolete programs. Perhaps it could suggest particular programs which it felt were obsolete. I can well understand the difficult political problem which would face any minister of finance who wanted to cut out, for example, some farm or fishing subsidies. But the Economic Council seems to be held in such high regard around here that possibly, if it made specific suggestions, the minister could turn to hon. members and say: The Economic Council suggested it, so it must be all right.

Mr. Sharp: The chairman did make some specific suggestions.

Mr. Prittie: Particular ones? Thank you. I will refer to that in more detail later.

I have listened with interest to various hon. members who have tried to indicate where reductions in government spending might take place. Incidentally, these were usually in areas other than their own. I have noticed a

general attack on spending by the Canadian Broadcasting Corporation but in most cases no particulars were given and no suggestions were forthcoming as to where cuts should be made. Did the corporation spend too much last year on covering the Pan-American games in Winnipeg? Did it spend too much on coverage of Expo '67? Did it spend too much on the Progressive Conservative convention? What we hear are generalities —nothing specific.

When the report of the Economic Council came out I noticed that there were loud cries from the provincial premiers about what a bad job was being done in Ottawa. One of those who protested was Mr. Roblin. However, he later addressed a letter to the federal government maintaining that the Air Canada base in Winnipeg ought not to be moved, that Air Canada had been taking into account strictly economic considerations and that social considerations ought to be taken into account. He may well be right. But social considerations often cost money. So on the one hand we find him condemning the government for spending too much while on the other he is suggesting a course of action which might cause additional expenditure.

The hon. member for Yukon (Mr. Nielsen) made a biting attack—

Mr. Sherman: Could I ask the hon. member whether he is advocating, speaking either for himself or as a representative of his party, the removal of the Air Canada base from Winnipeg or the closing of those facilities?

Mr. Prittie: I am too close to the hon. member for Winnipeg North Centre (Mr. Knowles) to be so bold as to do that. I am not advocating that. The government might well take into account social considerations rather than purely economic considerations when reaching a decision. The inconsistency occurs when politicians, either federal or provincial, suggest that the government is spending too much and then make proposals which will perhaps cost more money. I am not saying, either personally or for my party, that this base ought to be moved. It might well be that social considerations should be taken into account. Let us be clear about that.

Mr. Knowles: Hear, hear.

Mr. Prittie: I was interested, too, in the speech by one of my colleagues from British Columbia, the hon. member for Coast-Capilano (Mr. Davis). He thought that the building of a causeway to Prince Edward Island might well be put off. He said that in British Columbia cargo and passengers were transported from Vancouver island to the mainland at much less capital cost than the cost of this causeway. On the other hand, however, the hon. member justified the federal government spending money for a crossing of Burrard inlet which, it so happens, would connect his riding of Coast-Capilano with the city of Vancouver. He thought that the Prince Edward Island causeway could go but that the crossing in Vancouver should stay. In passing I would like to say that the proposed crossing of Burrard inlet is going to cost around $100 million. The federal government is putting up about $16 million as a grant and the rest will be made available in the form of loans to be repaid through tolls on the crossing.

• (5:00 p.m.)

I suggest that this is no business of the federal government. It is a responsibility of the government of British Columbia which it is evading. I do not think the federal government should be accepting that responsibility even though most of the $100 million involved will be made available in the form of loans. Presumably the federal government will have to go into the money market to borrow that money, and I thought one of the objectives of the Minister of Finance was to cut down the demands of the federal government on the money market.

Again, we heard from the hon. member for Yukon (Mr. Nielsen) who, as I say, made an exceedingly devastating attack on government spending. But he was not very specific about the Yukon. It seems to me that territory requires a great deal of federal money to keep it in existence. And so we have these generalities but not too many specifics. These members made specific suggestions which had to do with somebody else's part of the country but did not involve their own.

I would like to make a couple of suggestions to the government, although I do not think for one minute that it will seriously consider them. Recently a number of people, and not just solely members of the N.D.P., have been suggesting that a hard look be taken at the Canadian defence budget. For example, the NORAD treaty comes up for renewal this year. In a recent column in the Toronto *Globe and Mail* John Gellner, military critic for that newspaper, suggested that the action of the United States in setting up an anti-ballistic missile system will cause us increased expenditures. Mr. Gellner did not suggest that we would be paying for part of the A.B.M. system, but he did suggest that at the same time the United States would try to

modernize its defence against conventional air attack and this would cost us money. He said that all indications were this would mean an increase in our defence budget and we should consider whether or not we ought to continue to engage in this game.

There is also the question of NATO. A very large amount of the Canadian defence budget is going into NATO. I think it was John Holmes who recently suggested that our forces in NATO are not very big but really represent a psychological factor to prove to the Europeans that we are with them. This, however, costs a great deal of money.

I do not advocate that if the government accepts my suggestions about NATO and NORAD the money saved should be used to reduce taxes. I believe that the money thus saved should go into external aid, a field in which we are not doing our full part yet. The Secretary of State for External Affairs (Mr. Martin) has forecast that by 1970-71 we will reach the point where some 1 per cent of our gross national product will be devoted to external aid. I think we should speed up this activity and get beyond one 1 per cent by 1970-71. I am suggesting that any savings which might be made in the defence budget could be used for that purpose.

Every day the problem of the developing countries comes to our attention. Recently a conference on education was held in Washington and it was suggested by the director general of UNESCO that the amount now spent on external aid needs to be tripled in the next few years. Further, we just had a report from the Food and Agricultural Organization pointing out the problem of growing population and showing that the food production of the world is not increasing in ratio to the growing population. I suggest that the proper world defence for Canada to engage in is this sort of thing and not the type of defence in which we have been engaged in the past.

Last week the hon. member for York-Scarborough (Mr. Stanbury) made a very fitting speech. In it he advanced an idea that he has presented previously, as some of us have also, that there ought to be a federal department of housing and urban development. The housing crisis in our country has been highlighted recently and we have had debates on it in the house. Strictly according to the constitution housing is a provincial responsibility, but I hesitate to think how much less housing we would have now had it not been for the federal initiative shown through Central Mortgage and Housing Corporation, and how much less urban redevelopment we would have had it not been for this federal agency. This is a field in which we need to spend a great deal of money.

I wish to deal with another subject briefly, the third annual report of the Economic Council with respect to education. In doing so I use the word "education" in the broad sense. I do not make the distinction which the government does between education and training. To the government training means trade training for a short period of time and education means that which takes place in regular institutions.

I think an unfortunate decision was made by the federal government a year ago this month when it decided to withdraw from the field of financing universities. True enough, it promised to transfer to the provinces a certain amount of income and corporation taxes to be devoted to universities and at that time it said that the matter of manpower training, trade training, would be handled on a national scale through the new Department of Manpower and Immigration. This is very unfortunate.

For some reason we can take a national approach to trade training but we cannot take a national approach to the very important type of training which takes place in our junior colleges and universities. For a number of reasons this is unfortunate. First, I am concerned, about the fact that since universities from now on will largely derive their finances from the provinces this will lead them to be too much under the control of the provinces. We all know that the elementary and secondary schools of the country are completely under the control of the provinces. The provinces can decide what will be taught in the courses, which textbooks will be used, and who will teach in the institutions. The provinces have very complete control if they want to exercise it, and many of them do.

But we usually think of universities as places where there is more freedom of action, where more research can take place, and which do not have direct government control. I have a feeling that if the universities depend more and more for their finances solely upon the provincial governments some provincial governments will begin to exercise an undue amount of control and the universities will not be the type of institutions that we want them to be where free learning can take place. I would not want to see the universities in the same position as our elementary

and secondary schools which are tightly controlled from provincial capitals by a bureaucracy.

Another aspect which must be considered is that among students at post-secondary schools there is greater mobility than in the lower levels of education. I would suppose that at Carleton University in Ottawa there are students from every province in Canada and that the same applies to the University of British Columbia and McGill. This is the way it should be. Universities tend to specialize. Each has its strong departments and a student will leave his own province to go a university somewhere else which has a good department in the discipline he wishes to study. Further, it is good for young people of that age to get away from their own province and see other parts of Canada.

I suggest that there should be some type of national approach to post-secondary education in colleges and universities. This is a very important subject and I do not feel that by having the ten provinces go it alone we will develop a national approach to education. Furthermore, I do not think the provinces are going to be able to finance the tremendous costs involved in the universities. In a study made by Edward F. Sheffield, director of research, Association of Universities and Colleges of Canada, it is estimated that by 1976-77 there will be 500,000 university students. I cannot see all the provinces handling the increased costs that will result therefrom.

• (5:10 p.m.)

To sum up that point, I believe the universities should receive their funds from the provinces, the federal government, and from foundations and industries in whatever amount they can get as they do at the present time. I know there are problems involved. I see that the Minister of Justice (Mr. Trudeau) is listening; he is well aware of the situation. We both realize that some people give a very liberal interpretation to the word "education" as it was used in the British North America Act while others claim that education is strictly a provincial responsibility and that the federal government should have nothing at all to do with it. I suggest that had federal funds not been available in the past few years our universities would not have been able to expand to the extent they have. Indeed, at the present time certain federal funds are still going to the universities. For example, last week it was announced that the University of Toronto received $34 million for their medical faculty and for medical research.

[Mr. Prittie.]

There are a number of problems such as the question of university financing and the question of a department of housing and urban affairs, which was mentioned by the hon. member for York Scarborough, which need to be settled. I think this makes it more necessary than ever that we get on with looking at the constitution. Many people in this country, including the hon. member for Greenwood (Mr. Brewin), have suggested it is time we started to study the constitution, that we should have a conference on that subject and redraft the Canadian constitution to bring it in line with 1967 and the needs of the urban Canada of 1967 which is so different from the Canada of 1867. At times I feel very frustrated in respect of this subject. I look at the United States where the constitution is not too different. Their constitution gives to the states rights in respect of education. It gives them the primary responsibility in respect of housing and the primary responsibility for road building. I also note, however, that there is much more federal-state co-operation in these fields and that the federal government does make funds available for schools, road building and urban development.

When this subject is brought up in Canada we always face the constitutional problem that there will be great objections from the provinces and, let us be frank about it, particularly objections from the province of Quebec. If we want to do the kind of job that must be done in education and the kind of job that must be done in the urban field as outlined by the Economic Council, this constitutional problem must be considered and the sooner we begin talking about it the better. There are some signs that there will be a start. The Minister of Justice felt until quite recently that the time was not ripe, but apparently there has been a change in his thinking and a conference will be held early in the new year. I hope that when such a conference takes place the representatives from the federal government, the federal parliament—I hope they are not just government representatives—and from the provincial legislatures will try to keep in mind not only the question of what power they can garner for themselves but also what is the best way to serve the Canadian people. That is what governments are for. They must consider the best way to go about redeveloping our cities, supplying houses, financing university education, and how to best serve the people. Otherwise, what is the point in having government at all?

In conclusion I should like very briefly, and I suppose rather lightly, to comment upon

some of the ways in which expenditures might be cut by the government. As I have said, however, I do not think the total-expenditures can be cut. They must increase if we are to meet the obligations of the last half of the twentieth century in Canada. I commend again to the Minister of Finance (Mr. Sharp) the speech made yesterday by my colleague the hon. member for Waterloo South (Mr. Saltsman) who suggested that a very different approach may have to be taken, that it is not good enough to leave decisions to the market place and that a greater involvement of government in fiscal and monetary matters as well as economic planning will be necessary to solve many of the problems we face today. I do not think the recent decision of the Minister of Finance to cut down on the demands of the federal government in the money market or the decision to raise the N.H.A. interest rate in the hope of attracting further funds will really solve the housing problem. A much greater involvement by the government in co-operation with the provincial governments will be necessary. If we are to solve these problems, we may as well face the facts and get down to the job.

[*Translation*]

Mr. Jacques-R. Tremblay (Richelieu-Verchères): Mr. Speaker, may I, before making my maiden speech in the house—

Some hon. Members: Hear, Hear

Mr. Tremblay: —express a wish,—the wish to a young Canadian who hopes to enjoy happy days in a peaceable and united country.

Mr. Speaker, the Canadian people should be grateful at this time for the services of a man of the stature of the hon. Minister of Finance (Mr. Sharp). This devoted servant of the Canadian nation never hesitates to take courageous steps in order to ensure a well-balanced administration.

Naturally, it would be far easier for me, and certainly more spectacular, to voice criticisms and make suggestions—indeed this is the prerogative of my hon. friends opposite, but being a novice, as I am not yet immersed into parliamentary life, I feel that I am still a member of the electorate. Consequently, I bring a rather objective testimony, which reflects the opinion of the grassroots, that of the man in the street, which indeed I am.

As a representative of a semi-urban constituency, I discovered wide differences of opinion in my area. Recently, I was able to note the people's reaction to the financial policy of this government.

The minister's budgetary estimates tend to cut expenditures and, to this effect, various departments have been called upon, in some cases, to curtail their expenses.

However, I hope that the Canadian people, who are willing to make the necessary sacrifices, will not suffer in their family life from the limitations involved in such a program of economic stabilization.

As a resident of the province of Quebec, I am aware, Mr. Speaker, that our unemployment rate is high and that the prevailing conflicts of opinion in various parts of the province, has caused uneasiness among investors, so that there have been flights of capital here and there. Even yesterday's newspapers were saying that an important section of our population, particularly our financiers and the Jewish population were shipping large amounts of money outside the province of Quebec.

Moreover, there are rumours that several important firms which do business in all parts of the country are thinking of moving their headquarters away from the province of Quebec. If that is true, the situation is deplorable.

I should like, Mr. Speaker, to join clear-thinking French Canadians, those who believe in a united and a strong Canada, in supporting the 57 government supporters who represent all classes of society in our province and who, in a unanimous message, ask their English-speaking fellow Canadians to realize that Quebec has changed and that it is also a part of the twentieth century.

• (5:20 p.m.)

Mr. Speaker, if we cannot imagine Canada without Quebec and vice versa, Quebec without Canada, let us not take it for granted that the French province of our country is ready to miss the opportunity for emancipation from a constitutional, economic and social viewpoint.

To my English Canadian friends, I say once more: Stop asking yourselves the traditional question: "What does Quebec want?" My friends, you know, and you see Quebec's wishes: To be recognized as a distinctive ethnic entity integrated to the rest of the country, of course, but with the recognition of its rights and privileges everywhere, from sea to sea, without restriction, as is the case for you in our province.

This requirement will become part of the Canadian constitution, I hope, as the government intends to do next January, with the bill concerning the rights of the Canadian

citizen, not to use the almost obsolete term of Bill of Rights.

It must be understood, Mr. Speaker, that the feelings of a whole people have been roused, and the go ahead signal in our daily life, in every field, has made us realize for some years now that we want to be full-fledged Canadians and therefore we must be recognized as such by our English-speaking fellow citizens.

Mr. Speaker, I am fully aware of witnessing, along with the entire population, these decisive hours for our country. In my opinion, it is the logical consequence for a nation that wishes to develop, to free itself and to take in all those various constitutional formulas.

The leader of the Quebec wing, the Minister of Manpower and Immigration stated recently:

> Those who scheme to bring about a divorce between the people of Quebec and their federal representatives are knowingly seeking the destruction of Canada.

Men such as the one I have just quoted deserve our confidence.

Mr. Speaker, we too from Quebec are making a useful contribution to the federal parliament; we have our de Gaulles, our thinkers, our leaders able to face the facts as they really are.

I am quoting here the hon. senator whose statement was the highlight of the recent Montmorency conference.

> Let us not act in such a way as to alter the true facts into a chasm.

In all the upheaval that befogs the current political atmosphere, our first concern should be to seek the living standard within the Canadian framework. The concerns of ordinary mortals, of the man in the street, is with the standard of living; the daily bread is the uppermost question in his mind. That is why, in my humble judgment, I favour appreciable reforms of the constitution but I unconditionally reject any clause that might tend to isolate Quebec and force it to segregation. And as our youngest minister already said, let us favour the policy of presence.

This brings me to the financial situation of our country, and I would not want the occurrence of a tragedy that would place my province under the yoke of isolationism. Quite recently, when one of the most famous tourists in Hawaii stated:

> No China wall around Quebec.

We all heaved a sigh of relief, and the strain was markedly eased.

[Mr. Tremblay.]

The Prime Minister of Canada (Mr. Pearson) told us yesterday that, to date, eight provinces were seriously considering his invitation to attend a federal-provincial conference slated for next January. Well, the detente was further increased when the provincial Liberals came out openly against separatism.

So, it should be realized that sides are now being taken, and that this centennial year will end in a blaze of optimism and constitutional oecumenism, as the hon. member for Lotbinière (Mr. Choquette) called it.

In conclusion, Mr. Speaker, once again I appeal to all my English-speaking compatriots whom I like a lot, not to watch passively what is happening in Quebec. We have here men of great value who are ready to do anything to promote unity in Canada and our Minister of Finance and Receiver General (Mr. Sharp) is one who, by his gift as an administrator and his great qualifications in human relations, is trying to develop a prosperous Canada, financially balanced, and first of all united and harmonious.

[*English*]

Mr. F. J. Bigg (Athabasca): Mr. Speaker, we have a great many problems at home in Canada today which I should like to discuss if I had the time. However, there is a problem abroad which far transcends all our domestic problems. I refer to the deplorable fact that most of the people of Canada are being systematically brainwashed. I am not accusing the present administration of having a hand in this, apart from the contribution they make because of ineptitude. I give this administration full credit for meaning well. Nevertheless this ineptitude on the part of those in positions of responsibility to this house and the nation makes it evident that they are guilty of serious neglect.

Although I am not an expert on foreign affairs I intend to take a few minutes of the time of the house to attempt to outline what is so obvious to me as a layman and novice in foreign affairs. A true picture of the international situation is not being presented to us. We have an enemy in this world, international communism and I am in no way hesitant about saying that. These people have friends in this country, although as I have said before I do not think any of them sit in this house

The Canadian war crimes tribunal organization which seeks to put President Johnson of the United States on trial for his so-called war crimes is allowed to operate. Free discussion in Canada has always been

our prerogative and I would be the last to suggest that a person does not have the right to say what he wants as long as he is willing to accept the responsibility involved. Having regard to the anti-United States propaganda to which this country has been subjected, I have waited in vain for a clear voice from the fourth estate, from the television and radio media, yes, even from responsible members of the government and of this house, to give what I consider a fair and balanced picture of the situation.

• (5:30 p.m.)

It is passing strange that Ho Chi Minh, the leader of the North Vietnamese and the soul of the Viet Cong, should always be given the benefit of the doubt and favourable publicity. I have in my hand a paper which clearly indicates in straight, factual terms, Mr. Ho Chi Minh's record. I think it would be fair, and perhaps interesting, to know in chronological order what have been the actions of Ho Chi Minh during the last 47 years and what have been the actions of one Lyndon B. Johnson, who bears the responsibility both militarily and politically for maintaining the freedom of at least the western world, and in Viet Nam certainly some semblance of freedom amongst the small nations of Asia.

On December 25, 1920, Ho Chi Minh, a Viet Nam born Chinese, became a member of the Marxist wing of the French socialist party while attending the party conference in Paris. Lyndon B. Johnson was at this time attending high school in Johnson City, Texas. He had the same kind of background as most of us in the house have enjoyed. He was raised on a farm and received a western-style free education.

Lyndon B. Johnson found it necessary to work with his hands and learned that he needed energy and individual effort in order to finish his schooling. Ho Chi Minh was educated at the expense of the international socialist party. In 1923 Ho Chi Minh became the editor of *Le Paria*, a French communist publication, and received one year's training in Moscow. In December, 1924, he was sent to Canton, China, as interpreter for the communist Michael Borodin. At that time Lyndon B. Johnson was graduating from high school as president of his class and had already achieved a reputation as a debater.

At that time President Johnson did not know of his rendezvous with fate. He did not know that he would one day be President of the United States. In fact, he scorned higher education. He was a young, energetic man who went out looking for work, which was not easy for an untrained man to find even in those days. It was difficult for him to find suitable work to which he could devote his great talents. Therefore Lyndon B. Johnson wandered about the United States working with his hands. He graduated from the school of hard knocks. Lyndon B. Johnson recognized that education was necessary for all young people and he went back to school.

In January, 1930 we find that under Ho Chi Minh's leadership a conference was held in Hong Kong with Chinese communists to integrate three Vietnamese communist parties, the Oriental Communist Party, the Annamese Communist Party and the Oriental Communist League. These became the communist party of Indo-China, a branch of the Third International of Moscow, and it so remained until 1940.

Let us go back to our friend Lyndon B. Johnson. He enrolled at Southwest Texas Teachers State College and became a school teacher. He was a school teacher for a year. He then continued his studies at college, obtained a degree and took up public speaking. He was just a nice, friendly school teacher. In 1931 Lyndon B. Johnson, having a great interest in politics even from his early years, became secretary to a congressman. Mr. Hoover was the Republican president. From his early days Lyndon B. Johnson was a liberal with a small "l".

In 1932 Lyndon B. Johnson attached himself to Mr. Roosevelt's administration and worked unceasingly for the New Deal. I think the most rabid of critics of that program cannot say that the New Deal was anything but a tremendous attempt to maintain the dignity of the individual and the right of little people to share in the great wealth and progress of North America.

On May 19, 1941, Moscow disbanded the Third Communist International. The Vietnamese communist party established the Doc Lap Dong-Minh, or the Viet Minh, to wage guerrilla warfare. They went underground. Who was the spiritual leader of this group? It was Ho Chi Minh. In 1940 Viet Nam, together with most other southeast Asian countries, was occupied by Japan. At the end of the eastern theatre of world war II the power of the United States was ascending. Ho Chi Minh at this time continued his program of the march of communism.

Where was Lyndon B. Johnson at this time? He is a man who has always thought for

himself. He heeded United States' public opinion and came out flatly for entering world war II on the side of the free nations. In 1941 England stood alone. Lyndon B. Johnson, who has always been a very strong nationalist, came out flatly in favour of his country fighting with Britain. He said that the United States needed the draft and he worked toward that end. Mr. Johnson was the kind of man who did not only talk but acted. He stood for principles. He promised the young men of the United States, on the day he voted for conscription to send America's young blood to fight for freedom, that he would be with them. Less than three hours after he put his name to the draft bill Lyndon B. Johnson joined the United States navy. He worked in the theatre of war in which Ho Chi Minh was working underground with the communists.

President Johnson, as he now is, served as a volunteer lieutenant in the United States navy. His short term of service in the Pacific was exciting. His courage was rewarded by being decorated by his country. The president of that day, believing that Lyndon B. Johnson and his ability to organize the war effort were of more use in Washington, ordered him back for duty.

• (5:40 p.m.)

On August 15, 1945 Japan surrendered to the allies. On August 17 and 18, 1945 an uprising was provoked in Hanoi. On August 19, 1945 Ho Chi Mihn launched his take-over. On September 2, 1945 Ho Chi Minh established his regime in Hanoi, ousting Bao Dai, the former emperor of Annan. Where was Lyndon B. Johnson at that time?

Mr. Mather: Mr. Speaker, I wonder whether I could ask the hon. member a question. I was very interested in his remarks but would he say whether he is in favour of or opposed to the general budget which I thought we were considering?

Mr. Bigg: I am speaking about something which affects every dollar we wish to earn in Canada and every dollar we wish to spend. It is only in the budget debate that an amateur like myself can say what is in his heart, and I am quite sure that while I stand here and speak every hon. member within hearing of my voice knows that I speak with the firm conviction that we are only hearing one side of the story. I would take my seat if I did not think this was so. I cannot imagine anything more important for Canada than national survival and I cannot imagine national survival for Canada unless there is the fullest co-operation between our country and the United States of America. We rely on them at this time for any defence of our continent. We rely on them entirely to protect our skies and if in the future intercontinental missiles are to be stopped on their way it will be farsighted men like Lyndon B. Johnson who will be able to provide the kind of leadership which we require in this country.

Mr. Mather: May I ask the hon. member one more question? I appreciate the hon. member's reply to my previous question but what I asked in fact was whether he is in favour of or opposed to the budget?

Mr. Bigg: I listened with considerable patience while the hon. member spoke and I wish he would give me the same forbearance.

Mr. Mather: On a question of privilege, Mr. Speaker, I have not spoken.

Mr. Bigg: I might say that I do not expect my speech to be widely read and no political advantage whatsoever will be gained by injecting that type of question into it. I have spoken about my concern, and it is only in the budget debate that we can speak about such matters. If the hon. member wishes me to speak about the budget in detail, I will get to that subject where we discuss the subject of defence. At that time I will speak about how the money can be used to further some of the things I have in mind. However, I am merely trying to do one specific job, and I hope I am doing it, namely, to draw a parallel between the leader of the state of North Viet Nam and the leader of the state in the only country on earth able to stem what I consider to be a threat to my country. If this is a small matter, one unworthy of capturing the attention of the house for 15 or 20 minutes, then I am prepared to sit down. But I am not convinced of that.

Mr. Mather: If the hon. gentleman does not wish to answer my question that is his privilege.

Mr. Bigg: In 1945 Mr. Johnson ran for the United States senate. In the senate, until the time he became president, he fought for all those things which leftists talk about and do nothing about and which he himself backed whenever it meant that the strength of the strong should be used to help the poor. There was no segment of society, however small and neglected, that President Johnson did not support, and this has been affirmed by minority groups such as the one composed of Germans in his own state during world war II and the

negro minority. During his term in the senate he instituted and pushed with all his might for reforms which it had taken 82 years to put on the statute books of the United States.

I had hoped in the 20 minutes allotted to me to present the full record of this man but it would take hours to review in detail the accomplishments of this great president. I am sick and tired of hearing criticisms of the noble efforts made by President Johnson himself to bring peace to Viet Nam and the noble efforts made by the American people and their sons to continue the fighting. I think we should level criticism whenever we can if we think an injustice is being done, and the point I am trying to make this afternoon is that an injustice is done when those who feel the way I do not give lip service at least to our American friends and allies.

A partisan politician would say it is better to support his party no matter how bad it is than to support the other party no matter how good it is. This has never been the style of Lyndon B. Johnson. He has always had the courage to stand up against those things in which he did not believe and he is exceptionally good at getting things done. I believe that Ho Chi Mihn is also exceptionally good at getting things done that he wants done, but as I read the reports of his achievements I find they are all negative and all designed to destroy freedom. However, as I read the record of Lyndon B. Johnson's career I find that for the last 35 years at least he has only had one end in mind, to uphold the dignity of the human being. Because he lives in an imperfect world and can only work through political organizations, imperfect as they are, and because it is difficult even for the Americans who use restraint to achieve peace and security in our world, it is beneath our dignity to sit here in smug security north of the line and have nothing but bad to say about those who are at least doing their best.

Attempts are being made to force us to talk about dollars and cents and not to talk about things on a high plane. I can do that. I think the Canadian people should pay 10 per cent of the cost of freedom along with the Americans. I go further and say, as I said in 1939, that more than our money should be at stake. President Johnson thought his life was at stake. He thought that strongly about the matter and I do not think he has changed. But I do think we should change.

• (5:50 p.m.)

Some may sit here quietly, accept things as they are and say, "We know all that, Bigg, why don't you sit down?" If these facts are known, I do not hear about them. I read the newspapers daily and I listen to the news broadcasts. One would really think President Johnson was the leader of some kind of international gang. It is for this reason I ask hon. members to consider these facts. They are in every "Who's Who". When I am doing my homework, my desk is piled high with papers containing these facts. These articles were not written by President Johnson's friends. As I said before, President Johnson is a liberal with a small "l", while I am a conservative with a small "c". However, like President Johnson, when the welfare of my country is at stake I have no politics. I have seen these very issues kicked around, even on the floor of this house, for cheap political reasons, and I do not point my finger at the Liberals when I say that. We on this side of the house are condemned by our own silence as well as by interpreting the remarks made by the Secretary of State for External Affairs (Mr. Martin), who is seized with the responsibility of giving us the whole truth, nothing but the truth.

I am not afraid of the truth. It has been said many times that the truth will make one free. If we are only going to be given half truths, then I say half truths will lead to slavery. It will be the same kind of slavery that President Johnson has spent his whole life fighting. He has risked his political career fighting it. Slavery is not dead in the United States. President Johnson knows that, as do many other people in the United States. However, it is not politically wise to stand up and say so because down there feelings run high. Thank God, we do not have it in this country.

Some parliamentarians from England were visiting us last week. They said that our prospects are greater than our problems. If we take the attitude that the war in Viet Nam is none of our business, then we should at least keep quiet about those who think they have a stake in it and think they are doing their best. If we have a better alternative, then what is it? Ho Chi Minh is represented as a man who is working for the self-determination of people. Well, there are a lot of people in South Viet Nam as well as in North Viet Nam. If this man Johnson wanted to use all the power he has to stop the war, we know only too well how quickly that war could be stopped. We also know at what cost. Here is a man who is not going to use all the power he has for cheap political purposes.

I wanted to go through his record to indicate that while Ho Chi Minh was busy undermining the small nations of Southeast Asia President Johnson was quietly doing his duty. Since President Kennedy is dead, it is safe to make him a hero. However, since President Johnson is still alive he can still be used for cheap political purposes. I say it is time we in Canada cut it out. This man was chosen by President Kennedy. Kennedy said of him, this man is even more fit to serve the American people than I am. When Kennedy got the opportunity to sit in high places he knew that he needed the wisdom and dedication of this man Johnson to help him guide the United States through very difficult times.

I, for one, thank God we have a man of Johnson's calibre as our neighbour. I fear no invasion from the south. President Johnson has always supported the United Nations. He has done all he could to make the United Nations effective. President Johnson has offered to give up his right to decide these issues if the United Nations is willing and able to deal with them. When he has made these suggestions he has been turned down. The facts are here and we all know them. Less than 18 months ago the United States did stop the bombing for six weeks. What has happened to the memories of those men who write this propaganda we are getting? What did North Viet Nam do? They methodically and coldbloodedly built up their military strength. More United States soldiers died because this man Johnson was reasonable enough to give North Viet Nam every opportunity.

There are many nations in the world today in which both sides of this story will not be told. The iron curtain encircles them. There is only one press and only one party in those countries. I thank God again that here we have two parties. If a man is delinquent or is interpreted as not telling us the truth, then it is my plain duty to ask for the truth. I am not afraid the people of Canada will condemn me for that. I put freedom above all other things, and it is the truth that will make us free.

PROCEEDINGS ON ADJOURNMENT MOTION

SUBJECT MATTER OF QUESTIONS TO BE DEBATED

The Acting Speaker (Mr. Tardif): It is my duty, pursuant to provisional standing order 39A, to inform the house that the questions to be raised at the time of adjournment tonight are as follows: the hon. member for Kootenay West (Mr. Herridge), Canadian Pacific Railway—request for more effective methods of dealing with accidents; the hon. member for Parkdale (Mr. Haidasz), Public Works —Toronto—inquiry as to availability of funds; the hon. member for Queens (Mr. Macquarrie), External Affairs—Rhodesia—an expression of disapproval of racial practices.

At six o'clock the house took recess.

AFTER RECESS

The house resumed at 8 p.m.

THE BUDGET

ANNUAL FINANCIAL STATEMENT OF THE MINISTER OF FINANCE

The house resumed consideration of the motion of Hon. Mitchell Sharp (Minister of Finance) that Mr. Speaker do now leave the chair for the house to go into committee of ways and means.

Mr. L. R. Sherman (Winnipeg South): Mr. Speaker, I wish to discuss many matters at this time, but as many subjects have already been spoken about since the beginning of the debate I shall, for the most part, limit myself to one item that I feel most urgently constrained to discuss, to one position that I feel obligated to place on the record.

Before launching into that paramount and focal area of my remarks I wish to say, also for the record, that all who come from my part of the country and all in this chamber who represent areas outside the major metropolitan areas of central and eastern Canada, that part known as the golden triangle region of the country, are vividly and anxiously concerned about the negotiations going on at the present time between the premier of Manitoba and the Prime Minister (Mr. Pearson) with respect to the future of the Air Canada overhaul base in Winnipeg.

I have nothing to add to what has been said about this matter that affects my constituency, Winnipeg South, my city, metropolitan Winnipeg and, for that matter, the whole of Manitoba. The speeches in the past about the future of the Air Canada base in Winnipeg and about the potential development and use of Winnipeg facilities ring hollow to the citizens of Winnipeg and Manitoba. Considering the latest apparently arbitrary announcement by the president of Air Canada about the phase-out of the Winnipeg base, those speeches ring hollow indeed. I, other members of this chamber and the

premier of Manitoba, dealt with the announcement which was made last week by the president of Air Canada. As discussions and negotiations are going on, I shall limit my remarks in this area to a few words.

Were I not to emphasize once more for the record how disappointed the people of Winnipeg and Manitoba are in the word of Air Canada and how uneasy they are with respect to this government's policies as they affect regional and national air development in this country, I should be remiss in my duty. Since time immemorial we have asked the government to announce clearly its national and regional air policy. What is that policy in the context of which cities like mine can plan and build for the future, can plan and build for a share in the development of the northern half of this continent? In the middle of the twentieth century, in the jet age, in the space age, that share should be rightfully ours.

We still await for such a policy to be articulated. Earlier this year the former minister of finance partially articulated such a policy. For the introduction and formulation of such a policy we must depend on the good faith of the government and Air Canada. We are waiting to see an indication of that good faith.

Since we first raised cries about the future of Winnipeg and about the future of the Air Canada overhaul base there, the situation has not changed. We have had nothing but promises, promises and more promises. They have all been repudiated; perhaps they have not been repudiated with the knowledge of the government, but they have with the knowledge of high ranking officials of Air Canada, and at this stage we have little faith in the pronouncements of the officers of that corporation. I appeal to the government, to the Prime Minister and to the Minister of Transport (Mr. Hellyer) to take urgent, authoritative action to preserve the facilities at Winnipeg and, in the words of the premier of Manitoba, to run a country and not just an air line.

• (8:10 p.m.)

The issue is as simple as this: Air Canada and this government are involved in the running of a country; they do not just operate an air line. Where the social welfare and well-being of the people of Canada as a whole is involved, as is the case when the industrial health of any major region is jeopardized, then I say that this social interest comes before the bookkeeping requirements of any corporation. The social needs of Canada are those of a developing, expanding and imaginative country from coast to coast, a country which is only as strong as are its parts and which is weak if any of its parts are weak. As far as the development of a viable Canada is concerned, this proposal is a classic example of what is wrong. It involves half a million people, it involves a central product of this nation and it concerns the economic health of the part of the country from which I come. Thus, I wish to begin my remarks by putting on record once again for the benefit of this chamber and of the country at large the strenuous objection of the people of Manitoba to the latest authoritarian and arbitrary pronouncement of the president of Air Canada, and a further plea to the minister and to the government to do something to save this situation before a pattern is established which may have repercussions which all of us might deplore.

Having said this, I wish to move to the core of my remarks and place on record unconditional objection to a current demand by United States officers of the United Automobile Workers Union which has very critical repercussions for Canada. I refer, Mr. Speaker, to the demand by the U.A.W. that workers in Canadian plants of the Ford Motor Company be given wage parity with their counterparts in United States plants. This demand has been widely publicized in news coverage of the current Ford strike in Detroit, and was very clearly expressed on C.B.C. television on Sunday night by Mr. Walter Reuther, the president of the United Automobile Workers union.

I cannot speak for the general Canadian reaction to the remarks of Mr. Reuther, but my own reaction was one of shock and I would venture to guess that this was a reaction shared by a great many other persons in this country. I have great respect for the president of the United Automobile Workers, and I am not so naive as to miss the point that he has a certain and valuable role to perform. But as I sat listening to him attempt to defend the demand for wage parity—to justify it and promote it—I had a difficult time restraining a tendency to righteous Canadian anger.

A demand such as this one would be enough at any time to invite sharp comment from Canadians, because at the very least it represents an intrusion into Canadian economic and national affairs. However, living in such close economic and national proximity

to our powerful American friends and neighbours as we do has taught us to accept with restraint and equanimity the occasional incidents of this nature that are bound to occur between our two countries, and to let them pass without undue argument. We doubtless ruffle American feathers by insinuating ourselves into their affairs as often as they ruffle ours.

But this particular demand represents in its potential effects something far more than mere routine intrusion. Such a demand at this particular time, when Canada is facing an undeniable economic crisis, is bristling with danger for this country and in the national interest it must be resisted with every means at our disposal. When I say "with every means at our disposal," I use the term in its literal sense and this includes action by legislation if necessary.

When Mr. Reuther talks about wage parity for Canadian automobile workers, he is speaking, whether he knows it or not, against the best interests of Canada. I do not think he takes this dangerous position intentionally. He speaks as a benevolent labour leader, interested to a great degree in the material and economic welfare of the workers whom he leads, and to a lesser degree in preserving his own position in the top office that his union has to offer any man. No one can fault him for this. He is doing no more and no less than any responsible, constructive citizen. But Mr. Reuther is out of his depth and moving dangerously close to irresponsibility when he insinuates himself into the national affairs of another sovereign society about which he obviously understands very, very little.

If Mr. Reuther wishes to go about the United States, his country, promoting wage increases for the members of his union, that is his own business. In fact, it could be said to be his business both literally and illustratively. But if he wishes to come into Canada, my country, and go about using the C.B.C. or any other means to promote wage increases which are not in the best interests of this country, then I say he is making an intrusion of the most irresponsible kind and he should be politely but firmly told the Canadian facts of life.

I can understand Mr. Reuther's basic motive. He sees an auto worker as an auto worker: not as a Canadian or an American, but simply as an auto worker. And when he sets himself the challenge of winning higher wages for the men whose economic interests he believes he represents, there are no frontiers in his view, no international boundaries to be considered. The winning of the wage is the important consideration—the only one. Anything which impedes that victory is to be artitrarily dismissed.

I do not expect the president of the United Automobile Workers union to be deterred or sidetracked by other considerations. I expect him to pursue his single goal with single-mindedness where the national interest of Canada is not involved. But if his commitment to his union is so all-encompassing as to blind him to the other important realities of life on this north American continent, then perhaps this is the point at which it becomes expedient to separate Canadian unions from United States control. If a man with as much experience of economics as the president of the United Automobile Workers has not sufficient knowledge to be able to distinguish between United States labour interests and the national economic interest of Canada, then perhaps the time has come for a universal reappraisal of the whole Canadian labour movement and its relationship to union leaders in the United States.

In any event if Mr. Reuther continues to insist on wage parity for Canadian Ford workers vis-à-vis their counterparts in the United States, the government of this country should give consideration to intervening in the dispute, obtaining an injunction, if necessary, against such a development. If Mr. Reuther spent any time in Canada, or took the trouble to read anything about current conditions in Canada, he could not possibly have advanced his wage parity argument in an attitude of seriousness. He would know that great courage and determination are going to be required of Canadians in the next 24 months to stave off a serious economic crisis and get the country back into good economic health again, and that another round of major wage increases in industry, such as would be touched off if Mr. Reuther's demand were met, would be disastrous.

The Canadian people, 20 million of them, are calling out right now for caution, common sense and restraint where big spending and big wage increases are concerned. From high and low, from every corner of this land the warning has been sounded. The warning bell has made itself heard on every level of Canadian society, and Hemingway's admonition might be directed to the Canadian people today, "Never send to know for whom the bell tolls; it tolls for thee". It tolls for the Canadian economy.

[Mr. Sherman.]

• (8:20 p.m.)

Even such an economic idealist as the Minister of Finance (Mr. Sharp) has finally been jarred out of his Alice in Wonderland idyll and forced to face facts, forced to get tough and to take steps to get this country out of the ice cream parlour and back into the fields to get some work done.

It would not be possible to recount the myriad scholarly warnings that have been issued in the past two years from the tongues and the typewriters of a legion of knowledgeable commentators on the Canadian scene. Suffice it to quote from just one, and the one I choose is no other eminent student of a half a century of Canadian affairs than Bruce Hutchison. Writing in the editorial pages of the Winnipeg *Free Press* a year ago Mr. Hutchison had this to say:

> Whatever happens to the government and the tortured political system, we shall see during the next few months whether the nation has the wisdom and courage to avoid a "disaster"... Already the time is later than we think. The way things are going now, disaster of some sort looks unavoidable.
>
> The economic facts surely have become clear enough—inflation generated by all our governments, by management, labour unions and the ordinary household; production costs rising fast; interest rates at a dizzy pinnacle; even federal government bonds difficult to sell; economists warning us of a recession to celebrate our hundredth birthday next year.
>
> The psychological facts, however, are more interesting. How, the student of human nature will ask, did we get into this mess? The easy answer is that the politicians bungled our business as, of course, they did; that strong leadership has been lacking, as of course it has. But this is no adequate answer. We must penetrate below the surface of politics to find out what went wrong. Then, if we are honest with ourselves, we shall see that all of us are to blame. The politician's public mistakes represent only our private, collective mistakes writ large.
>
> It is a cliche to say, but the truth all the same, that Canadians have tried for a long time to live beyond their means and now the bills are coming in. Whether the politicians encouraged us to demand from the economy more than it could immediately deliver, or whether the public forced the politicians to promise impossibilities, we shall never know but it doesn't matter much, either way. We have to deal with contemporary facts and have no time for crying over spilt milk.
>
> The most fascinating of all the facts, though the Ottawa experts never mention it, is that the Canadian people have been behaving contrary to their nature, or what we have always assumed to be their nature... during the last five years the whole legend of the Canadian character has suddenly appeared to be false.
>
> No other nation, for example, supposes that it can raise its money wages by nearly a third without blowing the roof off the economy. No other nation imagines that it can pay the American wage scale when it cannot begin to equal the American scale of productivity without devaluing its currency and thus cancelling its paper gains (while incidentally robbing all its hard-won savings).
>
> Nevertheless, these mathematically preposterous assumptions are made not only in the great Canadian debate of theory; they are made in some binding wage settlements, where the American rate of pay has actually been exceeded for the first time. They have been enforced by the government itself in the case of the Quebec longshoremen and the seaway workers, thus setting the pattern for other industries and drawing a reliable chart for the very disaster which alarms the prime minister.
>
> The truth is that Canada, denying all its old traditions, has been acting less responsibly than any nation in the western world. According to Burke's dictum, you cannot indict a nation, but the Canadian nation has indicted itself.

One could go on ad infinitum with authoritative and well documented commentaries of this type, the most recent and best known being, of course, the report of the Economic Council of Canada. I do not intend to dwell at any further length on this aspect of the current Canadian scene. It would be unnecessarily repetitious. Other speakers have examined the Economic Council report in detail and at length. But I wish to reiterate my firm conviction that the president of the United Automobile Workers knows not whereof he speaks when he advocates the wage parity that he has recently advocated.

Wage increases, without a corresponding increase in productivity, are among the fuses already burning that are going to blow our economy to pieces if they are not stamped out by firm fiscal and economic action, and we don't need the president of the United Automobile Workers advocating policies, on our national broadcasting system, that are detrimental to the economic health and well-being of the Canadian people.

Nor can Mr. Reuther justify his argument on the esoteric grounds that he is merely acting in the best interests of Canadian auto workers. This argument, Mr. Speaker, is a hypocrisy and a sham. For a Canadian auto worker is not just an auto worker; he is also a consumer, a taxpayer, and either a parent of children or a potential parent of children who have to be fed and clothed and sent to school. To give him a carrot in one hand, while pushing his country's economy to the brink of disaster with the other, is doing that auto worker, that Canadian consumer, no favour, and I doubt that even as persuasive an advocate as Mr. Reuther can argue credibly that it is. So, I say this demand of the U.A.W., and any similar demands, should be opposed, if necessary by Canadian legislation.

When our productivity matches that of the United States, then it will be sufficient time to talk about wage parity. Let us not, in this case as we have in so many other cases, make an ad hoc arrangement to meet the crisis after it occurs, after it arises. Let us pursue that crisis, that danger fully and head it off now.

Just tonight, Mr. Speaker, in the Ottawa *Journal* there is a dispatch quoting statements by the former chairman of the Economic Council of Canada, Mr. John Deutsch, who supports this particular view. For the record I would like to quote from that dispatch because it expresses better than I could the argument with respect to this possible crisis to which I have referred. It reads:

> The Canadian economy could find itself bouncing from one crisis to another within the next five or ten years unless some effective long-range planning is developed, John Deutsch, former chairman of the Economic Council of Canada said Wednesday.
>
> Mr. Deutsch, who left the council September 1 to become principal of Queen's University, Kingston, said that the potential crises will be too big to deal with on an emergency basis after they have arisen.
>
> He told a one-day session of the National Industrial Conference Board that an "entirely new effort" is needed to arrange the affairs of government spending and policies...
>
> He suggested later that the council could become the vehicle for starting the long-range planning he said is needed, although he emphasized that the council has no responsibility for government policy.

The point is that these ad hoc arrangements in this critical period of the development of the Canadian economy and of the Canadian nation are simply not good enough. They have led us bungling and stumbling from one crisis to another. If they have led us out of one crisis temporarily, all too commonly the peace has been all too brief; the refreshment has not been there. We have stumbled blindly into another crisis. We have lurched from one crisis to another in the past five years, and the same potential danger exists for the economy in the demands for wage parity made by the United Automobile Workers union and other unions at this time.

I say the arrangement to meet the crisis that could occur in a situation like that should be studied, considered and developed now, because if wage parity is granted to that industry it will touch off a further spiral in wages, costs and prices across the country. There will be a similar demand in other industries. Surely we have had that lesson borne home to us in the last few years with the economic situation as it presents itself to us in this country today. Surely now is the time to stand against this kind of appeal, this kind of irresponsible and unreasonable demand, and I say irresponsible and unreasonable advisably because you cannot compare the economy in the United States with the economy in Canada. Anybody who attempts to do so is being irresponsible and doing his country a disservice. Let us not wait until these demands are made and the unions are out marching about militantly until the economy comes up with an ad hoc type of arrangement to balance this out. Let us stand now and say that this cannot be done because we in Canada just cannot afford it.

[Mr. Sherman.]

• (8:30 p.m.)

Mr. Knowles: Will the hon. member permit a question before he sits down. I should like to ask him whether he would apply to the United States automobile manufacturers the same strictures with regard to the negotiating of wages in Canada that he seeks to apply to the president of the United Automobile Workers.

Mr. Sherman: I would say to the hon. member for Winnipeg North Centre (Mr. Knowles) that the point I attempted to make is that when our productivity reaches the productivity of the United States we can expect to have wage parity, but I think it is the height of irresponsibility in fighting economic disaster to go on thinking that we can continue to boost wages and prices across the land and never boost our productivity. The only people in this country who have increased productivity in this last decade are the Canadian farmers.

Mr. Knowles: Does the hon. member think it is fair to apply strictures to one side of the bargaining table and not to the other?

Mr. Sherman: I do not think I am suggesting that strictures be applied to one side of the table. The balance on the table is not equal. We are talking about an economy built on the backs of 220 million people as against an economy built on the backs of 20 million people, so the odds are weighted against us. Therefore, to answer the question directly, I would say that what I am interested in is the best interests of Canada and the Canadian economy. If that calls for such strictures, then, yes, I am in favour of them.

[*Translation*]

Mr. Gaston Isabelle (Gatineau): Mr. Speaker, may I be allowed not to comment on the 1967-68 budget because, in my opinion, it was well thought out, and I do think, that

nobody from one party or the other would have been able to do more than what is included in the budget.

Since we have enjoyed a certain leeway for a number of years, I should like to discuss a subject which might seem to most people who do not live in the Ottawa-Hull area, incomprehensible but which is extremely up-to-date and is called: The federal district project. I am sure that a lot will be written in the years ahead about that project and I can assure you Mr. Speaker that it is not a new issue.

However, I should like to make myself very clear. If the idea of the federal district is dear to my heart, if I have caused some controversies in that respect, it is because I believed, as a politician and as a representative of a certain part of the area which will be included one day in a federal district, that I had a duty to discharge, namely to declare myself in favour of a conditional federal district, that is with certain qualifications.

I think that I was very explicit in that respect, not very long ago, during a lecture which I gave before the chamber of commerce of Aylmer-Lucerne. It seemed to me, and I wish to emphasize it, that this imperative duty required that I take position in favour of this district on the same basis as those who, for several years, have categorically refused any federal district project whatever, and often refuse for personal or political interests, even though this project is extremely important for our area.

So I have decided to support this project in order to become fully acquainted with it and I favour more and more the creation of a federal district, particularly since Professor Donald Rowatt, who was designated about ten months ago by the Ontario provincial government to study the possibility of a federal district, said and I quote:

> Before starting my research on that subject, I was inclined to view unfavourably the setting up of a federal district. But as my work progressed, I became more and more in favour of the creation of such a district.

Therefore, there are surely certain advantages, even though some disadvantages, of which we are unaware, will appear during consideration of that project. I do not think a study in depth has been made about that federal district, either on the Quebec or on the Ontario side. What surprised me and still surprises me, is that all those who talked about it, favourably or otherwise—even though those in favour are fewer—those who denounced the project, have always ended their statement by saying that they wanted to remain Quebecers or Ontarians, that they wanted to have a special status and to preserve their territorial autonomy. This is quite normal and quite legitimate. There has never been any question of a Breach of autonomy or territorial integrity. The evidence is that all the parties concerned have rejected the suggestion that Ottawa and Hull be made into a community like Washington or Canberra, Australia.

I will call to the attention of the house that among the several briefs to the Laurendeau-Dunton commission on bilingualism, 63 mentioned the creation of a federal district. Assuredly, all those associations, or groups, or individuals, are not of equal value, but it can be said that most have some merit and command our admiration. May I mention a few:

The Association des femmes diplômées des universités du Québec, the Conseil de la vie française du Canada, the Association des femmes de carrière de Granby, the Association canadienne des éducateurs de langue française, the Junior Chamber of Commerce of Canada, the Chambre des notaires de la province de Québec, the Association canadienne française d'éducation de l'Ontario, the Public Service Alliance of Canada, the Law Students and Faculty of Law of the University of Toronto, the University of Ottawa, the Canadian Universities French Professors Association and, finally, the Trail chamber of commerce in British Columbia. I have mentioned but a few, as there were 63 of them.

• (8:40 p.m.)

Mr. Speaker, as the member of parliament for undoubtedly our most beautiful county, Gatineau, which comprises a large part of Hull, and expecially, of the National Capital Commission development on the Quebec side, I had the pleasure of submitting a brief to the Dorion commission on the integrity of the Quebec territory, and I should like to quote a few passages from this brief:

> The power of the Quebec provincial government to develop the area within its jurisdiction, including the area surrounding the national capital on the Quebec side, is beyond question. The sovereignty of the province, at least for the purposes of this discussion, is indisputable in principle.

Having said this, it is equally obvious that, in a federal state, the central power, because of its exclusive responsibility in certain areas, must have, as a corollary, expropriating powers in order to carry out its obligations. That is why it is up to the federal state to develop

the areas intended for national harbours, airfields, military camps, national parks and so on.

The federal government who is responsible for developing not only the capital of the country but also the adjacent territory on the Quebec as well as on the Ontario side—is therefore justified to undertake public works meant to beautify the area, to endow it with a better network of roads and well-landscaped parks.

Besides, the city of Hull and the surrounding area are unique in this country because of their geographic location and demographic composition. It is true that due to the border between Quebec and Ontario the city of Hull does not come under the direct control and authority of the federal government, but nobody will deny that the city of Hull and its vicinity are part of what has been conveniently called the national capital area.

The Hull area, populated for the most part by French Canadians, is also the most important centre of French cultural life right at the door of the capital of an officially bilingual country. Because of that characteristic of French city where the educational freedom typical of Quebec prevails, the city and the surrounding area attract an increasing number of federal civil servants who choose to live there.

The federal government, desirous to ensure to the French-speaking people of our country a favourable climate in the national capital region, is looking forward to the development and improvement of the city of Hull. That is why, for a few years now, the federal government has shown a marked interest in the improvement of that part of Quebec which was systematically neglected for decades by all governments, provincial and federal also, I must admit. Besides, the purpose of establishing the National Capital Commission, as stated in the legislation passed by the Canadian parliament in 1958 is essentially to:

> Prepare plans for and assist in the development, conservation and improvement of the national capital region, in order that the nature and character of the siege of the government of Canada may be in accordance with its national significance.

Let us deal now with the population. The Quebec people who live in the national capital region, within the boundaries defined by the act establishing the National Capital Commission, are estimated at about 100,000.

And according to statistics for 1961—and this is rather interesting, Mr. Speaker—they are far from being what they are today. At that time 32.8 per cent of the Hull labour force was working for the federal government, in Ottawa only. That excludes automatically all the employees of various commissions considered as private enterprises and for which we cannot have the figures. That excludes also the employees of the federal government working in Hull, whose number exceeds 1,500. If we add to that percentage the number of wage-earners working for industries, for businesses in the area, we can conclude that nearly 50 per cent of the labour force in the Hull area earns a living in Ottawa and the vicinity. These figures will surely increase from year to year. It is, therefore, obvious that as an employer of such importance, the federal government has special responsibilities towards the city of Hull and the neighbouring towns, and that explains further the federal presence in that area of the province of Quebec.

Besides, the development of the city of Hull and its population increase are due mainly, according to local experts, to that rational development of parks and roads by the National Capital Commission.

The future construction of new federal buildings on the Quebec side of the capital district will attract more civil servants permanently to Hull and will thus speed up the housing and business expansion of the city, something which the people strongly hope for.

In this connection, I might say that last year more than one million people visited the Gatineau park, one the most renowned in Canada, adjacent to the city of Hull and the only park open free of charge to the people of Hull, in view of the fact that there is not a single provincial park in the immediate vicinity. More than 100,000 people from various countries visited the summer residence of the late Mackenzie King, at Kingsmere.

It is normal to expect a population increase in the city and district of Hull and a concentration of workers from Hull in the various services of the federal government and crown corporations. That special feature of a French-speaking civil servants' pool will become more pronounced. It is therefore normal to expect a progressive transformation of the technical education system in the region, to enable young people from Hull to train better and earlier to serve in the ranks of civil servants.

We are very pleased to learn that the federal government has bought a building which will make all Canadians happy, since it is meant to become a centre for language studies.

• (8:50 p.m.)

Even if a civil service job is the natural prospect for a number of Hull residents entering the labour market, this does not absolve the provincial government of the responsibility of developing the commercial and industrial possibilities of the region, in order to give the people a wide range of opportunities and create a more diversified and, therefore, more stable economy.

Had it not been for the considerable efforts of the National Capital Commission to develop the region and the employment opportunities provided by the federal government, the Hull area would certainly still be underdeveloped. The citizens of Hull are at last able to enjoy an era of exceptional development brought about, on the one hand, by an increasing number of civil service jobs and, on the other, by the greater interest shown recently by the provincial authorities in what is, unfortunately, too remote a part of the beautiful province.

The prevailing feeling among the people is that, without the intervention of the federal government, their region would be in a bad way. They do not judge the wisdom of this intervention, Mr. Speaker. They are merely noting a fact. It would be very difficult to have them reject the participation of the National Capital Commission to the development of their territory because, to date, the provincial government has never managed to offer them as many advantages.

On the other hand, the whole population hopes that there will be very close co-operation between the provincial and federal authorities, to make of that area, not only the most beautiful in the land, but also a model, a living demonstration of the results of co-operation and understanding. That might be the only solution to the problem, that is the creation, under certain conditions, of a federal district.

I wish, however, to join all those who have voiced their criticism of the administrative structure of the National Capital Commission, which does not provide for the direct participation of the Ontario and Quebec governments, in the planning of developments and, especially, in the implementation of development programs.

I feel that the provincial government, primarily responsible for that territory, should not only be consulted, but should also have its say when decisions are made. In addition, of course, area residents would welcome a financial contribution from the Quebec government, added to that from Ottawa, so as to have completed sooner the development of Hull, which would then become, as I said earlier, a model city, across from Ottawa.

The built-up area on both sides of the Ottawa and Gatineau rivers gives rise to such extensive problems that it is urgent, in my opinion, that both governments meet without delay in order to review all the administrative structures in the area, to establish development projects for the future and to determine, once and for all, jurisdictions and responsibilities.

In the meantime, the people of the Hull area must count on the federal initiative and be satisfied with an inadequate share of the tremendous N.C.C. budget. Therefore, it is up to the provincial government to decide at the earliest the fate in store for the city of Hull and to make known its projects, if any, which a large number of Hull residents consider with scepticism, Mr. Speaker.

Some hon. Members: Hear, hear.

Mr. Isabelle: A great number of organizations from Hull and the area have recently favoured a special status for their area which they claim is handicapped by the neighbourhood of mighty Ottawa. To my mind, this special status already exists, albeit in an embryonic stage, although no exact definition can be given to the designation of "special status", in view of the peculiar setup of employment, the projections as to population development and the increasing dependence of the entire regional economy on the federal state as an employer.

The provincial state could not deny this self-evident fact and should, I feel, alter certain institutions so as to ensure maximum benefits from the geographic situation of Hull, particularly in the educational area.

On the other hand—and this opinion is getting more and more support among the local population—the city of Hull would gain prestige, population, job opportunities and improvements should it agree at the earliest possible moment that it cannot count solely on the pulp industry for its development, but also upon the federal civil service.

If the provincial government helps the city to fulfill its new responsibilities, Quebec province will have one of the nicest French cities at the other end of its territory, and the homogeneity of a federal district will exist in fact perhaps without any actual legislation. In that case, the integrity of Quebec and

Ontario will be preserved and above all the people will be satisfied, which is not the case now, I think. This is the first and main step towards the creation of a federal district.

Mr. Speaker, I have attempted to show beyond doubt by submitting actual facts, how such a district could be created in the Hull and Ottawa areas.

Only recently Mr. Louis Sabourin, dean of the social science department and director of the international cooperation centre at the University of Ottawa, in a speech before the Richelieu Club, on September 27, 1967, stated that according to statistics which he collected by interviewing French-speaking citizens of Ontario living in Sandy Hill or lower town in Ottawa, 62 per cent of the people contacted replied favourably to the following questions:

1. In your opinion, what would be the result of the creation of a federal district comprising Ottawa and Hull on French culture and education in Ottawa?

2. If the Ontario government were unable to create French public secondary schools, do you think that the federal government should establish such schools?

I should add that the survey included a like number of men and women, all between the ages of 21 and 51, whose education varied from primary school to high school level. Furthermore, this type of survey is becoming increasingly frequent in our area. If we surveyed the man in the street, to use a popular expression, rest assured that no less than 75 per cent of the people, at least in the Hull area—let us leave aside the Ottawa area—would favour the creation of a federal district.

Mr. Speaker, it is no longer time for provincial quarrels and unwarranted fears; rather, we should work together in close and continuing co-operation, in order to avoid that the Hull area may become once more the victim of fruitless quarrels between politicians.

Unfortunately, we have always been, in this area, the sacrificial victim on the altar of the nation. I hope that in the event of a federal district and provided some guarantees are given to both the English and the French-speaking citizens, we shall be able to make this region the most beautiful in the country, I am sure. The Gatineau park and area will become a paradise for hunters and anglers. You may be sure that this ideal project will make the whole country envious. It is already in the air since 63 briefs submitted to the Laurendeau-Dunton commission have already mentionned it and favour the creation of such a district as soon as possible.

[Mr. Isabelle.]

• (9:00 p.m.)

Before closing, Mr. Speaker, I should like to pay tribute to the Hull junior chamber of commerce which has created a commission to study thoroughly this question of a federal district, and I hope that all those who have been against it will one day realize that, if the surface is not always as polished as it should be, it is often because closer examination has not revealed the true possibilities.

I hope that with the passing of time, everyone, English and French-speaking people of the area on both sides of the Ottawa-Hull area, will understand each other.

Hon. Théogène Ricard (Saint-Hyacinthe-Bagot): Mr. Speaker, my first words will be to support the hon. member for Gatineau (Mr. Isabelle) and to wish him at the same time a most complete success in his aspirations. It seems to me he has touched upon a very sensitive chord and that everyone in this house and outside agrees to wish him an early settlement of the problem he has raised tonight.

Mr. Speaker, I am rising tonight to make some observations on the budget that was introduced some time ago by the hon. Minister of Finance (Mr. Sharp). It is not my intention however, to follow his urgings and those of the Prime Minister (Mr. Pearson) not to look behind us but to forget the promises of the Liberal party during the last election campaigns.

Everybody knows that the purpose of the opposition is to make sure, in the interest of the people and taxpayers, that public monies are spent in accordance with the aspirations and the aims of the country, and with this in view, I intend to draw a parallel with the past, that is, between the promises made to us during election campaigns and the real facts, since the return to power of the Liberal government.

Mr. Speaker, nobody has forgotten—and neither have the people—that numerous election promises have been made during the election campaigns of 1963 and 1965 by those now sitting on the front benches.

To mention only a few, I would like to recall, for instance, that the present Minister of Finance and his cabinet colleagues made quite an unusual campaign, stating that government budgets should be balanced and that a Liberal government would put an end to unbalanced budgets as soon as it returned to power.

Well, what we have seen since this government came to power is not different from what we had before; we still have unbalanced budgets and the people expect that the Minister of Finance and his colleagues will get busy and balance the budget as promised.

Everybody will also recall that during election campaigns they—the Liberals— promised us 10,000 student bursaries. The truth is that these bursaries are replaced by student loans, and this was nothing but a gimmick to fool the people and get votes.

Much was said also about the assistance to rural housing a Liberal government would provide if it were called upon to manage the country's business.

Well, we can see, while driving in the country, that the situation is the same as it was before these gentlemen, with their promises of yester-years, reached the position they now hold.

They were also supposed to eliminate slums. It is enough to stroll about the city of Montreal to find out that there still are too many. The same thing is true of their promises concerning low-price housing. Far from providing housing at low prices for the average or poor classes, far from helping these people to obtain houses in keeping with their income, the present minister considered it proper to increase the rate of interest on mortgage to 8¼ per cent. Well, Mr. Speaker, if someone makes money on mortgage loans at 8¼ per cent, there must necessarily be some one who pays, who absorbs that increase. As always it will be the one who should be helped most, the one who is most in need of help, that is the one with an average or a low income who will be affected by that increase. What about the pension payments of $250 for married couples which the Liberal speakers promised during the 1963-65 election campaign. That pension of $250 per married couple was changed to a pension of $105 per month for each pensioner, but with a means test which, in some cases, meant only $2, $3, $5 or $10 more for our older citizens when they were in dire need because of the rising cost of living.

We have also been promised a minister of agriculture for eastern Canada. It is three, nay, almost four years since the Liberals came into power, and we are still waiting for the minister of agriculture for eastern Canada.

And what happened to the promise that a Liberal government would reject the use of nuclear armaments in this country? Only a few months after the Liberals came into power, all the Liberal members in this house voted in favour of nuclear armaments for Canada.

Mr. Speaker, I should like to remind the house of the records established by the present government. For example, the cost of living has reached a record 150.7 per cent.

We know that the cost of living is increasing. Bread, butter, meat, cigarettes, fuel, cars, clothes, the various services, food, even a haircut are appreciably higher since our friends have taken the helm of the ship of state.

It is quite different from what we had heard during the election campaigns of 1963 and 1965. We are paying the highest interest rate in our history. A worker who draws average wages is sometimes compelled to obtain a short-term loan to pay certain bills which otherwise would require from him a superhuman effort. Then, the average worker is compelled to pay the highest interest rate since confederation.

• (9:10 p.m.)

Right now, our cost of production is the highest in our history. This, of course, is prejudicial to our industries which have to face an ever increasing competition from the outside, because they are faced with ever increasing costs of production.

Now, what about taxes, provincial, municipal and federal. As a result of the rising cost of building materials and materials used in the manufacture of certain products, the cost of production is higher than ever and taxes are proportional. On the other hand, the workers have to face these taxes and must pay them, from the fruit of their labour.

The government has established another record which is perhaps not too enviable in the area of military expenses. The former minister had suggested that unification of the armed forces would bring about a reduction in military spending. Now, the facts prove quite the contrary. For the fiscal year 1967-68, the expenses forecast will exceed by at least $110 million those of the previous fiscal year. Who will be called upon to pay for such extra expenses? The taxpayer, the individual earning a salary which sometimes does not allow him to make both ends meet by the end of the year.

At this point, Mr. Speaker, may I remind the hon. minister who has asked all classes of society, the provincial governments, the

municipal governments, to cut down their expenses, that he should bring pressure to bear on his colleagues of the cabinet that they might be the first to set the example. Last week, my colleague from Kamloops (Mr. Fulton) gave striking examples of extravagant expenditures in departmental administration.

May I also remind the Minister of Industry that the cost of administration for his department, when it was first set up, was supposed to be $25 million, but that it will now reach the tidy sum of $146 million for the fiscal year 1967-68. In the same department, the establishment will have increased from 274 in 1963-64, to the nice figure of 783 in 1967-68.

In the Department of Defence Production, the number of employees will have grown from 1,699 in 1963-64, to 3,684 in 1967-68.

In the Department of Trade and Commerce, there will be 812 employees in 1967-68, as compared to 514 in 1963-64.

This will add up to an increase from 2,487 to 5,279 for these three departments.

I would say this to the minister, Mr. Speaker: before he convinces the people in general, as well as the governments at the federal and provincial levels, he will have to set the example and convince his own cabinet colleagues to exercise more restraint and to be more careful about their expenditures.

It might be well, Mr. Speaker, to have an inquiry the sole object of which would be to justify and, if possible, to check the exaggerated increase in the number of civil servants. We know that the number of civil servants, in the last four years, seems to have increased far more rapidly than necessary, and this is always detrimental to the taxpayer who, in the final analysis, is forced to foot the bill.

In their speeches, the Minister of Finance (Mr. Sharp) and the Minister of National Revenue (Mr. Benson) passed the buck when time came to indicate what basic priorities would be followed in applying the axe to expenditures as promised by the Minister of Finance.

The Minister of Finance told us that certain basic projects had to be given up but he did not venture to say which ones would be eliminated.

Everyone knows that medicare has already been postponed for one year and it would not be surprising if the minister should tell us in a few months, that the financial situation forces him to postpone for another year this project for which they very ably secured approval. When this plan was introduced, if it was the intention of the government to implement it as soon as possible, it seems to me that the minister should have made every effort in order to cancel useless projects, which would have provided funds for implementing medicare because the Canadian people expect relief in that respect.

[Mr. Ricard.]

• (9:20 p.m.)

There is another field, Mr. Speaker, where the record of the present government is not satisfactory. I said a few moments ago that after promising us a minister of agriculture for eastern Canada, the present government quickly forgot that promise and did not make any changes in the Department of Agriculture. I repeat that such tactics were designed only to get votes in eastern Canada.

Whether he owns a big or a small farm, the farmer is always faced with increasing production costs. The cost of machinery keeps going up so that the farmer's production costs go up proportionally.

There is no doubt that the present Minister of Agriculture (Mr. Greene) failed in not getting more favourable prices for the machinery which the farmers have to buy to make sure that their crops are plentiful enough to meet their obligations. Our markets are being swamped by foreign products. Last year, butter was even imported from foreign countries, when we have the climate and all the production facilities needed to meet the population's needs in this field. The conditions imposed upon the young farmer wishing to settle on the farm are so harsh that they deter many young people from taking over the business of their elders on the family farm. It is imperative that the necessary amendments be made to the farm loans Act to prevent those young people with the skills and the inclination to go into farming from moving to the city.

It is both interesting and distressing to read the comments made by Mr. Sorel, president of the Catholic Farmers Union, on the attitude of the present federal government concerning agriculture. Early last summer, as hon. members will recall, the dairy producers of eastern Canada, Ontario and Quebec staged a march on Ottawa. They came here to try to convince the federal authorities that they were in an impossible situation and desperately needed help from the federal government. Far from helping them, the Minister of Agriculture (Mr. Greene) ignored their request and the very doors of parliament were

closed in the face of these people who, like any other citizens, merely wanted to visit the parliament buildings. I do not think, Mr. Speaker, that those dairy producers came here to congratulate or praise the government and the Department of Agriculture for their efforts to help the farmers.

I completely disagree, Mr. Speaker, with the remarks of the hon. member for Nicolet-Yamaska (Mr. Côté) to the effect that the farmers have come here to praise the Minister of Agriculture for the work he had done for the farm people. The words spoken by Mr. Lionel Sorel—

Mr. Côté (Nicolet-Yamaska): Mr. Speaker, I rise on a question of privilege. I think that the hon. member for Saint-Hyacinthe-Bagot is greatly mistaken when he quotes the hon. member for Nicolet-Yamaska. At the very time of their arrival, I had already spoken in the house and I did not speak afterwards.

I do not know whether the hon. member for Saint-Hyacinthe-Bagot was absent at the time of their march but, at any rate, he is mistaken when he says—

The Acting Speaker (Mr. Tardif): Your argument is probably reasonable but it is not sufficient to raise a point of order.

Mr. Mongrain: On a point of order, Mr. Speaker, I feel that you did not understand the member for Nicolet-Yamaska (Mr. Côté) who rose on a question of privilege.

The Acting Speaker (Mr. Tardif): I apologize, if I misunderstood him, I thought that the hon. member was rising on a point of order.

Mr. Knowles: You do not speak French, Mr. Speaker?

Mr. Ricard: Mr. Speaker, the member for Nicolet-Yamaska definitely dislikes to be reminded of his own comments, but I wish to tell him that I was in the house when the delegation came and I met the farmers of his district and those of mine. I can also tell him publicly that the farmers of his constituency were also quite disappointed with his comments, because they were contrary to the facts and ideas which they had put forward.

Mr. Speaker, here is what Mr. Lionel Sorel had to say, as reported in *La Presse* on June 17, 1967, after having met the Minister of Agriculture (Mr. Greene) and other members of the cabinet as well, I presume. I quote:

I wonder what I shall tell them when I go back.

He means the farmers, members of the C.F.U.

Indeed, I have very little hope. It has not yet been decided whether farmers should be allowed to earn a livelihood.

That is what Mr. Sorel, the president of the C.F.U., a level-headed and calm man, thought of the attitude of the present Liberal government towards agriculture. He said the present government has not yet decided whether farmers should be allowed to earn a livelihood. Everybody knows that agriculture is on the wane even though it is fundamental to life in Canada, and even more so in the province of Quebec. Mr. Speaker, I would only ask the Minister of Agriculture not to delay any longer and to take such action as to revive the hopes of the rural people.

A good deal could be said about the industrial field, Mr. Speaker, but time flies fast, and since my allotted time has nearly expired, I would merely request the Minister of Finance to give special consideration to the textile industry, the second source of employment in our country. This industry provides employment to 52,000 people in Quebec, and its yearly investments total about $850 million.

There is great concern about the potential effects of the Kennedy round on the industry. Last night, I was talking with the owner of a small knitting mill employing 20 people, and he told me that he was quite concerned, that at this date next year, he thought he would be able to keep, at the most, 10 employees, because competition from foreign plants, where wages are usually much lower than here, would prevent him from meeting his obligations holding his own with other industries and paying his employees wages appropriate to their needs.

There is also some concern in the shoe industry. It should be remembered, Mr. Speaker, that since 1962, 28 factories have had to close down. This means that 3,000 employees have lost their jobs and were compelled to get training in another trade and had much trouble to find a job, so as to meet their needs and fulfil their obligations.

• (9:30 p.m.)

So, I am asking the minister to act so that these manufacturers will have the necessary protection, and before you tell me that my

allotted time has expired, Mr. Speaker, I shall resume my seat.

[*English*]

Mr. Colin Cameron (Nanaimo-Cowichan-The Islands): Mr. Speaker, I did not intend to take part in this debate. I may as well take the house into my confidence and say that I did so at the invitation of the government whip who assured me that he had kept a place for me out of his great love for me. Despite my own profound affection for him he will not mind, I am sure, if I reply with the latin phrase *timeo danaos dona ferentes.*

I realize that I am pulling out of the fire the government's procedural chestnuts, and I can only do so because of something which must be said. The budget that was presented in June was a non budget. As it was almost impossible to debate it when it was introduced I seized the opportunity of dealing with another matter, with an important area remote from our domestic affairs which I felt had to be dealt with. Since that time the Minister of Finance has seen fit to make two more speeches on the state of nation, each one more calamitous than the last. Finally, and this to me is most disturbing, he revealed his complete intellectual bankruptcy when, on top of having done nothing—nothing whatever for months and months—he comes to this chamber and informs the Canadian people, and they should realize just what it is he informed them of, that his solution to their problems is a little dose of unemployment. Of course, he has a nice-Nellyism for it. He says "to allow the economy to gain a little slack". Which in crude, brutal terms means to let unemployment rise and hope that our problems will be solved that way.

Mr. Baldwin: He calls it "managing prosperity".

Mr. Cameron (Nanaimo-Cowichan-The Islands): It is managing prosperity for some people, and that is something I object to. Some people are extremely prosperous under this minister while others are very unprosperous. I find it distressing that in this day and age we should experience what might be called this paleo-Keynesism on the part of this minister who is only able to use this crude method of turning off the tap when things look as though they will get out of control.

On June 1 the minister told us that despite a few clouds on the horizon, clouds no bigger than a man's hand, everything was going along very well and he did not propose to rock the boat at all. He did not rock the boat. He did not do anything else, either. Now look at the poor man. One is almost disposed to feel sorry for him when one sees all these troubles flitting around his ears like bats, as they have done ever since he took office.

Here we see a spectacle of one of the most prosperous countries of the world bedevilled by continually rising prices as revealed in the September issue of the d.b.s. statistics review which reported that the cost of living index went up from 139.5 in July, 1965, to 144.3 in July, 1966 and to 150.2 in July of this year without any sign of an abatement—without any sign of action on the part of the minister, because he is not permitted to act; his doctrinaire views inhibit him from taking action.

Unemployment has also been a festering sore, and the same issue of the statistical review reveals in graph form that ever since the end of 1965 the trend has been upward, in spite of a few downturns now and again. Here, too, there is no sign of abatement. On top of this, of course, we now face high interest rates underlined by the government's own action as well as by the action of the Bank of Canada and the naive comment on the part of the minister when he said—and this caused me intense entertainment—that we were facing a brand new situation because no one had ever heard of a situation in which high interest rates were associated with inflation. Well, I can remember suggesting to the minister eight or ten months ago—and having my suggestion treated with scorn—that high interest rates might in themselves be a factor in promoting inflationary pressures. How anybody could doubt that I am unable to understand.

I believe the Canadian people are entitled to something a little better than this. I believe they are entitled to ask the following question: If, now, with a rising gross national product and with unemployed human and material resources we are unable to provide housing for our citizens, and are unable to protect consumers from rising prices and are unable to expand our economy, then when in God's name shall we be able to do so?

Mr. Grafftey: When we turn out this government.

Mr. Cameron (Nanaimo-Cowichan-The Islands): That might be a start, but I am not sure what might happen then. It might be

just more of the same thing because I am afraid that the official opposition, like this government, also has a doctrinaire party formula and is wedded to the conception of so-called free enterprise and to the idea that every situation must be adjusted to this Procrustean bed, no matter how many inches might have to be cut off—

Mr. Grafftey: You might be called upon to form a government.

Mr. Cameron (Nanaimo-Cowichan-The Islands): That is quite possible. I have an idea that the Canadian people are getting extremely tired of a government which refuses to govern, and I am sure that when they realise that this Minister of Finance (Mr. Sharp) has told us in plain words in this chamber that his cure for their troubles is an increase in unemployment he and his colleagues will be in serious difficulty at the time of the next Gallup poll.

Once again the minister trots out an idea he has trotted out before—the idea of guide lines. This has always entertained me immensely. I remember asking him in the committee on economics and finance when he produced this idea of guide lines earlier, whether he thought guide lines would be successful. He assured me he did. Then I asked him what is the difference in the final outcome between guide lines and a forthright policy involving some measure of selective price control, a policy which would be more, shall we say, permanent and which could be arrived at through a process of consultation and negotiation. Of course this could not be done. It is against the moral principles of this government.

I suggest that the government has revealed in these three speeches of the Minister of Finance its complete bankruptcy. More than that, it has disclosed the basic philosophy of the Liberal party which is that the government which governs least is the best government. This is the deeply held conviction of hon. members opposite—that the less they do the better it is. In fact whenever the minister or one of his colleagues gets up in this chamber, one can sense the ghost of Micawber shuffling down the hall hoping something will turn up—and something always does turn up, and it is always unpleasant.

Obviously there are a number of suggestions which might be made in such a situation, and I intend to put forward one or two. First of all, I suggest that instead of complaining, as the minister has done, that the Canadian people, in spite of the fact that they are the savingest people in the world have not succeeded in saving enough to finance their own development, he should take steps to control and direct investment. This could be done in a number of ways. Consider, for example, that proportion of personal savings which goes into private insurance policies—and this is only one part, though a significant part, of the savings of the Canadian people. I have already suggested that we should put the private insurance companies out of business by extending the operations of the Canada Pension Plan and offering the Canadian people a wide range of options.

We should do something more about the major part of the savings of the Canadian people which is to be found in the corporate treasuries of the large corporations of this country. I suggest that instead of complaining that the Canadian people do not save enough or that the Canadian people do not invest their funds properly, this government should set up, not guide lines but definite controls governing the reinvestment of the undistributed profits in corporation treasuries.

Do not tell me it cannot be done. The Minister of Finance did it in his usual half-hearted way when he invoked the 5 per cent tax on corporate profits. It was an idiotic formula, of course; I think he had read briefly and carelessly a description of the Swedish plan and decided he should try something of the sort himself. As I say, it was idiotic because he put a 36-months limit on the time during which the government could hold this 5 per cent of profits. But the precedent is there and I suggest the government should seriously consider the over-investment which is taking place in various parts of our economy to the detriment of the development of a balanced economy. We should set limits on how much can be invested at the discretion of private companies. I think we should do something, too, with regard to the control of prices, and I have been disturbed to read an article purporting to quote the emerging minister of consumer affairs, now the Registrar General (Mr. Turner), as saying he is not prepared to do anything.

(9:40 p.m.)

I am going to suggest that instead of bewailing the rise in the cost of living, instead of suggesting the solution is to promote unemployment in this country, the minister

should be considering the imposition in certain areas of selective price controls over basic commodities whose costs enter into the costs of all other commodities. Don't tell me we are going to hit a constitutional bar in this, because I would defy any provincial government to object to co-operation with the federal government to control the prices that determine the cost of living index.

Then I would suggest, as we have done time and time again, although apparently our suggestions always fall on feaf ears, the establishment of a real prices review board before which an examination could be made of all prices in our economy and not just a proportion of them.

I would suggest something else this government could do. It could use the weapon of advertising, which is now used for, shall we say, rather dubious purposes, to promote some idea of real values in our economy. This could be done through the publicly owned broadcasting system of the country, if the government would take the position that the C.B.C. should be a public service corporation and not a huckstering corporation into which it has been trying to turn itself.

The government could also do something else which we have been urging time and time again. It could do something, or should do something in the face of the Kennedy round. It could do something about the restructuring of Canadian industry by government initiative, to group together ineffective productive units into economically sound economic units which could specialize and be confined not to the Canadian market alone but, by virtue of their specialization, expect to have a share of world markets.

The government could do something else, Mr. Speaker, if it really wanted to do something about its unfortunate position over which the unfortunate Minister of Finance (Mr. Sharp) is now presiding with such a melancholy air. It could do something about the reform of the financial institutions of this country, of the jungle that was revealed to us when we were revising the Bank Act, the jungle of financial institutions some of which are subject to no control of any consequence, or to no inspection. The government could establish proper governmental control over all financial institutions and place a watchdog in the centre of them, as I suggested to the minister before the banking and commerce committee and also in this house. Now I suggest it again. It is something that is going to have to come—it is a government banking complex at the heart of our financial institutions, something which our friends in Australia and New Zealand have had for many years.

In this way it might be possible for the government of Canada to direct and control the economy so that we shall no longer have the disgrace, in one of the potentially richest countries in the world, of massive unemployment, of lack of housing, of rising prices, of continual deprivation. It is time this government realized its job is to manage, not to evade action and avoid taking any steps which might perhaps lead it into some slight political trouble. It is going to be in worse political trouble if it continues with its liberal concept of government, which is to do nothing and hope something will turn up before the public gets wise to it. I suggest the public is already getting wise to it, is getting a little tired of it and will not take kindly to the suggestion they tighten their belts because unfortunately, in spite of a rising gross national product and potential wealth we are really a poverty stricken country.

Mr. Deputy Speaker: Order. It being 9.45 p.m. it is my duty, pursuant to section 6 of standing order 58, to interrupt these proceedings and forthwith put the question on the main motion.

Is it the pleasure of the house to adopt the said motion?

Some hon. Members: Agreed.

Mr. Monteith: On division.

Motion (Mr. Sharp) agreed to.

WAYS AND MEANS

The house in committee of ways and means, Mr. Batten in the chair.

The Chairman: Order. House again in committee of ways and means on a certain proposed resolution to amend the Excise Tax Act. The text of this proposed resolution is appended to the notice papers of *Votes and Proceedings* of June 1, 1967.

EXCISE TAX ACT

That it is expedient to introduce a measure to amend the Excise Tax Act and to provide among other things:

1. That effective June 2, 1967, all goods listed in Schedule V to the said Act be exempt from sales tax.

2. That effective September 1, 1967, any material, substance, mixture, compound or preparation, of

whatever composition or in whatever form, including materials for use exclusively in the manufacture thereof, sold or represented for use in the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in humans or animals, or for restoring, correcting or modifying organic functions in humans or animals be exempt from sales tax but that this exemption shall not apply to cosmetics or confectionery products.

3. That effective June 2, 1967, goods enumerated in tariff item 48100-1, namely "specially constructed boot or appliance made to order for a person having a crippled or deformed foot or ankle", and in tariff item 48105-1, namely "individual pairs of boots or shoes for defective or abnormal feet, when purchased on the written order of a registered medical practitioner", and articles and materials for use exclusively in the manufacture thereof be exempt from sales tax.

4. That effective June 2, 1967, artificial breathing apparatuses purchased or leased on the written order of a registered medical practitioner by an individual afflicted by a respiratory disorder for his own use be exempt from sales tax.

5. That effective June 2, 1967, plans, drawings, related specifications and substitutes therefor, and reproductions of the foregoing sold to or imported by manufacturers or producers for use by them directly in the manufacture or production of goods be exempt from sales tax.

6. That where materials for use exclusively in the construction of residences for students have been purchased by or on behalf of a company wholly-owned and controlled by Her Majesty in right of a province and established for the sole purpose of providing residences for students of universities or other similar educational institutions, the Minister of National Revenue may, upon application by the company made in such form as the minister prescribes within two years from the time of the purchase of the materials, pay to the company an amount equal to the tax imposed by Part VI of the said act that has been paid in respect thereof.

Progress reported.

Mr. Deputy Speaker: I wonder if it would be the wish of the house to call it ten o'clock at this time?

Some hon. Members: Agreed.

BUSINESS OF THE HOUSE

Mr. Ricard: Mr. Speaker, may I ask the house leader to indicate what the business of the house will be for tomorrow, and if possible what the business will be for next week?

Mr. MacEachen: Mr. Speaker, tomorrow we propose to call the resolution in connection with the establishment of the department of corporate and consumer affairs. On Monday we will call the resolution amending the Post Office Act, and on Tuesday we will call the broadcasting resolution.

Mr. Deputy Speaker: Order. In accordance with provisional standing order 39A and subject to the special order made earlier this day a motion to adjourn the house is deemed to have been moved and seconded. Therefore the question is that this house do now adjourn.

PROCEEDINGS ON ADJOURNMENT MOTION

A motion to adjourn the house under provisional standing order 39A deemed to have been moved.

CANADIAN PACIFIC RAILWAY—REQUEST FOR MORE EFFECTIVE METHODS OF DEALING WITH ACCIDENTS

Mr. H. W. Herridge (Kootenay West): Mr. Speaker, during May of this year I received correspondence from Mr. Fred H. Lowe, chairman of the International Railway Brotherhood, whose home is at Nelson, B.C., Mr. R. A. Hyssop, and several other members of the same union urging the need for improved safety equipment on the Kettle Valley Railway. I must explain that the hon. member for Kootenay West and the hon. member for Kootenay East, the parliamentary secretary to the Minister of Transport have a mutual interest in this problem because this section of the Kettle Valley Railway lies within the boundaries of Kootenay West and Kootenay East. That is the reason I asked the following question on May 11, as recorded at page 68 of *Hansard* for that date:

Mr. Speaker, I wish to address a question to the Minister of Labour. I apologize for not giving him notice, but the matter has just come to mind. Has the minister received representations from the rank and file—not the leadership of the union—of the operating crews on the Kettle Valley Railway urging the need for improved safety equipment, stretchers and other things which at present are not supplied, thus contributing to the dangerous conditions under which they operate?

The minister replied:

Mr. Speaker, all I can say at this time is that I will have to take the question as notice.

Later the minister informed me that the matter came directly under the Minister of Transport. Well, the parliamentary secretary took notice of the question and held a meeting with the road service Kettle Valley Railway crews at Cranbrook, and during the recess I had an opportunity to meet with Mr.

Fred Lowe, chairman of the railway brotherhood, Mr. R. A. Hyssop, and others, at Nelson, where they explained in detail the conditions under which they operate.

• (9:50 p.m.)

I was informed by them that the rock and snow slide conditions along the shores of Kootenay lake produce a very serious situation for the men operating the trains in that area. They explained to me their experience with several accidents. They told me of the difficulty which is involved in getting men who were injured to hospital because there is no road access along the shores of Kootenay lake. This area is completely isolated from any road access.

I have personal knowledge of these circumstances because, like the hon. member for Kootenay East (Mr. Byrne), I have travelled over this road on many occasions. I know the circumstances they explained so carefully to me. These men told me they were asking first for restoration of track patrol services along the shores of Kootenay lake because of the dangerous conditions under which they operate at the present time. Second, they want satisfactory first aid equipment such as stretchers and ambulance services. They want the first aid equipment and stretchers provided on the head end of the train and on the rear end of the train, because of the length of the trains and the time that is lost in travelling to the rear of the train to get the necessary equipment if an accident should occur at the front end or at the diesel group.

Third, they wish to have the front end lighting equipment improved. They told me that the front end lighting equipment on the 12 diesel units is woefully obsolete and that the company should do something to improve the lighting equipment on these 12 diesel units to provide safer working conditions. They described to me in detail what has happened in several cases in recent months, and in the last year or two as a result of accidents on this line and because of the lack of access to the first aid equipment, stretchers, and so on.

I bring this matter to the attention of the house because I know the parliamentary secretary is interested in it. Will he inform the house what is being done in order to remedy the circumstances complained of by the rank and file—not the union leaders, because they turned down the requests of the rank and file after the local meeting and said nothing could be done about them. This is something in which the rank and file are involved. I am always anxious to join in that sort of revolt in respect of the Kettle Valley Railway between Nelson and the Alberta border.

Because I know the interest the parliamentary secretary has in this matter and because I know of the time he has spent and the meeting he had with the crews which have their headquarters in the Cranbrook division, I am looking forward to hearing him tell us what has been done to eliminate the conditions complained of.

Mr. J. A. Byrne (Parliamentary Secretary to Minister of Transport): Mr. Speaker, perhaps it is coincidental, but as parliamentary secretary to the Minister of Transport and as a member representing the adjoining riding to the riding of the hon. member for Kootenay West (Mr. Herridge) I, along with him, am aware of the importance of this matter.

It is true that I held a meeting with the representatives of the union. They were not entirely rank and file members; they were leaders of the local organizations. I was in Cranbrook on May 17 at which time they outlined to me substantially the problem they had so clearly outlined to the hon. member for Kootenay West. Upon my return to Ottawa I prepared a memorandum which I addressed to Mr. Rump, the secretary of the Board of Transport Commissioners, to the railway company itself and to Mr. Curry of the Department of Labour. I may say that I feel we have had some quite substantial results from these representations. Perhaps the most important undertaking by the company is the authorization of a helicopter equipped with a stretcher for use when an accident occurs and where such ambulance service is required. Use of this helicopter may be authorized by the superintendent on the spot.

The company has argued against the question of patrols on the line, but they have undertaken to provide substitute inspections by members of the various crews and by electric fencing which would indicate when a slide has occurred. The company also has undertaken to equip the head end and cabooses with equipment suitable to the occasion, but have argued that very few members of the road crews have first aid training and therefore could not make full use of the equipment.

Mr. Deputy Speaker: Order. I must interrupt the hon. member to advise that the time allotted to him has expired.

PUBLIC WORKS—TORONTO—INQUIRY AS TO AVAILABILITY OF FUNDS

Mr. Stanley Haidasz (Parkdale): Mr. Speaker, I welcome this opportunity to voice my concern about the financial needs of the city of Toronto. Evidently municipal property taxes and provincial grants have not been sufficient to meet the needs in respect of the redevelopment of Toronto. As a city taxpayer and as a member of parliament for Parkdale in the west end of Toronto I must say that those of us who are home owners in Toronto are overburdened with high property taxes. Moreover we are disappointed that the Ontario provincial government has not come to our aid as required. Toronto is growing in population and in physical size. Its buildings, roads and services are growing older and more obsolete.

It is for us Torontonians a great disappointment, as I said a few moments ago, that our petitions to the provincial government have been left unheard. New housing, slum clearance, and downtown redevelopment are acute needs in our city. In order to cope with these problems in Toronto and throughout our country I believe a full time federal ministry of housing and urban affairs must be established without any further delay. Otherwise the continuing and increasing overcrowding in our urban centres will lead to more delinquency, criminality, personal hardship and also physical and mental disease.

It is true that municipalities too often have dragged their feet; but the provincial government must also bear a great share of the blame for this state of affairs. To prevent any further deterioration, the federal government once again must come to the rescue of our local government and show the lead. I hope the measures which the Minister of Finance (Mr. Sharp) has already undertaken and intends to pursue in the near future will not adversely affect the redevelopment programs of the city of Toronto.

Federal financial assistance in an adequate amount is very urgently needed so that the people of Toronto will be in a position to go ahead without further delay with our downtown redevelopment which should include a new C.B.C. building, the relocation of the main postal building and the erection of Toronto's centennial project, the St. Lawrence Centre for the Performing Arts according to the revised plans in order to include training facilities for the people in the performing arts.

• (10:00 p.m.)

Furthermore, federal funds should be made available for the downtown redevelopment plan to provide for apartments, shopping centres, recreational facilities and a face-lifting and expansion of the Canadian National Exhibition grounds and buildings. In particular, Mr. Speaker, the problems of polluted beaches and foul air must be solved in order to make it safe and comfortable for Toronto's increasing population to enjoy the good and full life they deserve.

[*Translation*]

Mr. Albert Béchard (Parliamentary Secretary to Secretary of State): Mr. Speaker, the parliamentary secretary, the member for Parkdale (Mr. Haidasz), who is a perfectly bilingual Canadian will undoubtedly allow me to answer him in French.

We understand quite well the interest of the parliamentary secretary for the development of the city of Toronto which brings a considerable contribution to the economy of the country.

As for the C.B.C. complex planned for Toronto as well as the St. Lawrence Centre for the arts, I can say to the house that recently the Secretary of State (Miss LaMarsh) met his honour the mayor of Toronto as well as several aldermen, commissioners and members of the district concerned to discuss the future of those plans.

I can say to the hon. member that the Secretary of State is deeply interested in these two main projects which are the subject of a very special consideration on her part.

In connection with the post office to which the parliamentary secretary referred, I can also assure him that the Department of Public Works is giving very serious attention to the project and that in due time, it will be followed up and an announcement made in the usual manner.

[*English*]

EXTERNAL AFFAIRS—RHODESIA—UN EXPRESSION OF DISAPPROVAL OF RACIAL PRACTICES

Mr. Heath Macquarrie (Queens): Mr. Speaker, I assumed that my question of October 5 was timely because the fourth committee of the United Nations general assembly was then giving consideration to the difficult and painful question of Rhodesia. The fourth committee, on which I had the honour of serving as a Canadian delegate, presided over the process whereby emancipation came

to many peoples whose political status was something less than free.

I well remember in 1962 when the then prime minister of Rhodesia, Sir Edgar Whitehead, appeared before that committee and outlined his government's program for broadening the base of participation by the non-white population in the economic and political life of the country. Alas, Whitehead and his moderate approach were repudiated by the restricted electorate of Rhodesia, and we all know what has followed the installation of the Ian Smith rgeime and how discrimination based on race dominates the political, social and economic life of that country.

Canada as a senior member of the commonwealth has played a leading role in the establishment of a commonwealth based on the equality of its members. We have also been in the forefront in insisting on the equality of peoples within this interesting international association. At a time when race prejudice is a major social evil, then a country like Canada must fight at home and abroad.

Naturally we cannot ourselves solve the Rhodesian problem, for we all know of the like-minded friends of the Smith regime who are giving him aid and comfort. Indeed, it is easy to be discouraged at the enormous difficulty of translating our sentiment into actions which will be effective in bringing an end to the discriminatory actions of the Smith regime. But, I think we must utilize every opportunity through our membership in the commonwealth and the security council to strengthen the efforts being made by those who are following the decisions of these two bodies. Because so far these efforts have failed of complete success is no reason for their abandonment. Because the domination of the many by the few is destined eventually to come to an end is no cause for relaxing the efforts of those who want that end to come soon and without bloodshed.

It is my hope therefore that Canada, which has given leadership to both bodies in the past, will show initiative in adopting measures which will hasten the day when a majority rule will be established in a free and independent Rhodesia. I hope as well that we may have an answer to my question as to what these measures might be, and that we will be able to see some further evidence of the strengthening of the will of our country in this regard, an attitude I am sure which finds more response among the Canadian people. I know that we will all be anxious to hear helpful words about the planned action on the part of the government.

[Mr. Macquarrie.]

Mr. John R. Matheson (Parliamentary Secretary to Prime Minister): Mr. Speaker, the Secretary of State for External Affairs (Mr. Martin) has asked me to make the following statement on his behalf. As the hon. member knows, the Canadian government has been actively involved in efforts to bring about a peaceful solution of the problem of Southern Rhodesia, and continues to be active. The Prime Minister (Mr. Pearson) played a particularly important and constructive role at the meeting of the commonwealth prime ministers in London during September, 1966, when this matter was threatening to divide the commonwealth.

In the United Nations the basic Canadian position was recently stated by the Secretary of State for External Affairs in his address to the general assembly on September 27. The minister pointed out in that statement that Canada had repeatedly expressed its conviction that Rhodesia must not be granted independence before majority rule is attained, and that Canada had complied strictly with the terms of the security council's decisions to apply mandatory sanctions against Rhodesia.

This matter is being considered in two forums. One is the fourth committee of the United Nations general assembly in New York, and the other is the commonwealth sanctions committee which met during September in London. On Tuesday of this week the Canadian representative in the fourth committee of the general assembly, the hon. member for Hochelaga (Mr. Pelletier), parliamentary secretary to the Secretary of State for External Affairs, reviewed once again the Canadian position on this issue. I will not take the time of the house to repeat everything that was said on that occasion, and I am sure hon. members are aware of the government's policy.

The Canadian representative expressed the hope that all countries would co-operate in complying with the security council's decisions on Rhodesia. He went on to say that the Canadian delegation looks forward to receiving the report of the secretary general on the implementation of sanctions, which will be submitted to the security council.

When the security council considers this matter again there is likely to be consideration of whether further mandatory sanctions

are advisable in the light of the anticipated report from the secretary general. The government is giving careful study to alternative proposals, and as a member of the security council Canada will enunciate its views when the question of Rhodesia is again considered by that body.

I referred earlier, Mr. Speaker, to a discussion in the commonwealth context. At the last meeting of the commonwealth sanctions committee, which took place in London about two weeks ago, there was discussion of proposals for strengthening the sanctions against Rhodesia. The discussion of these ideas is continuing in commonwealth circles, but any further action must presumably have to come before the security council and be put into operation by a resolution of that body.

Mr. Speaker, I hope I have made it clear that Canada is continuing to play a most active part in efforts to find a solution to this grave problem by peaceful measures. The hon. member may be sure that the government will take initiatives at an appropriate time and place if such action would appear helpful.

Motion agreed to and the house adjourned at 10.12 p.m.

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Thursday, October 12, 1967

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Second Session, Twenty-Seventh Parliament, 16 Elizabeth II, 1967

THE HOUSE OF COMMONS OF CANADA

BILL C-

An Act to amend the Criminal Code

First reading, 1967

THE SOLICITOR GENERAL OF CANADA

ROGER DUHAMEL *Queen's Printer*
OTTAWA, 1967

27112

2nd Session, 27th Parliament, 16 Elizabeth II, 1967

THE HOUSE OF COMMONS OF CANADA

BILL C-

An Act to amend the Criminal Code

1953-54, c. 51; 1955, cc. 2, 45; 1956, c. 48; 1957-58, c. 28; 1958, c. 18; 1959, cc. 40, 41; 1960, cc. 37, 45; 1960-61, cc. 21, 42, 43, 44; 1962-63, c. 4; 1963, c. 8; 1964-65, cc. 22, 35, 53; 1966-67, cc. 23, 25, 96, s. 64

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1960-61, c. 44, s. 1

1. Subsection (2) of section 202A of the *Criminal Code* is repealed and the following substituted therefor:

Capital murder defined

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(*a*) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(*b*) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death."

1960-61, c. 44 s. 15

2. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

Approval by Governor in Council of release after commutation of sentence

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

Explanatory Note

The purpose of this Bill is to confine the imposition of the death penalty in relation to murder to the murder of police officers and others employed for the maintenance of the public peace, acting in the course of their duties, and to the murder of prison guards and other officers or permanent employees of prisons, acting in the course of their duties, for an experimental period of five years.

Clause 1: Section 202A at present reads as follows:

"**202A.** (1) Murder is capital murder or non-capital murder.

(2) Murder is capital murder, in respect of any person, where

(*a*) *it is planned and deliberate on the part of such person,*

(*b*) *it is within section 202 and such person*

(i) *by his own act caused or assisted in causing the bodily harm from which the death ensued,*

(ii) *by his own act administered or assisted in administering the stupefying or over-powering thing from which the death ensued,*

(iii) *by his own act stopped or assisted in the stopping of the breath from which the death ensued,*

(iv) *himself used or had upon his person the weapon as a consequence of which the death ensued, or*

(v) *counselled or procured another person to do any act mentioned in subparagraph* (i), (ii) or (iii) *or to use any weapon mentioned in subparagraph* (iv), *or*

(*c*) such person by his own act caused or assisted in causing the death of

(i) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(ii) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death.

(3) All murder other than capital murder is non-capital murder."

Clause 2: Subsection (3) of section 656 at present reads as follows:

"(3) *If the Governor in Council so directs in the instrument of commutation,* a person in respect of whom a sentence of death *is* commuted to imprisonment for life or a term of imprisonment, shall, notwithstanding any other law or authority, not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

Transitional

3. (1) Where proceedings in respect of an offence that, under the provisions of the *Criminal Code* existing immediately prior to the coming into force of this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, namely:

(*a*) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and

(*b*) where a new trial of a person for the offence has been ordered and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court before which the accused is to be tried, and thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act.

Idem

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed.

When proceedings deemed to have commenced

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced upon the preferring of an indictment pursuant to the provisions of Part XVII of the *Criminal Code*.

Duration and expiration of Act

4. (1) Subject to subsection (2), this Act shall continue in force for a period of five years from the day fixed by proclamation pursuant to section 5, and shall then expire unless before the end of that period Parliament, by joint resolution of both Houses, directs that it shall continue in force.

Effect of expiration

(2) Upon the expiration of this Act, the law existing immediately prior to the coming into force of this Act, in so far as it is altered by this Act, shall again operate except in respect of any offence alleged by an indictment to have been committed on, or on or about, a day prior to the expiration of this Act, or between two days the earlier of which is prior to the expiration of this Act, in respect of which offence this Act shall continue in force.

Coming into force

5. This Act shall come into force on a day to be fixed by proclamation.

CONFIDENTIAL

C-

Second Session, Twenty-Seventh Parliament, 16 Elizabeth II, 1967

THE HOUSE OF COMMONS OF CANADA

BILL C-

An Act to amend the Criminal Code

First reading, 1967

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2. (1) Where proceedings in respect of an offence that, under the provisions of the *Criminal Code* existing immediately prior to the coming into force of this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, namely:

(*a*) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and

Explanatory Note

The purpose of this Bill is to confine the imposition of the death penalty in relation to murder to the murder of police officers and others employed for the maintenance of the public peace, acting in the course of their duties, and to the murder of prison guards and other officers or permanent employees of prisons, acting in the course of their duties, for an experimental period of five years.

Section 202A at present reads as follows:

"**202A.** (1) Murder is capital murder or non-capital murder.

(2) Murder is capital murder, in respect of any person, where

(*a*) *it is planned and deliberate on the part of such person,*

(*b*) *it is within section 202 and such person*

(i) *by his own act caused or assisted in causing the bodily harm from which the death ensued,*

(ii) *by his own act administered or assisted in administering the stupefying or over-powering thing from which the death ensued,*

(iii) *by his own act stopped or assisted in the stopping of the breath from which the death ensued,*

(iv) *himself used or had upon his person the weapon as a consequence of which the death ensued, or*

(v) *counselled or procured another person to do any act mentioned in subparagraph* (i), (ii) or (iii) *or to use any weapon mentioned in subparagraph* (iv), *or*

(*c*) such person by his own act caused or assisted in causing the death of

(i) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(ii) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death.

(3) All murder other than capital murder is non-capital murder."

(*b*) where a new trial of a person for the offence has been ordered and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court before which the accused is to be tried, and thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act.

Idem

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed.

When proceedings deemed to have commenced

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced upon the preferring of an indictment pursuant to the provisions of Part XVII of the *Criminal Code*.

Duration and expiration of Act

3. (1) Subject to subsection (2), this Act shall continue in force for a period of five years from the day fixed by proclamation pursuant to section 4, and shall then expire unless before the end of that period Parliament, by joint resolution of both Houses, directs that it shall continue in force.

Effect of expiration

(2) Upon the expiration of this Act, the law existing immediately prior to the coming into force of this Act, in so far as it is altered by this Act, shall again operate except in respect of any offence alleged by an indictment to have been committed on, or on or about, a day prior to the expiration of this Act, or between two days the earlier of which is prior to the expiration of this Act, in respect of which offence this Act shall continue in force.

Coming into force

4. This Act shall come into force on a day to be fixed by proclamation.

November 23, 1971

The under-noted Memoranda to Cabinet and related material have been extracted from File 141-206(Vol.2) as requested by the Departmental Secretary:

- Memorandum to Cabinet re: Capital Punishment	October 31/66
- Memorandum to Cabinet re: Capital Punishment	January 24/67
- Memorandum to Cabinet re: Capital Punishment	February 7/67
- Record of Cabinet Decision	May 2/67
- Memorandum to Cabinet re: Capital Punishment	May 8/67
- Record of Cabinet Decision	May 11/67
- Memorandum to Cabinet re: Capital Punishment	June 24, 1967

CANADA

DATED FROM ..... FILE No. 141-206

TO ..... VOLUME No. I

CLOSED VOLUME

DO NOT PLACE ANY CORRESPONDENCE ON THIS FILE

FOR SUBSEQUENT CORRESPONDENCE SEE:

FILE No. 141-206 VOLUME No. 2

PLEASE KEEP ATTACHED TO TOP OF FILE

141-206

The attached telegram was sent to each of the following on 22 DEC. 1967
December 22, 1967

Dr. Gilbert D. Kennedy, Q.C.,
Deputy Attorney General,
Province of British Columbia,
Victoria, British Columbia

Mr. John E. Hart, Q.C.,
Deputy Attorney General,
Province of Alberta,
Edmonton, Alberta

Mr. R. S. Meldrum, Q.C.,
Deputy Attorney General,
Province of Saskatchewan,
Regina, Saskatchewan

Mr. G. E. Pilkey, Q.C.,
Deputy Attorney General,
Province of Manitoba,
Winnipeg, Manitoba

Mr. A. R. Dick, Q.C.,
Deputy Attorney General,
Province of Ontario,
Toronto 2, Ontario

~~Mr. Julien Chouinard, Q.C.~~,
~~Deputy Attorney General~~, Deputy Minister of Justice
Province of Quebec,
Quebec, Quebec

Mr. J.A.Y. MacDonald, Q.C.,
Deputy Attorney ~~General~~,
Province of Nova ~~Scotia~~ Deceased - 1969
Halifax, Nova ~~Scotia~~

Mr. D. G. Rouse,
Deputy Attorney General,
Province of New Brunswick,
Fredericton, New Brunswick

Mr. J. A. McGuigan,
Deputy Attorney General,
Province of Prince Edward Island,
Charlottetown, P.E.I.

Mr. Cyril J. Greene, Q.C.,
Deputy Attorney General,
Province of Newfoundland,
St. John's, Newfoundland

DEPARTMENT OF THE SOLICITOR GENERAL

TELEGRAM

OTTAWA 4 DECEMBER 22 1967

FURTHER TO THE SOLICITOR GENERAL'S LETTER OF DECEMBER 6TH THE BILL RELATING TO CAPITAL MURDER RECEIVED ROYAL ASSENT YESTERDAY AND IT IS INTENDED TO PROCLAIM IT IN FORCE EFFECTIVE DECEMBER 29TH NEXT STOP IS THIS DATE SATISFACTORY TO YOU BEARING IN MIND THE TRANSITIONAL PROVISIONS OF THE ACT AND THE DESIRABILITY OF ALL PERSONS TO BE TRIED AFTER THAT DATE FOR MURDER SHALL BE TRIED FOR NON-CAPITAL MURDER UNLESS THEY COME WITHIN SECTION ONE OF THE ACT STOP PLEASE WIRE REPLY

T D MacDONALD
DEPUTY SOLICITOR GENERAL

CHARGE TO:

Department of the Solicitor General
Account No. C.N.R. - 2-200-54831

(Phone 235-7211)

PROVINCE	ATTORNEY GENERAL	DEPUTY ATTORNEY GENERAL
Newfoundland — The Hon. J. Alex Hickman Q.C. Minister of Justice	~~The Hon. L. R. Curtis, Q.C.~~ St. John's, Newfoundland.	✗ Cyril J. Greene, Q.C.
Nova Scotia	✓ The Hon. R. A. Donahoe, Q.C. Halifax, N.S.	✗ J.A.Y. MacDonald, Q.C.
New Brunswick — The Honourable Bernard Jean Q.C. Minister of Justice	~~The Hon. Wendell V. Meldrum, Q.C.~~ Fredericton, N.B.	✗ ~~H. W. Hickman, Q.C.~~ D. G. Lawse
Prince Edward Island — The Hon. Alexander B Campbell. Premier & Atty-General	~~The Hon. Alban Farmer, Q.C.,~~ Charlottetown, P.E.I.	✗ J. Arthur McQuigan,
Ontario	✓ The Hon. Arthur A. Wishart, Q.C. Toronto, Ont. Min of Justice & Attorney Gen	✗ A. R. Dick, Q.C.
Quebec — The Hon Jean-Jacques Bertrand. Minister of Justice Premier ministre et	~~The Hon. Claude Wagner, Q.C. (Min. of Justice)~~ Quebec City, P.Q.	✓ Julien Choquard, (Deputy Min. of Justice) Asst. Deputies - Jacques - Jacques - Ivan
Manitoba — The Hon. Sterling Lyon, Q.C.	~~The Hon. Stewart McLean, Q.C.~~ Winnipeg, Man.	~~Eric. C.M.M. Key,~~ ✓ G.E. Filby, Q.C.
Saskatchewan	✓ The Hon. Darrel V. Heald, Q.C. Regina, Sask.	✗ E. S. Meldrum, Q.C.
Alberta	✓ The Hon. ~~Ernest C. Manning,~~ Edgar H. Gerhart Premier & Attorney General, Edmonton, Alta.	✗ J. E. Hart, Q.C.
British Columbia	✓ The Hon. ~~Bott. W. Bonner, Q.C.~~ Leslie R. Peterson, Q.C. Victoria, B.C.	✗ Dr. Gillen

SOLICITOR GENERAL.

M.J. O'GRADY. October 12/67.

SUGGESTED TEXT RE CANADIAN MURDER STATISTICS:
CAPITAL PUNISHMENT BILL.

"I feel I should place on the record some statistical data relating to the incidence of murder in Canada. This material is not entirely free from difficulty, and I do not think it would be wise for the House to argue over fine points in it.

The basic problem as I understand it is that a sophisticated statistics-collecting system for homicidal deaths was instituted by the Dominion Bureau of Statistics only in 1961, partly as a result of criticisms of existing procedures by the 1956 Joint Committee of the Senate and House of Commons on capital punishment.

Prior to 1961, much of the D.B.S. material has to be considered unreliable, partly because of collection methods, partly because not all provices of Canada were reporting crime data, and partly because individual cases were not followed through the appeal process. The result, as is noted by the editors of the publication Murder Statistics, 1966, is that it may not be possible to detect trends reliably until 10 years data has been acquired under the new system.

On the particular problem of persons sentenced to death, the Department of Justice has of course been keeping records, directed to the clemency responsibilities of the Governor-in-Council. These figures can be used to supplement D.B.S. materials.

In examining such statistics as are available, I was interested to see what effect the 1961 amendments to the Criminal Code have had on the incidence of murder. Those amendments, of course, created the separate offences of "capital" and "non-capital" murder. In essence, they abolished the death penalty for murder except in cases where the killing was deliberate and premeditated, or committed during the course of one of a number of defined offences. As I understand it, the reason given at the time for retention of the death penalty in these latter situations was that

a person who kills in the course of armed robbery or rape can be said to have "deliberately" and "with premeditation" entered into a situation where he ought to have known a death might occur. Of course, these killings are perhaps not "premeditated" in the strict sense of the term, but at the moment the death penalty applies to them.

The statistics indicate that the total number of convictions for murder has increased in recent years, commencing in 1961. The increase is entirely on the "non-capital" side. Convictions for "capital" murders, as one might expect, have decreased somewhat. Of course, figures for recent years are not precise, in the sense that many of these cases in which convictions have been registered are still before the courts. (TABLES 1 and 2).

The available figures for penitentiary admissions, as given by the Commissioner of Penitentiaries in his annual report, confirm this increase. Commencing with 1962, the penitentiaries were consigned significantly larger numbers of persons sentenced for murder. Again, the great bulk of these have been in the non-capital category. (TABLE 3).

There is no logical reason why murder convictions should have increased after 1961. The increase has been in "non-capital" murder, which by definition is unplanned, not premeditated, and not committed in the course of some other serious crime.

The only reasonable explanation which occurs to me is that with the addition of this extra variety of culpable homicide, convictions are now being registered for "non-capital" murder which formerly would have been "manslaughter" or perhaps even "criminal negligence" convictions. Some of this may be occurring by way of the crown accepting guilty please to the lesser charge of "non-capital" murder. Where there is doubt about the degree of premeditation, juries are now, perhaps, bringing in non-capital convictions instead of manslaughter convictions. It is difficult to prove this conclusively.

However, the point can be borne out somewhat by looking at the combined totals for murder and manslaughter convictions. These annual totals have been increasing also in recent years, but not nearly so dramatically as the total of murder convictions taken alone. Of course, population growth must be taken into account, and it will be noted that the incidence of conviction for culpable homicide per one million of population is quite a static figure. The rate of convictions is in fact less today than it was fifteen or so years ago. (TABLE 4).

D.B.S. figures for victims of culpable homicide also indicate a fairly static situation. (TABLE 5).

Taking these other figures into account, then, I think the statistics indicate that the partial abolition of capital punishment which was introduced in 1961 has not really increased the likelihood of murder being committed in our communities. I think this tends to confirm what we have learned from other jurisdictions: that on the basis of the available data, capital punishment cannot be said to be a unique deterrent to murder.

Another statistical table which I would like to place on the record is the D.B.S. compilation of "family" murders. These are situations in which the persons killed are related, either by blood, marriage, or some common-law relationship, to the killer. These figures, both as to victims and incidents, are reported to D.B.S. by the police, and of course are not the same as the figures for convictions which I have already given. In any event, we can take them as a rough guide to the true situation, and the startling fact is that in every year between 40% and 50% of these homicidal situations involve related persons. There is a very strong suggestion that murder in our society is still very much a crime of passion.

This suggestion is borne out by a case-by-case study of capital cases considered by the Governor-in-Council between 1957 and the present. This is given at pages 100-102 of the Department of Justice booklet, Capital Punishment, and was brought up to date in the written answer given the Honourable Member for Carleton (Mr. Bell) on January 30, 1967. Since that latter date, there have been two more cases, one involving the death of a penitentiary inmate and the second a common-law wife.

Of the 98 cases reported, I calculate that 27 involved victims who were related to the killer in some way or another. Another 10 involved victims who were not strictly related to the killer, but who were involved with him in some emotional situation or triangle, as for example homosexual partners, fiancées, or spouses of paramours. Again, the 40% "crime of passion" ratio appears.

Of the 34 capital cases considered by the Governor-in-Council since 1962, after the division of murder into two classes, six have involved related victims and two others have involved persons in the second emotional category mentioned. Here, it appears that something like 25% of admittedly planned crimes, where no insanity was present, are "crimes of passion", in which considerations of deterrence are probably irrelevant.

Of course it must also be remembered that in many "family" murders, the killer commits suicide, before being apprehended by police. He never stands trial and thus never becomes a capital case for the consideration of the Governor-in-Council.

To sum up, then, I would say:

First, that the figures indicate that the number of persons convicted in each year of planned deliberate murder is very small, now less than 10 per year;

Second, that most murder convictions now are for non-capital murder, which by definition is unplanned, and for which abolition of the death penalty was in fact introduced in 1961;

Third, that the figures do not seem to indicate that the partial abolition of the death penalty in 1961 resulted in any significant increase in homicidal killings in Canada;

Fourth, that the very fact that any planned murders are being committed, in the face of the death penalty, indicates that the death penalty itself is not a complete deterrent to these repulsive crimes;

Fifth, that our figures suggest that something between 40% and 50% of all murders involve a family element, and are probably primarily crimes of passion which would not be deterred on any basis.

Finally, the incidence of culpable homicide, relative to the total population of Canada, seems to be fairly static. This would indicate that over a period of time, this problem remains of about the same dimensions. It cannot be shown that it is a much more serious social problem today than in past years.

TABLE 1: Persons Convicted of Murder and Sentenced to Death, by Year of Conviction. Canada 1950-1967. Department of Justice Statistics.

Year in which Conviction Registered.	Persons Sentenced to Death for Murder or Capital Murder; and Sentence Upheld on Appeal.
1950	13
1951	12
1952	18
1953	16
1954	15
1955	14
1956	10
1957	8
1958	19
1959	14
1960	8
1961	11
1962	10
1963	8
1964	3
1965	13 *
1966	10 **
1967 to Oct. 1	5 ***

* including 4 persons still before the appeal courts.
** including 7 persons still before the appeal courts.
*** including 5 persons still before the appeal courts.

Source: Records of the Department of Justice. Some of these figures were published at p. 65 of the publication Capital Punishment in 1965. They were added to in the answer to question 2025 on January 30, 1967 and have been brought up to date as of October 1, 1967 by the Department.

TABLE 2: Persons Convicted of Capital and Non-Capital Murder, by Year in Which Offence First Reported by Police. Canada 1961-1967. D.B.S.

Year in Which Offence First Reported by Police.	Persons Convicted of Murder or Capital Murder and Sentenced to Death.		Persons Convicted of Non-Capital Murder, and Sentence Upheld.	Total
	All Proceedings Completed.	Pending.		
1961	7	1	21	29
1962	8 *	2	32	42
1963	7 **	1	37	45
1964	8	6	37	51
1965	2 **	10	39	51
1966	0	4	25	29

* not including one person convicted of capital murder and sentenced to life imprisonment (under 18).

** not including four persons do.

*** not including two persons do.

Source: D.B.S., Murder Statistics, 1966.

TABLE 3: Number of Persons Admitted to Penitentiary to Serve Sentences for Murder and Manslaughter.

Year Ending March 30th	Capital Murder	Non-Capital Murder	Total Murder	Manslaughter	Total Homicide
1953			7	45	52
1954			8	65	73
1955			7	49	56
1956			4	32	36
1957			7	37	44
1958			8	43	51
1959			14	46	60
1960			13	59	72
1961			5	50	55
1962			26	32	58
1963			29	45	74
1964			41	48	89
1965	6	35	41	47	88
1966	8	34	42	55	97
1967	8	33	41	47	88

Source: Annual Reports of the Commissioner of Penitentiaries.

TABLE 4: Persons Convicted of Murder, Capital Murder, Non-Capital Murder, and Manslaughter, by Year of Conviction; Canada 1950-1965.

Year of Conviction	Murder or Capital Murder	Non-Capital Murder.	Manslaughter	Total	Rate per Million*
1950	13		84	97	7.0
1951	12		97	109	7.7
1952	18		78	96	6.6
1953	16		83	99	6.8
1954	15		82	97	6.4
1955	14		43	57	3.7
1956	10		87	97	6.0
1957	8		49	57	3.5
1958	19		40	59	3.4
1959	14		60	74	4.3
1960	8		51	59	3.3
1961	11	21	42	74	4.0
1962	10	32	53	95	5.1
1963	8	37	50	95	5.1
1964	3	37	56	96	5.0
1965	13	39	51	103	5.3

* Rate is calculated on basis of following census figures:

1941	-	11.5 million
1951	-	14.0 million
1956	-	16.1 million
1961	-	18.2 million
1967	-	20 million (est.)

Source:

(1) Figures for murder and capital murder are from Department of Justice records. Identical to data in Table 1 above. Appeals have been taken into account.

(cont'd)

(2) Manslaughter conviction figures are from D.B.S., Statistics of Criminal and Other Offences (annual). They do not take appeals into account and thus are overstated.

(3) Non-Capital Murder figures are from D.B.S. Murder Statistics (see Table 2 on previous page). The publication gives non-capital murder convictions by the year the offence was first reported to police, rather than the year of first conviction. Therefore, these figures are only roughly comparable with those given for murder and manslaughter, but are the only non-capital figures available. Appeals have been accounted for.

TABLE 5: Persons Whose Deaths Caused by Culpable Homicide, Canada, 1954-1965 D.B.S.

Year	Victims of Culpable Homicide	Rate Per 100,000
1954	157	1.2
1955	158	1.2
1956	171	1.3
1957	165	1.2
1958	198	1.4
1959	167	1.2
1960	244	1.6
1961	211	1.4
1962	249	1.6
1963	240	1.5
1964	238	1.5
1965	255	1.6

Source: D.B.S. Murder Statistics, 1966, Table 1. Figures given are obtained by D.B.S. from provincial death certificates. Obviously, it does not follow that convictions for culpable homicide would have followed, and data is a rough guide only. Homicidal deaths include murder, manslaughter, infanticide, assaults, poisonings.

TABLE 6: Murder Victims (as reported to police) by Family Relationship, Canada 1961-1966. D.B.S.

Year Reported	Total of "Murder" Victims Reported	Members of Immediate Family	Ordinary or Common-Law Kin	Total Related	% of total Involving Relatives
1961	185	70	24	94	50.8%
1962	217	73	28	101	46.5%
1963	215	74	22	96	44.6%
1964	218	62	28	90	41.3%
1965	243	78	30	108	44.4%
1966	220	77	23	100	45.4%

Source: D.B.S. Murder Statistics, 1966, tables 9 and 10.

TABLE 7: Murder Incidents (as reported to police) by Family Relationship, Canada 1961-1966 D.B.S.

Year Incident Reported	Total of "murder" Incidents Reported	Members of Immediate Family	Ordinary or Common-Law Kin	Total Incidents Involving Relatives	% of Total Involving Relatives
1961	173	64	23	87	50.3%
1962	196	60	26	86	43.8%
1963	193	60	22	82	42.5%
1964	199	54	22	76	38.7%
1965	215	57	26	83	38.6%
1966	204	68	23	91	44.6%

Source: D.B.S. Murder Statistics, 1966, tables 9 and 10.

File Away

141-306

Solicitor General.

M.J. O'Grady

October 2, 1967.

More Statistics on Murder.

In my earlier memorandum, I indicated that the figures showed a sudden increase in 1962 in the total number of persons being convicted of capital and non-capital murder. Here are some more statistics.

1. Statistics of penitentiary admissions seem to bear out the above thought. It is noticable that commencing in 1962 the number of persons admitted to serve sentences for capital and non-capital murder increased quite rapidly. (See Table 2 attached)

On the other hand, there has not been a comparable growth in the number of persons admitted to serve sentences for manslaughter, and in 1962 there was a drop in this figure. The suggestion is that what was once "manslaughter" has now become non-capital murder. Total admissions for murder and manslaughter offences have not grown nearly as dramatically as admissions for penitentiary sentences.

2. Combined totals for persons convicted of murder, non-capital murder, and manslaughter are given in Table 1. Again, the totals have risen since 1962, although they are not higher now than they were, for example, about 1954.

3. Table 3 gives numbers of persons charged in court with various culpable homicide offences. It will be noted that the number of persons charged with manslaughter has varied little in the last ten years or so, although, again, the number of persons charged with murder has increased since 1961.

4. Table 4 gives annual totals of persons charged with capital murder, non-capital murder, and manslaughter. This set of figures is the most stable yet, indicating relatively little change over a period of years.

5. Table 5 gives figures for the number of persons charged with murder by police in each of recent years, but not necessarily brought to trial.

mjo:gb

TABLE 1.

Persons convicted of murder, non-capital murder and manslaughter.

Year	Murder and Manslaughter	Total
1952	18 + 78	96
1953	16 + 83	101
1954	15 + 82	97
1955	14 + 43	57
1956	10 + 87	97
1957	8 + 49	58
1958	19 + 40	59
1959	14 + 60	74
1960	8 + 51	59
1961	11 + 42	53
1962	42 + 44	86
1963	45 + 55	100
1964	40 + 55	95
1965	35 + 57	92
14 year average		80.3

Source of murder conviction figures: Department of Justice, Capital Punishment, p. 65, as brought up to date by the Department.

Source of Manslaughter conviction figures:

1952-1961: D.B.S. "Statistics of Criminal and Other Offences". (Appeals not accounted for).

1962-1965: D.B.S. "Murder Statistics", as revised to take appeals into account. 1966 Publication brought up to date by D.B.S.

TABLE 2.

Number of persons admitted to penitentiary to serve sentences for Murder and Manslaughter.

Source: Annual Reports of the Commissioner of Penitentiaries.

Year Ending March 30th	Capital Murder	Non-Capital Murder	Total Murder	Manslaughter	Total Homicide
1953			7	45	52
1954			8	65	73
1955			7	49	56
1956			4	32	39
1957			7	37	44
1958			8	43	51
1959			14	46	60
1960			13	59	72
1961			5	50	55
1962			26	32	58
1963			29	45	74
1964			41	48	89
1965	6	35	41	47	88
1966	8	34	42	55	97
1967	8	33	41	47	88

TABLE 3.

Persons charged in court with offences causing death, and attempted murder or murder charges.

	Capital Murder	Non-Capital Murder	Attempted Murder	Manslaughter	Crim. Neg. Causing Death (excluding motor mansl.)
1952	48		11	132	
1953	33		9	140	
1954	32		8	137	
1955	34		9	78	
1956	23		9	166	
1957	39		19	64	5
1958	31		17	59	5
1959	51		22	66	14
1960	30		21	66	9
1961	38	19	28	51	9
1962	26	34	21	63	56
1963	28	63	22	62	20
1964	15	46	19	71	19
1965	31	52	16	61	21

Source: D.B.S. "Statistics of Criminal and Other Offences", Annual. (compiled by D.B.S. from court records).

TABLE 4.

Annual totals of persons charged in court with capital murder; non-capital murder; and manslaughter.

Year	No. of persons charged
1952	180
1953	173
1954	169
1955	112
1956	189
1957	103
1958	90
1959	117
1960	96
1961	108
1962	123
1963	153
1964	132
1965	144
Average for 14 years	132.3

Source: D.B.S. "Statistics of Criminal and Other Offences", Annual - compiled from court records (not police records).

TABLE 5.

Persons charged with Murder by Police in the first instance (only some of these were actually brought to trial).

Source: Murder Statistics, 1966, Table 2, p. 9, D.B.S.

Year	Persons charged
1962	147
1963	195
1964	175
1965	200
1966	204

NATIONAL PAROLE BOARD - COMPARATIVE STATISTICS RE PAROLE AS OF SEPTEMBER 30, 1967

YEAR	Cases Reviewed	Parole Denied		Minimum Parole in Principle	Parole Granted						Parole Violated		
		A.P.R.	Following Appl'n		Ordinary	For Deport'n	Short	Temporary	Minimum	Fed. Prov. TOTAL	Revoked	Forfeited	TOTAL
										(953) (1,269)			
1967	(8,597)	(1,026)	(1,993)	(308)	(1,793)	(50)	(94)	(88)	(197)	(2,222)	(116)	(127)	(243)
1966	10,431	1,496	2,868	447	2,067	37	86	101	205	2,496	157	156	313
	(7,500)	(1,141)	(2,148)	(307)	(1,366)	(23)	(55)	(64)	(145)	(1,653)	(112)	(119)	(231)
1965	10,868	1,829	3,696	598	1,776	27	102	87	305	2,297	158	134	292
	(8,254)	(1,441)	(2,814)	(510)	(1,341)	(15)	(67)	(64)	(251)	(1,738)	(119)	(93)	(212)
1964	9,982	1,875	3,830	383	1,528	37	123	66	98	1,852	114	95	209
	(7,267)	(1,396)	(3,040)	(52)	(1,073)	(27)	(84)	(48)	(6)	(1,238)	(75)	(61)	(136)
1963	9,560	1,738	3,945	-	1,519	37	169	64	-	1,789	122	114	236
	(6,923)	(1,207)	(2,797)	-	(1,179)	(24)	(123)	(51)	-	(1,377)	(86)	(82)	(168)
1962	9,048	1,384	3,701	-	1,592	29	168	83	-	1,872	97	114	211
	(6,711)	(1,002)	(2,860)	-	(1,118)	(18)	(111)	(71)	-	(1,318)	(75)	(78)	(153)
1961	9,896	1,413	3,991	-	2,009	42	162	84	-	2,297	115	141	256
	(7,350)	-	(4,030)	-	(1,497)	(32)	(89)	(67)	-	(1,685)	(75)	(109)	(184)
1960	7,240	517	3,077	-	2,227	49	183	66	-	2,525	97	94	191
	(4,859)		(2,268)	-	(1,610)	(33)	(105)	(52)	-	(1,800)	(77)	(71)	(148)
1959	5,120	-	2,790	-	2,038	-	-	-	-	2,038	60	58	118
	(3,317)		(1,812)	-	(1,312)	-	-	-	-	(1,312)	(36)	(34)	(70)

TOTAL PAROLES GRANTED FOR 105 MONTHS

" " REVOKED " " " - 1,036]
" " FORFEITED " " " - 1,033] —— 2,069

19,388

PERCENTAGE OF PAROLES REV. & FORF./ PAROLES GRANTED - 10.6%

REFER TO OUR NO.....
YOUR REF.....

CANADA

NATIONAL PAROLE BOARD

Ottawa, October 11th, 1967.

MEMORANDUM FOR THE SOLICITOR GENERAL:

FROM: T. G. STREET

re - Case Preparation Procedures
Death Commuted Cases

The case preparation procedures followed on Death Commuted cases are similar to the procedures followed in all parole cases but they are much more intensive and the reports obtained are much more extensive. Owing to the nature of the cases, the time taken to process such cases for presentation to the Board is often double that of the time taken to process an ordinary case. The Parole Service Officer who interviews the inmate at the time of application is an experienced senior officer.

The Board at the time of the initial review which occurs soon after the admission to prison of the inmate, has the Capital Case file which contains the following documents:

(a) Trial Judge's Report - This report indicates the man's attitude during his trial, any significant points in the circumstances of the offence. We also obtain a copy of the Judge's Address to the Jury and his recommendation to the Minister of Justice with respect to the possible commutation of sentence.

(b) Transcript of Evidence

(c) R.C.M.P. Identification Branch Report - which gives previous convictions if any.

(d) Police Investigation Report - This gives the detailed circumstances of the offence, the disposition of the charges against any accomplices, the attitude and cooperation of the offender upon arrest, the reputation of the offender and their view of what the public's attitude would be if the man were released on parole.

(e) Institutional Report

(f) Documentary Exhibits or Photographs

(g) Crown Attorney's Report

(h) Military Records

(i) Reasons for Judgment by Judges of Court of Appeal and Supreme Court of Canada

(j) All available psychiatric reports

.... 2

Case preparation procedures logically fall into two distinct phases. The first of these is the collection and compilation of data following the inmate's incarceration and the second follows the inmate's application which is usually received prior to the set date for his parole eligibility.

After the inmate applies for parole, about nine years later, the most active phase of the enquiry is carried out by the Special Categories Section at Headquarters. This is a thorough investigation to ensure that all aspects of the case have been carefully and fully completed.

The first phase of the investigation procedure is the collection of information following inmate's incarceration, including his history up until incarceration, and the planning for his program in prison.

The second phase is largely one of assessment together with further planning as required, and occurs after the inmate applies for parole. In the intervening years institutional reports are received which indicate his progress, behaviour and attitude.

PHASE I

Shortly after incarceration the inmate is interviewed by institutional personnel and their reports are made available to the National Parole Service. Among the persons reporting are:- Psychiatrists, Psychologists, Classification Officers. These reports indicate the state of the inmate upon admission, i.e. his mental health, his attitudes, his intentions with respect to learning a trade or improving his education,etc.

A Penitentiary Admission form is sent to the Board shortly after the inmate is received at the institution. This form gives information as to the date of the offence, name of the Judge, investigating police force, inmate's home address, age, occupation, names of accomplices if any.

In ordinary cases a report from the Trial Judge and investigating police force would be obtained, either automatically or by request. In Capital Cases, these reports are in the Capital Case file.

A case history is obtained from the Classification Officer of the prison which gives his family and religious background, education and occupation, marital status, health, social activities, preferences with respect to employment in prison and the inmate's version of the offence together with his impression or assessment of the inmate.

This is known as the preliminary review of the case at which time the eligibility date is set, which is ten years from the date of incarceration, and notification of this is given to the inmate.

.... /3

This is all done within the first four months of his sentence and after that time reports are received continually from the institutional authorities. These reports show the inmate's progress in the institution in such matters as employment, spare time activities, education, attendance at group therapy sessions, or alcohol anonymous sessions, institutional adjustment and participation in treatment and training programs. Reports are obtained from the psychiatrist or psychologist if the inmate has been seen by them..

In death commuted cases there are joint case conferences between the Parole Service and the Penitentiary Service to ensure the best use of all available resources to assist the inmate in his rehabilitation.

PHASE II

Starts with the institutional reports from virtually every officer who is in contact with the inmate, and includes the following:

Work Supervisor - reports on the man's work habits, industry, general aptitude to work;

Medical Report - covers the man's general health condition and what treatment he needs if any;

Educational Supervisor - reports on the inmates efforts and successes in any studies he has undertaken through correspondence or in prison;

Censor Clerk - indicates the man's attitude towards his family and those persons to whom he writes letters and information about his general outlook and attitude;

Classification Officer - who advises and counsels the man in detention, outlines his future plans for training and rehabilitation. He also gives us a complete assessment of the inmate and his attitude and progress;

Warden - also gives us an assessment of the inmate and his prospects for rehabilitation. The progress made in the institution, the effect imprisonment has had and his view as to the risk involved should the man be released on parole;

Psychiatric and Psychological - reports are obtained regularly if the man is being treated, and in any event before he is considered for parole, which give an assessment of his personal characteristics and the possibility of his repeating the offence.

.... 4

After the above reports are received, the Regional Representative of the National Parole Service interviews the inmate and gives us a complete report, together with his assessment of the inmate. This report covers the following:

Part One - Basic Investigation Report

Offence - (Official Version)

Criminal History - includes his version of his previous record and his comments about his previous history.

Views of Police, Court & other official law agencies

Personal History - Parents, siblings, home, health, school, sparetime, militia, drink, Church;

Personality Assessment on Admission

Previous Service Files

Other Relevant Information

Representations

Part Two - Parole Interview Report

Offence - Inmate's version, including his motive for committing the offence, if it is not evident.

Present Institutional Experience (inmate's version)

Release Plans - It is very important to know exactly what the inmate intends to do if he is released and to decide if his parole program is suitable. Since he will have been in prison a long time, it is often necessary to help him find a place to live, a job and someone to look after him and to arrange for support and assistance in the community.

Institutional Assessment

Parole Officer's Assessment - The Parole Officer gives his assessment of the inmate and his attitude and his readiness for parole. His motivation and the likelihood that he will behave himself and not commit further crimes. The adequacy of his release plans and the possibility of employment and the availability of community resources.

SPECIAL ACTION

The man is interviewed by a Psychologist and Psychiatrist and if there is any indication of any problem he is referred to a panel of Psychiatrists for examination and assessment.

A case conference is held with the Regional Representative of the Parole Service and the Senior institutional personnel. This is to ensure that all facets of the case are fully understood by all concerned and to ensure that the reports are complete and accurate.

.... 5

Part Three - Community Investigation Report

Community Findings - The Regional Representative obtains a community assessment report. This is to get accurate information about where the man will live and work and who will help him. This enables him to assess the acceptance the man will receive in the community and anticipate any problems he may have. This is also to ensure that the parole plan is adequate and beneficial and to know of the community resources which are available.

It is necessary to interview persons who are willing and able to assist the inmate if he is released and to ensure that he obtains all the assistance required and to arrange for adequate and intensive supervision.

Part Four - Appraisal and Recommendation

Upon receipt of the community assessment report the Regional Representative prepares an appraisal of the case, together with his recommendation for or against parole, including the strengths and weaknesses of the inmate and the community and its resources.

If the recommendation is for parole a program of gradual release is arranged. This gives the inmate an opportunity to become familiar with life on the outside of the institution gradually. This period of reassociation is necessary because of the lengthy period of his incarceration.

When all the reports above mentioned are received, the Special Categories Section at Headquarters makes an intensive review of all reports to ensure that all aspects of the case have been thoroughly investigated before submitting the case to the Board. At this time particular attention is paid to any possible problems of mental illness, instability or personalty defects. The inmate's motivation and ability to leade a law-abiding life are carefully assessed.

The case is then submitted to the Board and if the Board is in favour of the parole, it is submitted to Cabinet for its approval.

If Cabinet approves parole, the gradual release program is put into effect during which time the inmate is further assessed and eventually is released on parole.

.... 6

After release on parole, regular reports are obtained from the supervisor which are presented to the Board. If any problems occur during his parole period, they are immediately and quickly dealt with and the necessary action is taken to ensure that the inmate does not misbehave or revert to crime.

10-10-67. T. G. Street.

MESSAGE

DATE	FILE/DOSSIER	SECURITY SECURITE
OCT.13/67		RESTRICTED

FM/DE EXTERNAL

NO	PRECEDENCE
L-980	IMMEDIATE

TO/A LONDON

INFO

REF

SUB/SUJ UK MURDER STATISTICS

FOLLOWING FOR E.G. IEE IF AVAILABLE.

GRATEFUL TO LEARN SOONEST WHETHER UK AUTHORITIES ARE ABLE TO SUPPLY LATER FIGURES RELATING TO MURDER STATISTICS THAN THOSE CONTAINED IN HANSARD JUN17/65 TABLES 1 AND 6.

DISTRIBUTION
LOCAL/LOCALE NO STANDARD REF DONE IN DIVISION cc: Mr. T.D. MacDonald, Deputy Solicitor-G

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
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EXT 18/BIL (REV 5/64)
(COMMUNICATIONS DIV)

2. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

2. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

File Away

141-206

MEMORANDUM

CLASSIFICATION

TO / A: Deputy Solicitor General.

YOUR FILE No. / Votre dossier

OUR FILE No. / Notre dossier

FROM / De: M.J. O'Grady.

DATE: September 29/67.

SUBJECT / Sujet: Capital Punishment Bill.

This is further to my earlier memorandum relating to the various votes which took place in the House of Commons last year.

I indicated that our Bill does not include all the amendments of last year, particularly in regard to some varieties of "second murders".

I should have pointed out that our Bill also does not go as far as the main resolution before the House last year, in that it does not abolish capital punishment in cases other than murder, as provided for in the Code.

Specifically these would include:

(1) Those varieties of treason which are punishable by death, as per Sections 46 and 47 of the Code;

(2) Murder or attempted murder, or the commission of any act likely to endanger life, while committing piracy as defined by international law. Section 75 of the Code provides the death penalty for such acts.

By our legislation, the death penalty would be retained in these circumstances.

Original Signed by
M.J. O'GRADY

D. W. MacDonald.

MEMORANDUM

CLASSIFICATION

TO / A: Solicitor General

YOUR FILE No. / Votre dossier:

OUR FILE No. / Notre dossier:

FROM / De: M.J. O'Grady

DATE: September 21/67

FOLD

SUBJECT / Sujet: Mr. Fulton's remarks on non-capital murder legislation, 1961.

You asked me to synopsize the remarks made by the then Minister of Justice, Mr. Fulton, during the debate on Bill C-92 of 1961, an act to amend the Criminal Code by inserting Section 202A defining non-capital murder.

1. The Bill.

This legislation was given first reading on May 15, 1961, and second reading on May 24, 1961 by a vote of 139-21. No member of the present government opposed second reading, and in fact Messrs. Hellyer and Martin voted for it, as did Miss LaMarsh. Third reading was given on June 6, 1961 by a vote of 161-17, and Royal Assent on July 13.

2. In the course of his remarks, Mr. Fulton stressed the following points.

(i) "The Bill now presented to the House represents the most progressive and far-reaching move in this field in Canada since we did away with public hanging".

(ii) Mr. Fulton thought that the approach of the Homicide Act 1957 (U.K.) was unsatisfactory, in that it centered on the method or weapon by which the killing was accomplished, or in certain cases upon the person or class of person killed, rather than on the nature and circumstances of the crime itself. "This has produced some arbitrary and rather unsatisfactory results. Thus, if a person kills another by shooting he is liable to the death penalty,

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whereas if he strangles or clubs him to death he may avoid that penalty although the latter crime may be more callous, brutal, or premeditated than the former. We have sought to avoid this kind of result in making our division ... ".

(iii) He said that "While the authorities are of some assistance and the debates have been of help, nevertheless this is an area where views are held with such depth of feeling that they are never going to be changed by mere weight of argument or statistics. Indeed, on the question of the deterrent effect especially, statistics cannot give a satisfactory answer; there are no statistics of murders not committed".

(iv) He said the Government had been "mindful of the fact that the criminal law must endeavour to translate into an enforcable code the highest concepts of the moral and legal standards by which society desires to be governed, while at the same time, since it must command respect if it is to achieve this purpose, it must broadly reflect the actual state of public opinion".

(v) He said the new Bill avoided the rather arbitrary and rigid classification found in the British Homicide Act, and put more emphasis on the element of deliberation as the requisite for capital murder than had usually been the case in the United States. It had also provided for an automatic review by the Court of Appeal, and for an appeal as of right to the Supreme Court of Canada. He thought the crimes giving rise to the "felony murder" aspect of this Bill "generally speaking involve willfulness or premeditation taken in the broad sense of those words".

(vi) The main basis of his argument was as follows:

"The general base on which it rests insofar as concerns the retention of capital punishment for deliberate murder is this: that society requires for its preservation and protection that certain laws be observed. The whole basis of society, in the sense of any ordered form of life, would dissolve and chaos would reign if we did not have laws embodying that code of conduct by which, collectively, we say we desire to live. And because we live in an imperfect world, these laws require sanctions. Now, there are laws or rules

of conduct of greater or lesser importance; therefore there are and must be sanctions of greater or lesser degree. But whatever be the sanction it is not a matter of retribution or revenge: it is an integral and essential element necessary to ensure the moral as well as the material vigour of a system of laws of which it is a part. If there is no sanction, the law ceases to have any effect.

Society's concern for its basic rules is expressed in its commands and corresponding sanctions that together constitute our criminal law. The degree of society's concern with respect to individual rules is reflected in the method of expression adopted.

In this sense, therefore, the sanction for the law against murder may properly reflect the importance which society attaches to the maintenance of that law. In our view, Canadians properly attach so high a value to the sanctity of human life that the law which translates this feeling into effective form should provide the maximum sanction for its deliberate breach, and no other penalty would be considered adequate". (Hansard, May 23, 1961, p. 5223).

(vii) He said that he felt two categories of murder should be provided. "The first is the case where the death results as a deliberate and planned end in itself. The killing was intended; the death penalty is automatically invoked. The second is the category in which, although a killing itself may not have been consciously and initially planned, yet the course of action embarked upon or planned had within it such an element of criminality and violence, as well as of deliberation or stealth, that the killing must properly be regarded as deliberate by the person who did it or who counselled or procured the doing of the act which caused it. This type of killing then is also made to fall within the category of capital murder". (Hansard, May 23, 1961, p. 5224).

(viii) Mr. Fulton noted that the new rules would protect accomplices from the death penalty, where they were not the persons who actually did the killing, or counselled or procured the killing. He thought this was an important step forward.

(ix) He said "Juries and indeed the whole administration of this branch of the criminal law will be immeasurably

assisted by this new approach. ... from now on they will know that the law itself takes formal account of the thousand and one different combinations of circumstances that may lead to or from the background of any such event which brings an accused before them on a charge of murder".

(x) He thought the provisions requiring the jury to be asked whether it had a recommendation would be very important, especially in respect of the Cabinet's duty to consider clemency. He said there were two points to emphasize about the Cabinet's role in the picture:

"The first is that it does not constitute any sort of review or reversal of the jury's verdict or the judge's sentence. The trial is over, and pronounced sentence as provided by law. But now that same law says to the Cabinet, you now have the duty of examining all aspects of the case including those that may not have been before the court, to see whether the sentence in this case should be carried out.

The other feature is this. Although the making or withholding of a recommendation is and will continue to be of very real import, the discretion of the executive as to the advice it tenders to His Excellency is unfettered. It is not a question of determining again the guilt or innocence of the condemned man according to law; it is the system in which the law imposes upon the Cabinet at the ultimate stage the duty of determining whether in this individual case the law should take its course. It is a solemn and extremely difficult task, but it is a feature of our system which gives assurance of the preservation of an essential feature of any system of justice: that it shall be tempered with mercy".

MEMORANDUM

CLASSIFICATION

TO / A: Solicitor General

YOUR FILE No. / Votre dossier

OUR FILE No. / Notre dossier

FROM / De: M.J. O'Grady

DATE: Sept. 20/67

FOLD

SUBJECT / Sujet: Murder statistics in Canada; incidence of murders before and after introduction of "non-capital" section (Section 202A, C.C.) in 1961.

1. THE HYPOTHESIS: is that one cannot demonstrate from the statistics that the partial abolition of capital punishment (which was implicit in the "non-capital murder" legislation of 1961) contributed in any way to an increase in the number of persons committing murder annually in Canada. The logical extension of such a hypothesis - if the hypothesis could be proved - would be that total abolition of capital punishment would not increase murder rates either.

2. THE STATISTICS: are as follows, and should be read in the light of these remarks:

(a) Statistics as to the number of persons sentenced to death come from the supplementary table which appears at page 65 of the Department of Justice publication, Capital Punishment. These were added to in your answer to Question number 2025 (Mr. R.A. Bell) which appears in Hansard for January 30, 1967 at page 12397. They have been further brought up to date by Mr. John MacKay of the Justice Department.

These figures give the numbers of persons who were sentenced to death and whose sentences were upheld at every stage of the judicial process. Appeals have been accounted for, and original figures adjusted as the appeal results came in.

The figures also take into account cases where the same man is sentenced to death twice (aswhere his original sentence results in an appeal court/for a new trial, at /order which he is found guilty and sentenced again).

(b) Statistics for non-capital murder for the years 1962, 1963, 1964, and 1965 are available only from D.B.S. and specifically from Table 4 on page 10 of the publication "Murder Statistics, 1966", published by D.B.S. in September, 1967. Mrs Mullholland of the Judicial Section of D.B.S. has given me (by telephone) up-to-date corrections to

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these figures.

Again, the figures take into account the appeal process, and attempt to give the number of persons sentenced for non-capital murder, and whose convictions stood up at every stage.

Year in which conviction first registered.	Persons sentenced to death and for whom the sentence was confirmed by the appeal process.	Persons sentenced for non-capital murder: and ~~sentence~~ upheld.	TOTAL
1950	13		13
1951	12		12
1952	18		18
1953	16		16
1954	15		15
1955	14		14
1956	10		10
1957	8		8
1958	19		19
1959	14		14
1960	8		8
1961	11		11
1962	10	32	42
1963	8	37 x	45 x
1964	3	37 xx	40 xx
1965	13*	39 xxx	52*xxx
1966	10**	25 xxxx	35**xxxx
1967 to date	5***		

* - including 4 persons still before the appeal courts.
** - including 7 persons still before the appeal courts.
*** - including 5 persons still before the appeal courts.

x - not including 4 persons still pending on assorted charges of culpable homicide.
xx - not including 7 persons still pending on assorted charges of culpable homicide.
xxx - not including 8 persons still pending on assorted charges of culpable homicide.
xxxx - not including 123 persons still pending on assorted charges of culpable homicide.

3. CONCLUSIONS:

(a) Generally, it appears the hypothesis is a tenuous one. Beginning in 1962, there appears to have been quite a dramatic increase in the number of persons convicted of murder of either the capital or non-capital variety.

(b) One explanation for the sudden change would be that the partial abolition measures of 1961 encouraged the commission of murders.

(c) An alternative explanation (also hypothetical) would be that many cases are now being proceeded with as "non-capital-murder" which were formerly proceeded with as "manslaughter" or (perhaps) "criminal negligence causing death". This cannot be well demonstrated, however, from such statistics as are available.

The D.B.S. publication "Statistics of Criminal and Other Offences" gives the following "manslaughter" figures for the years 1952-1965. Charges and convictions are compiled, but no attempt is made to follow up individual cases through the appeal process: therefore the number of convictions is no doubt overstated. In any event, it will be noted that in recent years there is little growth in these categories, although we know the population of Canada is growing, and as shown the "non-capital murder" business is very active.

... 4

Year	Number of manslaughter charges	Convictions
1952	168	78
1953	153	83
1954	145	82
1955	78	43
1956	174	87
1957	65	49
1958	61	40
1959	68	60
1960	70	51
1961	57	42 *
1962	66	53 (44)
1963	65	50 (55)
1964	72	56 (55)
1965	64	51 (57)

* the figures in brackets are the adjusted (adjusted to the appeal process, lesser charge process etc.) given in the D.B.S. publication "Murder Statistics", which commences with 1962.

File Away

1441-206 000132

File Away

1411-20

MEMORANDUM

CLASSIFICATION

TO / A: Deputy Solicitor General

YOUR FILE No. / Votre dossier:

OUR FILE No. / Notre dossier:

FROM / De: M.J. O'Grady

DATE: Sept. 20, 1967.

FOLD

SUBJECT / Sujet: Capital Punishment Bill

This refers to your memorandum to me of September 12, 1967, in which you asked whether the proposed capital punishment bill incorporates all the amendments which were placed before the House of Commons in the debate of March and April, 1966.

The various motions before the House of Commons in 1966 were worded as follows:

(a) The main motion of Messrs. Byrne, Nugent, Scott (Danforth) and Stanbury:

"That it is expedient to introduce a measure to amend the Criminal Code for the purposes of

(i) abolishing the death penalty in respect of all offences under that Act;
(ii) substituting a mandatory sentence of life imprisonment in those cases where the death penalty is now mandatory;
(iii) providing that no person upon whom a mandatory sentence of life imprisonment is imposed shall be released from imprisonment without the prior approval of the Governor-in-Council.

This motion came up for a vote as the final piece of business on April 5, 1966, and was negatived 143-112.

(b) An amendment was proposed by Mr. Gauthier (seconded by Mr. Godin) that the main motion be amended

(i) by adding to paragraph (a) thereof the words "(except capital murder, as now defined, committed while under a sentence of life imprisonment";

(ii) by adding to paragraph (b) thereof the words "except in the case of capital murder committed

CGSB-GGP 33d Press Cat. No. 3381

while under a sentence of life imprisonment";

(iii) by inserting in paragraph (c) thereof immediately after the word "imposed", the words "or in respect of whom a sentence of death is commuted".

The question was put on the amendment at 8.00 p.m. on April 4, 1966, and Mr. Gauthier's motion that the main motion be amended was defeated 199-23.

(c) It was then moved by Mr. MacDonald (Rosedale) (seconded by Mr. Chretien) that the main motion be amended by inserting therein, immediately after the words "Criminal Code" the following words: "on a trial basis for a period of five years".

Mr. MacDonald's amending motion was put to a vote at 5.45 p.m. on April 5, 1966, and his motion was defeated 138-113.

(d) The final amendment was contained in a motion by Mr. Klein (seconded by Mr. Laflamme), to the effect that the main motion be amended

(i) by adding to paragraph (a) of the motion the words "except the capital murder of a police officer, prison guard, or other person as described in sub-paragraph (i) or (ii) of paragraph (c) of subsection (2) of section 202A of the Criminal Code"; and

(ii) by adding to paragraph (b) of the motion the words "except in the case of the capital murder of a police officer, prison guard or other person as described in sub-paragraph (i) or (ii) of paragraph (c) of subsection (2) of section 202A of the Code"; and

(iii) by inserting in paragraph (c) of the motion immediately after the word "imposed", the words "or in respect of whom a sentence of death is commuted".

Mr. Klein's amending motion was put to a vote at 9.30 p.m. on April 5, 1966, and was negatived 179-74.

In the result, the House voted on four separate occasions.

The vote on Mr. Gauthier's amending motion was in effect on the question of total abolition, except for persons committing murder while under a sentence of life imprisonment.

The vote on Mr. MacDonald's amending motion was on the question of total abolition for a trial period of five years.

The vote on Mr. Klein's amending motion was on the question of total abolition for an unlimited period except in the case of capital murder of a police officer, prison guard, or other peace officer as defined in Section 202A.

The vote on the main motion, of course, was on the question of total abolition for all purposes, and without any time limitations.

Therefore, it is clear that there was no single vote which encompassed the three qualifications referred to by the persons moving amendments.

On the other hand, the proposed Bill

(i) Limits the definition of "capital murder" to the murder of a police officer or other peace officer, or prison authority;

(ii) Continues in force for only five years unless renewed by Parliament.

The present Bill does not consolidate all the amendments that were offered during the 1966 debate in the following respects:

(i) Mr. Gauthier's amendment would have had the effect that a person under ~~the~~ sentence of life imprisonment who committed capital murder against a person other than a peace officer or prison authority (as for example a fellow inmate, or a visitor to the prison) would have been subject to the death penalty. The proposed bill does not appear to catch this situation.*

The MacDonald and Klein amendments, however, are incorporated in the present Bill.

* Presumably Mr. Gauthier's death penalty formula would also have applied to persons committing murder while on parole from a previous murder sentence.

MFO

TDM/ROP

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, September 12, 1967

MEMORANDUM FOR: MR. M. J. O'GRADY

FROM: DEPUTY SOLICITOR GENERAL

Re: Capital Punishment Bill

The Solicitor General would like you to research the following point.

He would like to be in a position to say that while the Bill is not the same as the Resolution that was voted on last year, it is not dissimilar and that it has the advantage of rolling up all the amendments that were put forward in 1966 into one package so that they can be voted upon as such.

For example, as I remember it, there was an amendment to exempt murders of policemen and prison guards from the Resolution, another amendment limited it to five years duration, and so on. Does the present Bill consolidate all the amendments that were offered to the 1966 Resolution.

T.D.M.

File Away

141-20 C 000138

MEMORANDUM

CLASSIFICATION

TO
A SOLICITOR GENERAL
Copy: Deputy Minister

YOUR FILE No.
Votre dossier

OUR FILE No.
Notre dossier

FROM
De G.C.Koz

DATE 18 Sept.1967

FOLD

SUBJECT
Sujet DBS Publication "Murder Statistics,1966"

I attach herewith the highlights of the DBS publication "Murder Statistics,1966", presented in a graphical form, for easy reference:

- Murders & Homicidal Deaths 1962-1966; year-by-year
- " " " " ;by 3-years intervals
- Disposition of Murders (victims) and Persons charged with murder
- Distribution of Murders by Province
- Distribution of Murder-suspects by Sex and Age-groups

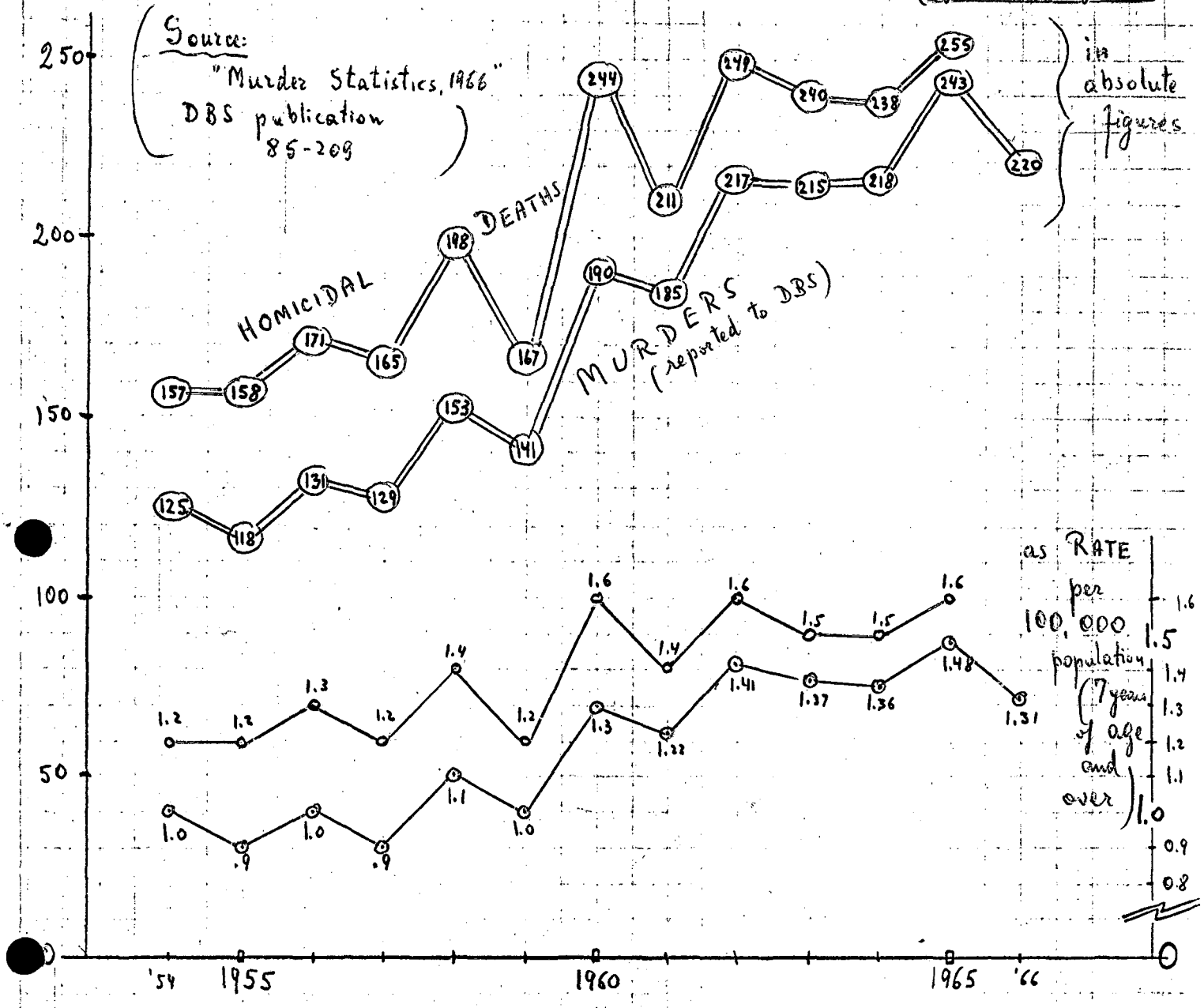
Ecker

7

CGSB—8GP22d PARS Cat. No. 3591

MURDERS (reported to D.B.S.) and HOMICIDAL DEATHS: 1954-1966

(year-to-year)



Remarks:

(1) Data for 1954-1960 does not include reporting by Quebec Provincial Police; therefore, figures are realistic only since 1960.

(2) Improved reporting to D.B.S. occurred since 1960: this is reflected in rates for murder and homicidal deaths becoming nearly identical (the two curves coming close together).

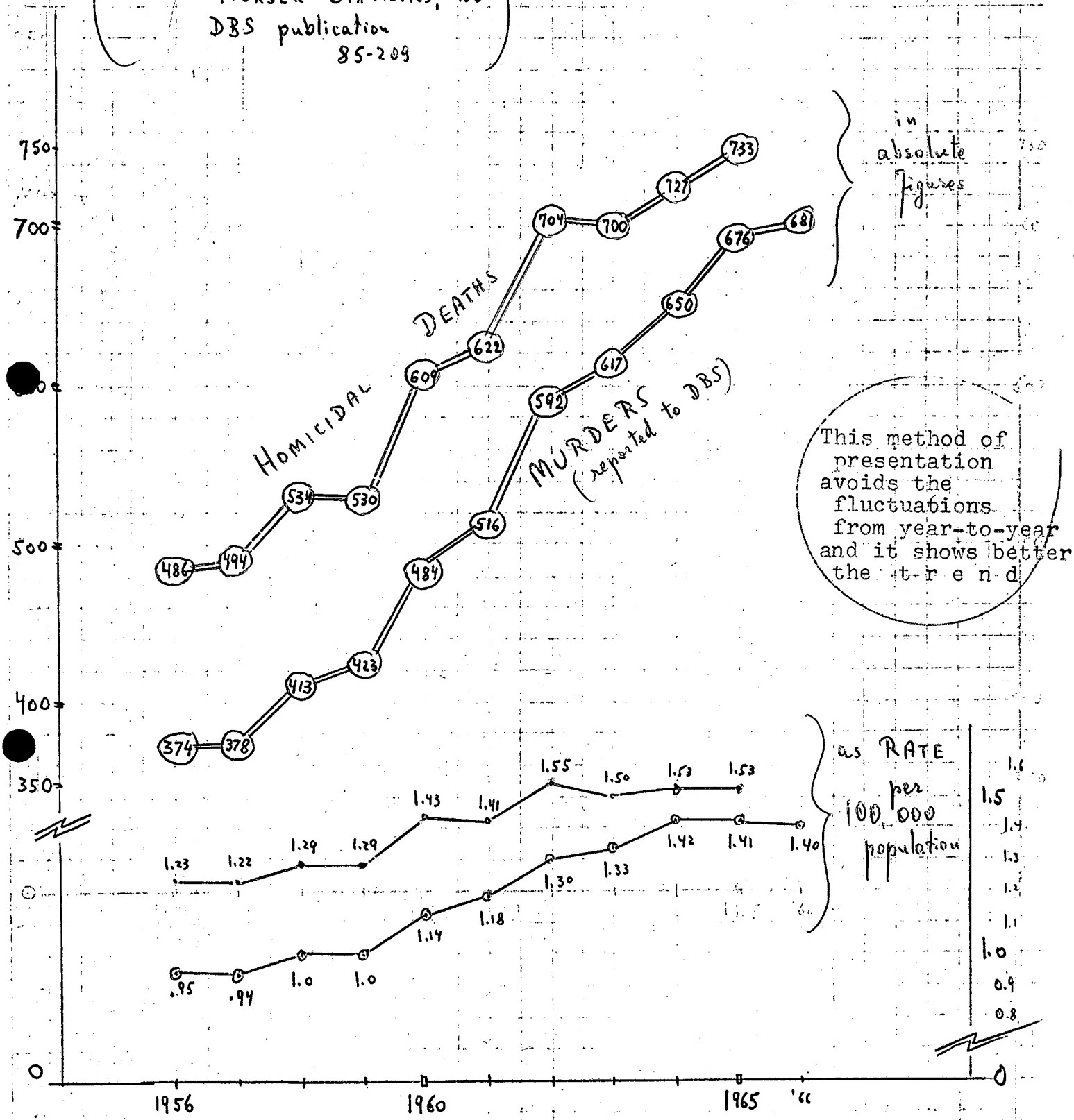
(3) Homicidal deaths include murder, infanticide, non-accidental manslaughter, assaults (by any means) and poisoning (by other person). Deaths include the demise of Canadian residents in U.S.A. but exclude deaths of all non-Canadian residents occurring in Canada.

Drawn by: G.C.K.
15.2.67

MURDERS (reported to D.B.S.) and HOMICIDAL DEATHS: 1954-1966

(by 3-years interval ending with the year shown)

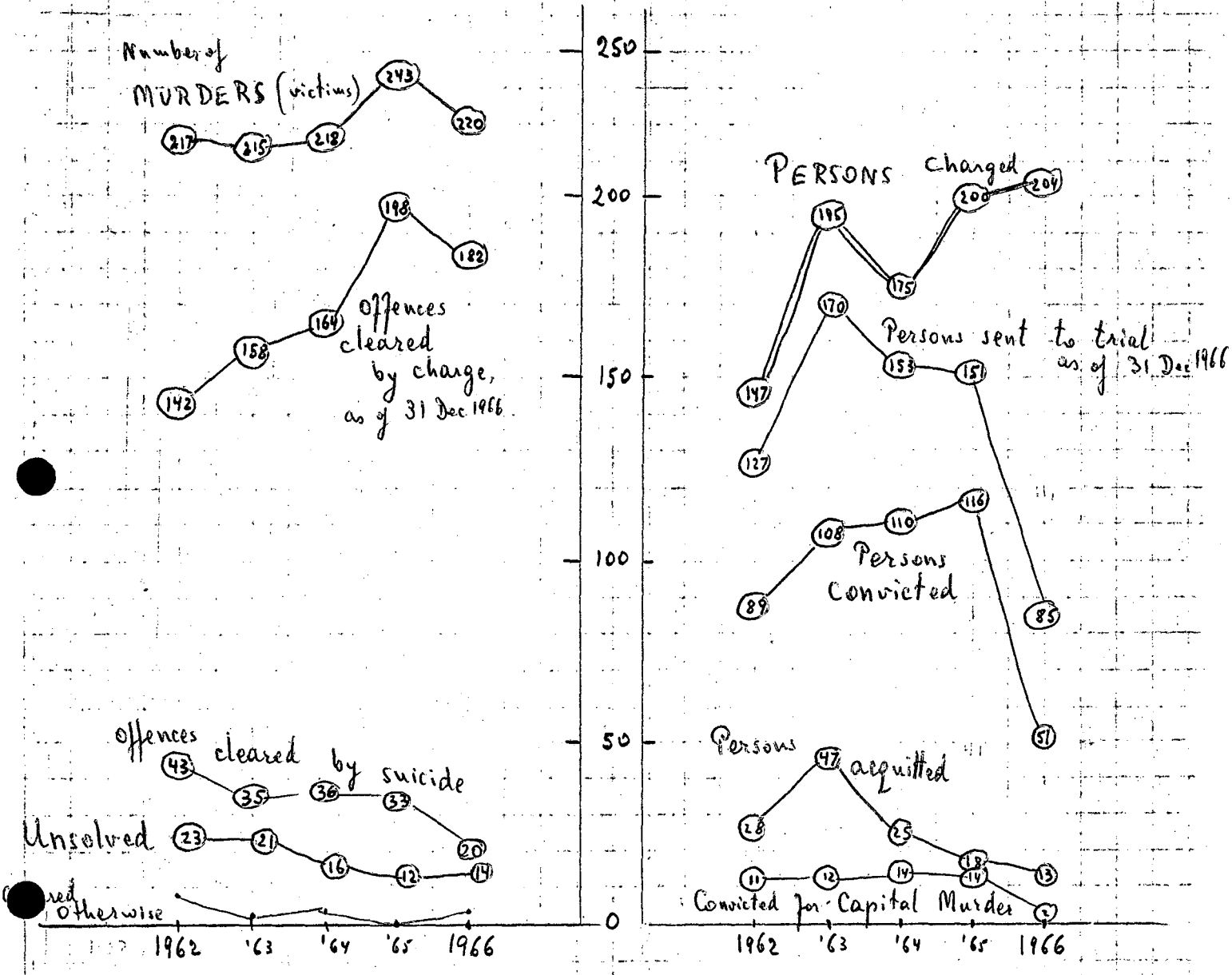
(Source: "MURDER STATISTICS, 1966" DBS publication 85-209)



This method of presentation avoids the fluctuations from year-to-year and it shows better the trend.

Compiled & drawn G.C.K...
15.9.67

Disposition of MURDERS, 1962-1966, by December 1966



Remark:

The number of persons charged is lower than the number of murders reported (victims), although 92.3% had been cleared by the police.

This is because some suspects commit suicide and some murders are unsolved. In addition, an act of murder may have more than one victim or more than one suspect.

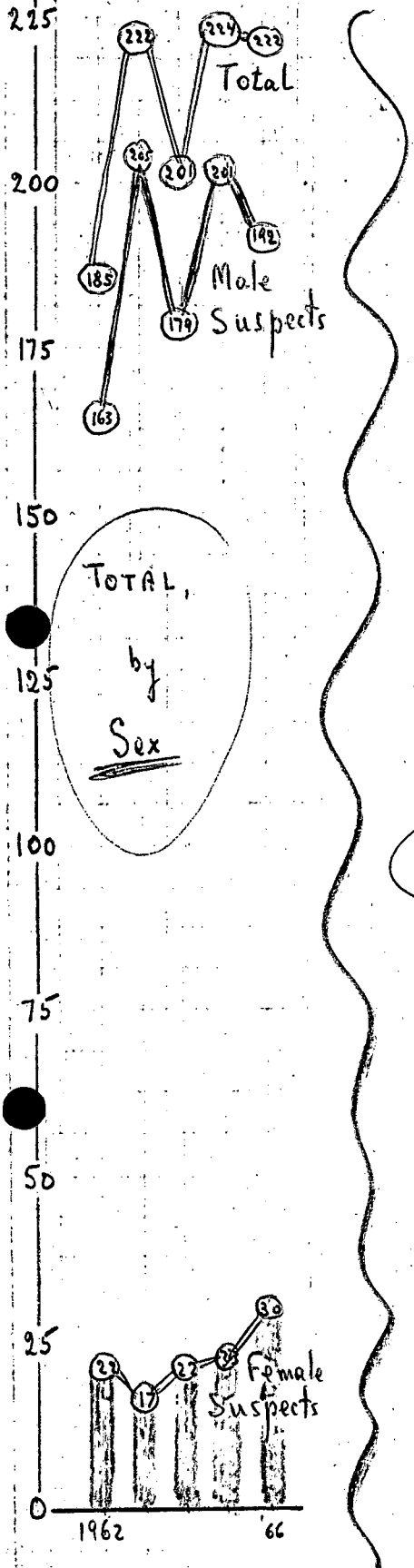
Source: "Murder Statistics, 1966" (Table 2 and 4)
DBS publication, 85-209

Drawn by
GCK
15.9.6

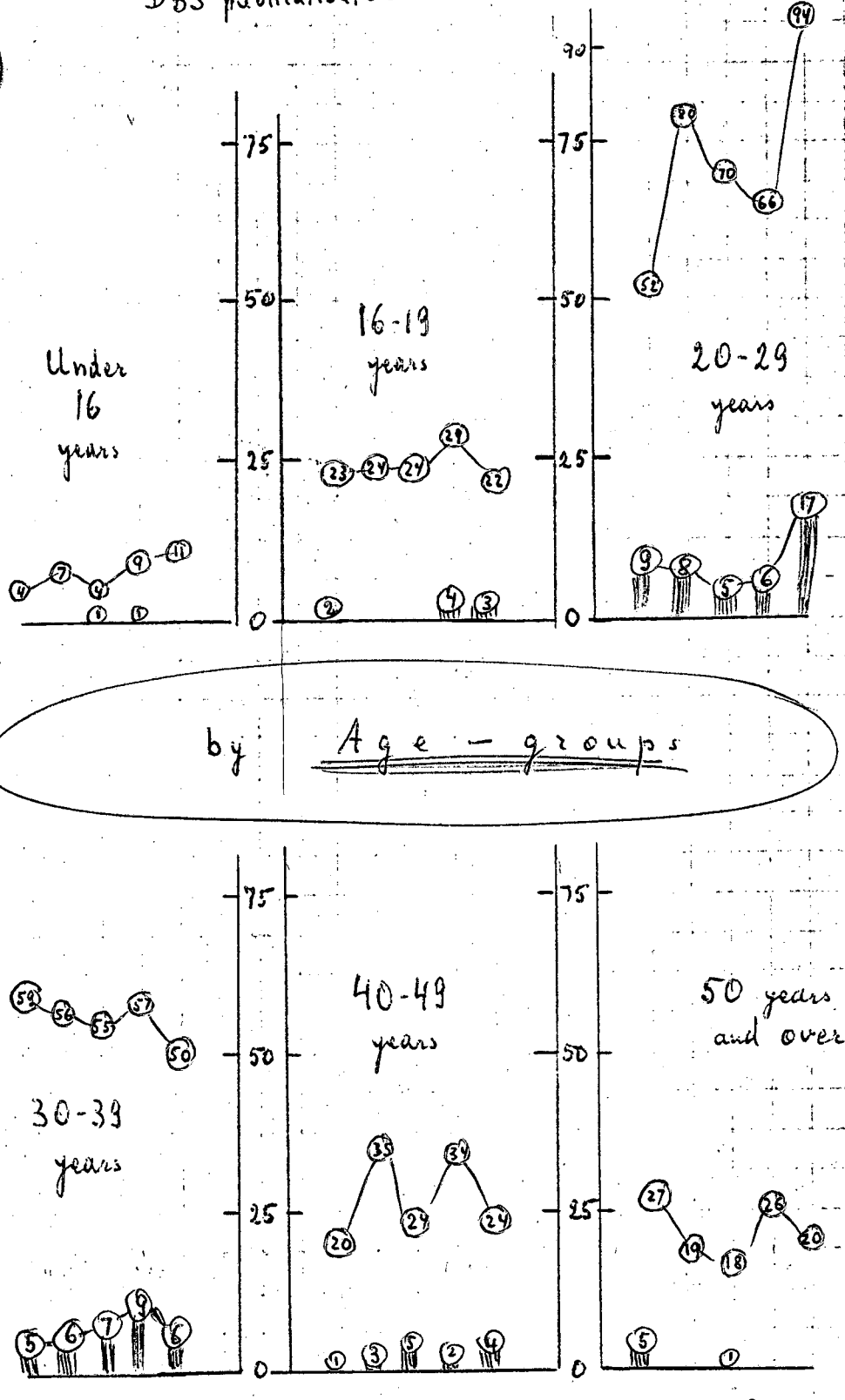
MURDER Suspects -- by Sex and Age-groups (1962-1966)

Source: "Murder Statistics, 1966" (Table 11)
DBS publication, 85-209

TOTAL, by Sex

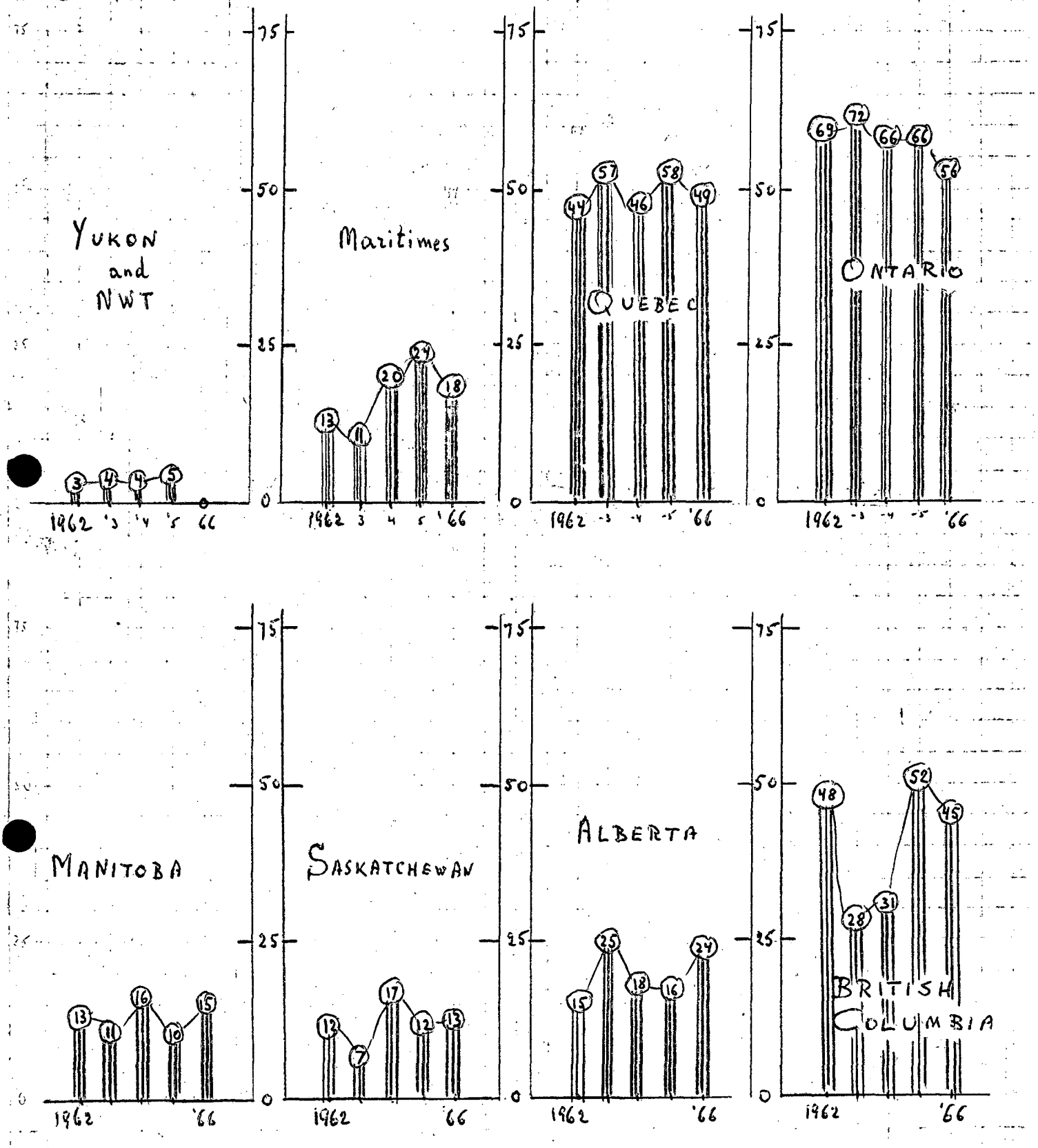


by Age-groups



Drawn by:
G C Kerr
15.9.67

MURDERS (victims) by Province: 1962-1966



Source: "Murder Statistics, 1966" (Table 9)
DBS publication 85-209

Drawn by
GCK.
15.9.67

File Away

TDM/ROP

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, September 12, 1967

MEMORANDUM FOR: MR. M. J. O'GRADY

FROM: DEPUTY SOLICITOR GENERAL

Re: Capital Punishment Bill

The Solicitor General would like you to research the following point.

He would like to be in a position to say that while the Bill is not the same as the Resolution that was voted on last year, it is not dissimilar and that it has the advantage of rolling up all the amendments that were put forward in 1966 into one package so that they can be voted upon as such.

For example, as I remember it, there was an amendment to exempt murders of policemen and prison guards from the Resolution, another amendment limited it to five years duration, and so on. Does the present Bill consolidate all the amendments that were offered to the 1966 Resolution.

T. D. MacDONALD

T.D.M.

M. Street

NATIONAL PAROLE BOARD

COMMISSION NATIONALE DES LIBÉRATIONS CONDITIONNELLES

Ottawa, August 31, 1967

MEMORANDUM TO ALL REGIONAL & DISTRICT OFFICES,
HEADS OF DIVISIONS AND SECTION SUPERVISORS
(with copy to Board Members)

Re: Statistical Summary
Second Quarter 1967

Attached, for your information, is a summary of regional and district office statistics for the second quarter, April 1 to June 30, 1967.

There were no outstanding changes from the previous quarter. However, it might be noted that the second quarter showed slight increases in the number of paroled inmates under supervision at June 30, as compared with March 31. There was an increase of 42 cases under direct supervision, approximately 8% more than at March 31, and an increase of 40, or 2.5%, under assigned supervision.

It might also be noted that the number of visits to institutions increased slightly, rising from 714 in the first quarter to 736 in the second quarter. There was also an increase in inmate interviews of approximately 8%, with the number rising from 1,918 in the first quarter to 2,068 in the second quarter. Other activities in regional and district offices were generally comparable and showed no significant change.

J. H. Leroux,
Assistant Executive Director,
National Parole Service.

NOTE:
* - Includes 32 collateral field visits to family, employers, etc.

REGIONAL AND DISTRICT OFFICE QUARTERLY STATISTICS
SECOND QUARTER -- APRIL 1 - JUNE 30, 1967

		Halifax	Moncton	Granby	Quebec	Laval	Montreal	Kingston	Hamilton	Toronto	Winnipeg	Prince Albert	Calgary	Edmonton	Abbotsford	Victoria	Vancouver
Supervision of Paroled Inmates (Regional & District Offices)	- Carry over	29	8	4	10	3	211	13	5	26	20	11	10	6	29	10	105
	- New cases	13	11	1	4	-	61	3	1	9	6	2	6	2	6	2	30
	- Transferred in	5	-	-	-	-	14	-	1	1	2	-	-	-	5	2	2
	- Transferred out	2	2	-	2	-	2	-	2	1	1	-	-	1	3	-	11
	- Discharged	13	6	3	3	-	35	1	1	6	6	1	5	1	4	-	13
	- Suspended	-	-	-	-	-	6	-	-	-	1	1	-	-	2	-	9
	- Revoked	1	-	1	-	-	1	-	-	-	-	-	-	1	-	-	-
	- Forfeited	2	-	-	-	-	2	-	-	-	2	-	-	1	-	-	2
	- Reduced	-	-	-	-	-	1	-	-	1	-	-	-	-	-	-	-
	- Total in charge at June 30, 1967 ...	29	11	1	9	3	246	15	4	26	19	12	11	4	31	14	102 - 537
Supervision of Paroled Inmates (Agencies, etc.)	- Carry over	78	55	36	95	-	219	92	215	324	135	56	45	56	39	31	58
	- New cases	15	39	17	39	-	68	22	54	98	49	27	15	18	11	8	16
	- Transferred in	1	4	2	-	-	5	-	8	6	3	-	1	1	3	1	1
	- Transferred out	6	2	-	4	-	7	1	3	6	4	1	-	-	3	2	1
	- Discharged	25	22	11	28	-	53	23	48	58	35	14	9	18	6	7	7
	- Suspended	2	2	-	-	-	3	1	12	7	5	10	1	-	-	1	6
	- Revoked	1	-	-	-	-	3	-	7	9	4	-	-	3	-	-	-
	- Forfeited	3	-	-	1	-	6	-	8	5	5	1	1	2	1	-	-
	- Reduced	1	-	-	-	-	-	-	-	1	2	-	-	-	-	-	-
	- Total in charge at June 30, 1967 ...	58	72	44	101	-	223	89	211	349	129	67	51	52	43	40	61 - 1590
Visits to Institutions	- Total	44	55	39	9	58	24	100	23	56	54	99	13	18	38	40	156
Inmate Interviews	- Total	49	176	46	31	165	73	246	120	180	168	162	57	88	165	125	197
Inmate briefings	- Number	1	3	3	-	9	-	1	-	-	-	12	3	4	-	-	10
	- Total in attendance	1	71	36	-	135	-	20	-	-	-	148	85	81	-	-	110
Case Conferences	- Total	10	78	10	-	90	-	40	6	8	22	16	5	18	5	15	9
	- Cases reviewed	-	89	30	-	-	-	59	12	9	44	49	7	22	53	20	12
Community Investigations	- Total completed	43	79	21	52	1	109	105	79	112	35	62	24	32	38	23	83
Home Visits to	- Paroled inmates	240	29	7	4	2	62	67	2	22	49	4	23	16	196*	48	302
Office Visits by	- Paroled inmates	43	49	20	35	-	744	50	6	63	89	106	46	24	21	72	204
	- Collateral - family & friends	4	22	6	42	-	128	21	-	8	7	10	31	25	5	16	42
	- Other	-	14	13	-	-	29	35	-	-	12	7	-	7	-	20	61
Meetings	- Total	-	38	19	33	-	17	26	3	43	49	68	4	4	13	29	98
Conferences	- Total	2	1	-	1	1	2	1	1	5	10	1	6	2	1	4	3
Lectures	- Given	1	1	-	-	-	3	1	2	2	2	-	3	1	-	1	12
	- Attended	-	-	-	-	-	-	1	-	2	1	-	-	2	-	2	-
Public Relations (Interviews, etc.)	- Total	10	13	-	2	-	4	-	-	-	28	-	12	8	-	8	7

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537
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627 2nd

CJLR
- Miss Gallichan

CHRC
Mr Moran

L Action.
Mr. Baillargeon

Send Chief Tobin
statistics re parole
Can & Ire & other
things too
Write Chief Gerard
Tobin re this
matter of releasing
statistics every month

TDM/1MT

140-30

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, August 25, 1967.

MEMORANDUM FOR: G. A. BEAUDOIN,
ASSISTANT PARLIAMENTARY COUNSEL

FROM: DEPUTY SOLICITOR GENERAL

Re: Resolution concerning Capital Punishment.
Matter already decided

Thank you very much indeed for your memorandum of August 25, 1967, which I have passed to the Solicitor General.

J. D. MacDONALD

T.D.M.

House of Commons
Canada

M E M O R A N D U M

TO: Mr. T. D. Macdonald, Q.C.,
Deputy Solicitor General of Canada.

FROM: G. A. Beaudoin,
Assistant Parliamentary Counsel.

Re: Resolution concerning Capital Punishment.
Matter already decided.

As you remember, on March 23,1966, the House of Commons started to debate the following resolution moved by four Members, Messrs. Byrne, Nugent, Scott(Danforth) and Stanbury-

> "Resolved,that it is expedient to introduce a measure to amend the Criminal Code for the purposes of -
> (a) abolishing the death penalty in respect of all offences under that Act;
>
> (b) substituting a mandatory sentence of life imprisonment in those cases where the death penalty is now mandatory;and
>
> (c) providing that no person upon whom a mandatory sentence of life imprisonment is imposed shall be released from imprisonment without the prior approval of the Governor in Council."
> (Commons Debates,Mar.23,1966,p.3067).

The debate went on for a few days, that is, March 23, 24 and 28 and April 4 and 5. On April 5,1966, a free vote took place in the House and the motion was negatived, (yeas 112, nays 143).
(Hansard Apr. 5,1966, pp.3910-11).

I understand that you wish to know if this question which has already been decided may be debated again in the House and be the object of another vote.

The authors on Parliamentary Procedure write that a question already decided cannot in principle be the object of further debate.

....2

Beauchesne, in his 4th edition, citation 162, refers to that old rule of Parliament -

> "That a question, being once made and carried in the affirmative or negative, cannot be questioned again, but must stand as a judgment of the House."
> (See also Bourinot,4th edition,pp328-9).

This is the principle and we will see in a moment that a resolution may be rescinded in certain circumstances. But the principle referred to above has application only during a given session.

The resolution on capital punishment was negatived during the first session of the 27th Parliament. A new session, the second session of the 27th Parliament, began on May 8,1967. So, the same or a similar resolution may again be debated in the House and be the object of a vote.

As stated by Bourinot, 4th Edition, p. 329 -

> ".....if a question is rejected in the Senate or Commons it cannot be regularly revived in the same House during the current session."
> (The underlining is mine)

And by May, 17th Edition, p. 396 -

> "The rule may be fully stated as follows: - No question or bill shall be offered in either House that is substantially the same as one on which its judgment has already been expressed in the current session."
> (the underlining is mine)

And by Dawson, Procedure in the Canadian House of Commons, p. 109 -

> "The rule which forbids any reference to a matter already settled by the House in the same session has been applied consistently....."
> (the underlining is mine)

Bourinot explains why such old rule exists -

> "Unless such a rule were in existence, the time of the House might be used in the discussion of motions of the same nature and contradictory decisions would be sometimes arrived at in the course of the same session."
> (Bourinot,4th edition,p.329).

Nothing now would preclude a debate or vote on the very same question during this second session.

I should say also, even if this is not necessary for the solution of your problem that during a given session a

.....3

positive or negative vote may be rescinded. I understand that you wish to have my opinion on that point.

Standing Order 35 provides in fine -

> "....No member may reflect upon any vote of the House, except for the purpose of moving that such vote be rescinded."

As stated by Beauchesne, 4th Edition, citation 162 -

> "162. A resolution may be rescinded and an order of the House discharged, notwithstanding a rule urged, "that a question, being once made and carried in the affirmative or negative cannot be questioned again, but must stand as a judgment of the House." Technically indeed, the rescinding of a vote is the matter of a new question; the form being to read the resolution of the House and to move that it be rescinded; and thus the same question which had been resolved in the affirmative is not again offered, although its effect is annulled. M.p.292.
>
> To rescind a negative vote, except on the different stages of bills, is a proceeding of greater difficulty, because the same question would have to be offered again. The only means, therefore, by which a negative vote can be revoked, is by proposing another question, similar in its general purport to that which has been rejected, but with sufficient variance to constitute a new question, and the House would determine whether it were substantially the same question or not. M.292. Upon a motion which practically rescinded a resolution of the House, reference was permitted to the debate upon that resolution. M.14th ed.,p.426-7.
>
> Sometimes the House may not be prepared to rescind a resolution, but may be willing to modify its judgment by considering and agreeing to another resolution relating to the same object. Thus, a resolution having been agreed to which condemned an official appointment, the House by a subsequent resolution withdrew the censure which the previous resolution had conveyed. M.294."

And by Dawson, opus cited, p.109 -

> "In exceptional cases a motion may be made to rescind the decision and the matter may thus be raised again, but this is rarely done....."

And by Bourinot, op. cit.,p.329 -

> "The English journals are full of examples of evasion of the rule which the House has permitted. In all such cases, the character of the motion has been changed sufficiently to enable the member interested to bring it before the House. Such motions, however, must be very carefully considered, in order to guard against a palpable violation of a wholesome rule."

It appears from the foregoing that in the last session it would have been possible to propose another resolution on capital punishment, similar in its general purport to that which

.....4

had been rejected, but with sufficient variance to constitute a new question.

This may prove difficult sometimes in practice and it is fortunate that you do not have to face that problem, at this time.

G. A. Beaudoin,
Assistant Parliamentary Counsel.

OTTAWA,
25th August,1967.

1420-30

Ruth

file copies

000155

Eileen Amen

Cap. Punishment

DHC/cas

THROUGH EXTERNAL IMMEDIATE

TO HIGH COMMISSIONER IN THE UNITED KINGDOM

THANK YOU FOR TELEGRAM RE TERMINATION OF PREGNANCY BILL STOP WE ARE UNABLE TO RESOLVE WHAT APPEARS TO US TO BE A CONFLICT IN THE FOLLOWING STATEMENT CONTAINED THEREIN QUOTE IN OTHER WORDS IT WILL BE QUOTE A FREE VOTE UNQUOTE STOP AS FAR AS MINISTERS ARE CONCERNED EACH WILL BE FREE TO VOTE ACCORDING TO HIS OWN CONSCIENCE BENNETT WOULD NOT REPEAT NOT GO SO FAR AS TO STATE THAT THEY MIGHT QUOTE VOTE AS THEY WISH ON THIS MEASURE EVEN THOUGH THIS MIGHT INVOLVE OPEN DISAGREEMENT AMONG THEM UNQUOTE UNQUOTE BY USING THE PHRASE QUOTE OPEN DISAGREEMENT AMONG THEM UNQUOTE WE MERELY MEANT WERE MINISTERS FREE TO VOTE AS THEY WISH EVEN THOUGH THIS MIGHT INVOLVE CONFLICT AMONG THEM IN THE MANNER OF VOTING THAT IS SOME MIGHT VOTE YES WHILE OTHER VOTE NO STOP REPLY AS SOON AS POSSIBLE TO D H CHRISTIE DEPARTMENT OF JUSTICE

D. H. Christie.

996-2370

Cap. Punishment

DHC/eas

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D. H. Christie.
996-2370

BY HAND

THE SOLICITOR GENERAL

D. H. Christie

June 26, 1967

Capital Punishment

Further to my memorandum of last Saturday, attached is the reply which I received from London. You will note there is a contradiction on the first page which I am endeavouring to have resolved. I gather, however, from reading the telegram as a whole that Members of the Cabinet are free to disagree in voting on the measure.

D.H.C.

DHC/cas

BY HAND

THE SOLICITOR GENERAL

D. H. Christie

June 26, 1967

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Further to my memorandum of last Saturday, attached is the reply which I received from London. You will note there is a contradiction on the first page which I am endeavouring to have resolved. I gather, however, from reading the telegram as a whole that Members of the Cabinet are free to disagree in voting on the measure.

D.H.C.

DEPARTMENT OF THE SOLICITOR GENERAL
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

June 26, 1967

Note for Mr. T. D. MacDonald:

Re: Capital Punishment

The attached document was approved by Mr. Pennell on Saturday and is going to be circulated today for tomorrow's meeting of Cabinet.

I am forwarding it for information only.

Attach.

D. H. Christie

D.H. CHRISTIE, Q.C.

PAULINE SPRAGUE

May 10, 1967

Cabinet Solidarity

I am attaching the notes I made as the result of my reading on the history of the abolition of the death penalty in the United Kingdon. They are in chronological order.

I am also attaching a photostat of the Silverman Bill (Bill 50), introduced on November 15, 1955. I think, from my reading, that it went through all readings substantially unchanged.

In addition, I am attaching a list of the Ministers for the period of each of the five votes we elaborated on, and concerning which we sent the telegram to the United Kingdom. I have indicated how they cast their vote, except in the case of a minister in the Lords, of course, since we were dealing only with votes in the Commons. I think the column entitled "abstain" is perhaps misleading; by "abstain", I mean that the minister in question did not cast a vote. I do not know if he were present at the time the vote was taken.

I am also attaching a memorandum re: cabinet solidarity.

PMS/mab

Pauline Sprague

File Away

144-20 6

CANADA

REFER TO OUR NO.....
YOUR REF.....

NATIONAL PAROLE BOARD

I

Ottawa, June 7th, 1967.

MEMORANDUM FOR THE DEPUTY SOLICITOR GENERAL:

re - Parole Eligibility for
Persons Under 18 years of Age
Convicted of Capital Murder

Pursuant to our conversation I am enclosing herewith a memorandum prepared by Mr. Miller setting out the problem in the cases above mentioned.

As you can see, Stephen Truscott who was convicted of murder at age 14 in 1959, is not eligible for parole until he has served ten years, only because it is a commuted death sentence.

On the other hand Swearngen, who was convicted in 1963 of Capital Murder at age 18, was sentenced to life imprisonment because of the change in the law in 1961 and would be eligible for parole in seven years. Therefore, Swearngen is getting the benefit of a change in the law and is eligible in seven years, although he was 18 years of age at the time he was convicted of the offence. On the other hand Truscott is not getting the benefit of the change in the law, although he was only 14 years of age when he was convicted of the offence.

If there are any other cases in this category I will let you know, but in the meantime it is quite obvious that an inequity has been created by this anomaly in the law.

T. G. Street.

c.c. Members of the Board

Encl.

II

Discussed at Parole meeting with Maxwell on 8.2.68. No further action to be taken.

T. D. Cass.

9.2.68

NATIONAL PAROLE BOARD

COMMISSION NATIONALE DES LIBÉRATIONS CONDITIONNELLES

Ottawa 4, June 1, 1967.

MEMORANDUM FOR THE CHAIRMAN

Re: Parole Regulations - Eligibility of Persons Convicted of Capital Murder who were under 18 years of age at time of offence

At a Board meeting last week, you raised the matter of the eligibility of persons convicted of murder or capital murder who were under 18 years of age at the time of the offence. You pointed out the anomaly created by our Regulations and the amendment to the Criminal Code in 1961. It was generally agreed that the persons under 18 convicted before the amendment should not suffer in terms of eligibility.

I was instructed to make a survey of the cases that would be affected and to report on the matter. The survey has turned out to be a much more time consuming task than expected in that every capital case file has to be drawn. However, I am reporting in the Memorandum attached the general problem with illustrative case examples.

F.P. Miller,
Executive Director,
National Parole Service.

FPM:jl
Encl.

NATIONAL PAROLE BOARD

COMMISSION NATIONALE DES LIBÉRATIONS CONDITIONNELLES

Ottawa 4, June 1, 1967.

MEMORANDUM FOR THE CHAIRMAN

Re: Parole Regulations - Eligibility of Persons Convicted of Capital Murder who were under 18 years of age at time of offence

The Parole Regulations under Section 2 distinguish two types of life sentences, namely:

1. Life Imprisonment imposed by the Court and not a sentence to which a sentence of death has been commuted;

2. Life Imprisonment to which a sentence of death has been commuted.

In the first instance, parole eligibility is at 7 years and in the second instance at 10 years. Moreover, the Regulations provide that a person who is serving a sentence of imprisonment to which a sentence of death has been commuted shall serve the entire term of the sentence of imprisonment unless upon recommendation of the Board, the Governor in Council otherwise directs. While there is provision for the Board to make an exception to the Regulations in the case of a sentence of life imprisonment that is not commuted from the sentence of death, there is no provision for an exception in a commuted sentence either on the part of the Board or the Governor in Council.

The Act to Amend the Criminal Code (9-10 Eliz.II, c.44) which was given assent on July 13, 1961 has made special provisions in a case of a person convicted of capital murder who was under age 18 at the time the offence was committed. Under the present law the death sentence shall not be passed in such cases but life imprisonment is mandatory (CC 206, ss.(3)).

... 2.

s.19(1)

This in effect creates an anomaly in that the strict interpretation of the Parole Regulations lead to the deferentiation between persons under 18 convicted of murder prior to July 13, 1961 and those under 18 convicted of capital murder subsequently.

A person convicted of murder before the amendment to the Code who was under 18 at the time of the offence would have his sentence commuted to life imprisonment. As a consequence he would be eligible for parole at 10 years (and not before) and his parole could only take place on the recommendation of the Parole Board and the direction of the Governor in Council.

A person convicted of capital murder after the passing of the amendment who was under 18 at the time of the offence would not be sentenced to death but would receive a mandatory life sentence. By the Regulations he would be eligible for consideration for parole at 7 years under the exclusive jurisdiction of the Parole Board and there would be a possibility of exception in his case.

It would seem that persons of the second category obviously have an advantage. Had the Regulations not been amended in 1964, the Board could have used its own discretion to make an equitable adjustment in suitable cases in the first category but can take no action under the present Regulations.

Examples of the first category are:

[redacted] [redacted] was convicted of murder on April 22, 1958 and was sentenced to death. His sentence was commuted on July 11, 1958. He was 16 years of age at the time the offence was committed on October 9, 1957. He was taken into custody on November 17, 1957 and he is eligible for parole on November 16, 1967.

[redacted] [redacted] was convicted of murder on September 30, 1959 and was sentenced to death. His sentence was commuted on January 21, 1960. He was 14 years of age at the time the offence was committed on June 9, 1959. He was taken into custody on June 10, 1959 and he is eligible for parole on June 9, 1969.

s.19(1)

An example of the second category is:

[redacted] [redacted] was convicted of capital murder on October 12, 1963 and sentenced to life imprisonment (mandatory). He was 17 years at the time the offence was committed. He was taken into custody on June 25, 1963 and he is eligible for parole on June 24, 1970.

A review of all life sentence capital case files is now underway to determine what other persons were under 18 at the time of commission of offence who were later convicted of murder before the amendment, or capital murder subsequent to the amendment.

The merits of the cases notwithstanding it would seem that they should have equal status in respect to parole eligibility. This could be done in the cases of [redacted] and [redacted] (and any others that may be later discovered) by an act of the Royal Prerogative of Mercy (Order in Council) putting them in the same state as those convicted of capital murder subsequent to the amendment. The Parole Board could then deal with the cases on their merits. An alternative method which would seem to me to be equally fair would be for the Board to examine each case after getting complete reports and decide whether they would grant parole at this time if they had the power to do so. If the answer were affirmative a submission to Cabinet for an exercise of the Royal Prerogative could be made immediately; if not, the case could be set over for further review. The latter method has the advantage of not giving any appearance that the Cabinet feels that parole should be granted in either the cases of [redacted] or [redacted] or any similar cases.

I shall await further instructions.

F.P. Miller,
Executive Director,
National Parole Service.

FPM:jl

c.c. Capital Case file; CK.265; CK.6730; WM.9146

PRIVY COUNCIL OFFICE — BUREAU DU CONSEIL PRIVÉ

CANADA

CONFIDENTIAL

RECORD OF CABINET DECISION

Meeting of May 11th, 1967

Capital Punishment

The Cabinet agreed

(a) a bill be prepared to abolish the death penalty in all cases except for the murder of a police officer or prison guard acting in the course of his duties, the proposed legislation to be limited to five years in the first instance;

(b) the Solicitor General would take a census and report to the Cabinet on his estimation of the opposition to such a bill; and

(c) subject to a satisfactory census, the bill would be introduced by the Solicitor General with a free vote on whose outcome the government's existence would not depend.

D.J. Leach,
Supervisor of Cabinet Documents.

May 15th, 1967.

SOLICITOR GENERAL

D.H. CHRISTIE, Q.C. May 10, 1967

CAPITAL PUNISHMENT - CABINET SOLIDARITY

1. 1948: Labour Government:

Silverman's clause to suspend the death penalty for five years - to be added to the Criminal Justice Bill.

April 14, 1948: Vote on Silverman's clause

You will note from the attached list that no cabinet minister voted for Silverman's clause; all cabinet ministers who did vote voted against the clause; included were Attlee, Morrison, Bevin and Ede.

A Mr. Dowler, the private secretary to Mr. Roy Jenkins, the Secretary of State for the Home Department, was contacted in London by a representative of the Department of External Affairs. He was unable to provide detailed information with regard to the 1948 vote, but was of the opinion that members of the cabinet would have voted against the amendment unless they had very strong convictions.

2. 1956: Conservative Government

February 16, 1956: Government Motion (Gwilym Lloyd-George) to retain the death penalty, but to amend the law relating to the crime of murder.

Amendment to this Motion (proposed by Chuter Ede), calling upon the government to introduce legislation to abolish the death penalty.

Vote on the Amendment:

All ministers who voted, and the most of them did, voted against the amendment. This included Eden, Butler, and Macmillan. (See attached list).

June 28, 1956: Third Reading of Silverman's Bill (Bill 50 introduced on November 15, 1955) to abolish or suspend the death penalty.

Most Ministers did not vote. Those who did, voted against the Bill.

External Affairs in London reported that the Ministers who could not support the government philosophy of retention of the death penalty merely abstained from voting.

3. 1964-1965: Labour Government:

Bill introduced by Silverman to abolish capital punishment.

December 21, 1964: Second Reading

All Ministers who voted, and most of them did, voted for the Bill. (See attached list). This included Wilson, Brown, and Soskice.

July 13, 1965: Third Reading

All Ministers who voted, and fewer than half did, voted for the Bill. Soskice voted, but neither Wilson nor Brown did.

Mr. Dowler, the private secretary of Mr. Roy Jenkins, confirmed that government philosophy was in favour of the Bill, but doubted that cabinet Ministers were under an injunction not to vote against the Bill.

D.H. Christie, Q.C.

VOTING OF MINISTERS

MINISTERS Members of Cabinet	Vote of April 14, 1948 1497 1093-1098 FOR	AGAINST	ABSTAIN
Rt. Hon. Clement Richard Attlee		x	
Rt. Hon. Herbert Stanley Morrison		x	
Rt. Hon. Ernest Bevin		x	
Rt. Hon. Sir Stafford Cripps			x
Rt. Hon. Albert Victor Alexander		x	
Rt. Hon. Viscount Addison			(Lords)
Rt. Hon. Viscount Jowitt			x
Rt. Hon. James Chuter Ede		x	
Rt. Hon. Arthur Creech Jones			x
Rt. Hon. Philip John Noel-Baker			x
Rt. Hon. Arthur Woodburn		x	
Rt. Hon. George Alfred Isaacs		x	
Rt. Hon. Aneurin Bevan			x
Rt. Hon. Thomas Williams		x	
Rt. Hon. George Tomlinson		x	
Rt. Hon. James Harold Wilson			x

MINISTERS NOT IN THE CABINET	FOR	AGAINST	ABSTAIN
Rt. Hon. Viscount Hall			(Lords)
Rt. Hon. Emaneul Shinwell			x
Rt. Hon. Arthur Henderson		x	
Rt. Hon. Alfred Barnes		x	
Rt. Hon. John Strachey			x
Rt. Hon. Lewis Silkin			x
Rt. Hon. James Griffiths			x
Rt. Hon. George Russell Strauss			x
Rt. Hon. Hugh Todd Naylor Gaitskell			x
Rt. Hon. Lord Nathan			(Lords)
Rt. Hon. Wilfred Paling			x
Rt. Hon. Charles William Key		x	
Rt. Hon. the Earl of Listowel			(Lords)
Rt. Hon. Hector McNeil		x	
Lord Pakenham			(Lords)
Hilary Adair Marquand			x
Rt. Hon. George Buchanan			x

VOTING OF MINISTERS

MINISTERS
Members of Cabinet

Vote of April 14, 1948
/497 1093-1098

	FOR	AGAINST	ABSTAIN
Rt. Hon. Clement Richard Attlee		x	
Rt. Hon. Herbert Stanley Morrison		x	
Rt. Hon. Ernest Bevin		x	
Rt. Hon. Sir Stafford Cripps			x
Rt. Hon. Albert Victor Alexander		x	
Rt. Hon. Viscount Addison			(Lords)
Rt. Hon. Viscount Jowitt			x
Rt. Hon. James Chuter Ede		x	
Rt. Hon. Arthur Creech Jones			x
Rt. Hon. Philip John Noel-Baker			x
Rt. Hon. Arthur Woodburn		x	
Rt. Hon. George Alfred Isaacs		x	
Rt. Hon. Aneurin Bevan			x
Rt. Hon. Thomas Williams		x	
Rt. Hon. George Tomlinson		x	
Rt. Hon. James Harold Wilson			x

MINISTERS NOT IN THE CABINET

	FOR	AGAINST	ABSTAIN
Rt. Hon. Viscount Hall			(Lords)
Rt. Hon. Emaneul Shinwell			x
Rt. Hon. Arthur Henderson		x	
Rt. Hon. Alfred Barnes		x	
Rt. Hon. John Strachey			x
Rt. Hon. Lewis Silkin			x
Rt. Hon. James Griffiths			x
Rt. Hon. George Russell Strauss			x
Rt. Hon. Hugh Todd Naylor Gaitskell			x
Rt. Hon. Lord Nathan			(Lords)
Rt. Hon. Wilfred Paling			x
Rt. Hon. Charles William Key		x	
Rt. Hon. the Earl of Listowel			(Lords)
Rt. Hon. Hector McNeil		x	
Lord Pakenham			(Lords)
Hilary Adair Marquand			x
Rt. Hon. George Buchanan			x

VOTING OF MINISTERS

MINISTERS
Members of Cabinet

Vote of April 14, 1948
/497 1093-1098

	FOR	AGAINST	ABSTAIN
Rt. Hon. Clement Richard Attlee		x	
Rt. Hon. Herbert Stanley Morrison		x	
Rt. Hon. Ernest Bevin		x	
Rt. Hon. Sir Stafford Cripps			x
Rt. Hon. Albert Victor Alexander		x	
Rt. Hon. Viscount Addison			(Lords)
Rt. Hon. Viscount Jowitt			x
Rt. Hon. James Chuter Ede		x	
Rt. Hon. Arthur Creech Jones			x
Rt. Hon. Philip John Noel-Baker			x
Rt. Hon. Arthur Woodburn		x	
Rt. Hon. George Alfred Isaacs		x	
Rt. Hon. Aneurin Bevan			x
Rt. Hon. Thomas Williams		x	
Rt. Hon. George Tomlinson		x	
Rt. Hon. James Harold Wilson			x

MINISTERS NOT IN THE CABINET

	FOR	AGAINST	ABSTAIN
Rt. Hon. Viscount Hall			(Lords)
Rt. Hon. Emaneul Shinwell			x
Rt. Hon. Arthur Henderson		x	
Rt. Hon. Alfred Barnes		x	
Rt. Hon. John Strachey			x
Rt. Hon. Lewis Silkin			x
Rt. Hon. James Griffiths			x
Rt. Hon. George Russell Strauss			x
Rt. Hon. Hugh Todd Naylor Gaitskell			x
Rt. Hon. Lord Nathan			(Lords)
Rt. Hon. Wilfred Paling			x
Rt. Hon. Charles William Key		x	
Rt. Hon. the Earl of Listowel			(Lords)
Rt. Hon. Hector McNeil		x	
Lord Pakenham			(Lords)
Hilary Adair Marquand			x
Rt. Hon. George Buchanan			x

May 9, 1967

VOTING OF MINISTERS

MINISTERS Members of Cabinet	Feb. 16, 1956 /548/ 2651-2656			June 28, 1956 /555/ 837-840		
	YES	NO	ABSTAIN	YES	NO	ABSTAIN
Rt. Hon. Sir Anthony Eden		x				x
Most Hon. Marquess of Salisbury			—			— (Lords)
Rt. Hon. R.A. Butler		x			x	
Rt. Hon. Harold Macmillan		x				x
Rt. Hon. Viscount Kilmuir			—			— (Lords)
Rt. Hon. Selwyn Lloyd			x			x
Major Rt. Hon. Gwilym Lloyd-George		x			x	
Rt. Hon. James Stuart		x				x
Rt. Hon. Earl of Home			—			— (Lords)
Rt. Hon. Alan Lennox-Boyd		x				x
Rt. Hon. Sir Walter Monckton		x				x
Rt. Hon. Duncan Sandys		x			x	
Rt. Hon. Peter Thorneycroft		x				x
Rt. Hon. Derick Heathcoat Amory			x			x
Rt. Hon. Sir David Eccles		x			x	
Rt. Hon. Iain Macleod			x			x
Rt. Hon. Earl of Selkirk			x			x
Rt. Hon. Patrick Buchan-Hepburn		x			x	
Members not in the Cabinet						
Rt. Hon. Viscount Cilcennin			—			— (Lords)
Rt. Hon. Antony Head			x			x
Rt. Hon. Nigel Birch		x				x
Rt. Hon. John Boyd-Carpenter		x				x
Rt. Hon. Reginald Maudling		x				x
Rt. Hon. R.H. Turton		x				x
Rt. Hon. Harold Watkinson		x				x
Rt. Hon. Aubrey Jones		x				x
Dr. Rt. Hon. Charles Hill		x			x	
Rt. Hon. Earl of Munster			—			— (Lords)
Most Hon. Marquess of Reading			—			— (Lords)
Rt. Hon. A.R.W. Low		x				x
Rt. Hon. Anthony Nutting			x			x

MINISTERS Members not in the Cabinet (Cont'd)	Feb. 16, 1956 /5487 2651-2656			June 28, 1956 /5557 837-840		
	YES	NO	ABSTAIN	YES	NO	ABSTAIN
Rt. Hon. Lord Strathclyde						(Lords)
Rt. Hon. John Hare		x				x
Rt. Hon. Sir Reginald Manningham-Buller		x			x	
Rt. Hon. W.R. Milligan		x			x	
Sir Harry Hylton-Foster		x				x
W[redacted]iam Grant, Esq.		x			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS Members of Cabinet	Feb. 16, 1956 [548] 2651-2656			June 28, 1956 [555] 837-840		
	YES	NO	ABSTAIN	YES	NO	ABSTAIN
Rt. Hon. Sir Anthony Eden		x				x
Most Hon. Marquess of Salisbury						(Lords)
Rt. Hon. R.A. Butler		x			x	
Rt. Hon. Harold Macmillan		x				x
Rt. Hon. Viscount Kilmuir						(Lords)
Rt. Hon. Selwyn Lloyd			x			x
Major Rt. Hon. Gwilym Lloyd-George		x			x	
Rt. Hon. James Stuart		x				x
Rt. Hon. Earl of Home						(Lords)
Rt. Hon. Alan Lennox-Boyd		x				x
Rt. Hon. Sir Walter Monckton		x				x
Rt. Hon. Duncan Sandys		x			x	
Rt. Hon. Peter Thorneycroft		x				x
Rt. Hon. Derick Heathcoat Amory			x			x
Rt. Hon. Sir David Eccles		x			x	
Rt. Hon. Iain Macleod			x			x
Rt. Hon. Earl of Selkirk			x			x
Rt. Hon. Patrick Buchan-Hepburn		x			x	
Members not in the Cabinet						
Rt. Hon. Viscount Cilcennin						(Lords)
Rt. Hon. Antony Head			x			x
Rt. Hon. Nigel Birch		x				x
Rt. Hon. John Boyd-Carpenter		x				x
Rt. Hon. Reginald Maudling		x				x
Rt. Hon. R.H. Turton		x				x
Rt. Hon. Harold Watkinson		x				x
Rt. Hon. Aubrey Jones		x				x
Dr. Rt. Hon. Charles Hill		x			x	
Rt. Hon. Earl of Munster						(Lords)
Most Hon. Marquess of Reading						(Lords)
Rt. Hon. A.R.W. Low		x				x
Rt. Hon. Anthony Nutting			x			x

MINISTERS Members not in the Cabinet (Cont'd)	Feb. 16, 1956 /5487 2651-2656			June 28, 1956 /5557 837-840		
	YES	NO	ABSTAIN	YES	NO	ABSTAIN
Rt. Hon. Lord Strathclyde			x			x (Lords)
Rt. Hon. John Hare		x				x
Rt. Hon. Sir Reginald Manningham-Buller		x			x	
Rt. Hon. W.R. Milligan		x			x	
Sir Harry Hylton-Foster		x				x
William Grant, Esq.		x			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS Members of Cabinet	Feb. 16, 1956 /5487 2651-2656			June 28, 1956 /5557 837-840		
	YES	NO	ABSTAIN	YES	NO	ABSTAIN
Rt. Hon. Sir Anthony Eden		x				x
Most Hon. Marquess of Salisbury						(Lords)
Rt. Hon. R.A. Butler		x			x	
Rt. Hon. Harold Macmillan		x				x
Rt. Hon. Viscount Kilmuir						(Lords)
Rt. Hon. Selwyn Lloyd			x			x
Major Rt. Hon. Gwilym Lloyd-George		x			x	
Rt. Hon. James Stuart		x				x
Rt. Hon. Earl of Home						(Lords)
Rt. Hon. Alan Lennox-Boyd		x				x
Rt. Hon. Sir Walter Monckton		x				x
Rt. Hon. Duncan Sandys		x			x	
Rt. Hon. Peter Thorneycroft		x				x
Rt. Hon. Derick Heathcoat Amory			x			x
Rt. Hon. Sir David Eccles		x			x	
Rt. Hon. Iain Macleod			x			x
Rt. Hon. Earl of Selkirk			x			x
Rt. Hon. Patrick Buchan-Hepburn		x			x	
Members not in the Cabinet						
Rt. Hon. Viscount Cilcennin						(Lords)
Rt. Hon. Antony Head			x			x
Rt. Hon. Nigel Birch		x				x
Rt. Hon. John Boyd-Carpenter		x				x
Rt. Hon. Reginald Maudling		x				x
Rt. Hon. R.H. Turton		x				x
Rt. Hon. Harold Watkinson		x				x
Rt. Hon. Aubrey Jones		x				x
Dr. Rt. Hon. Charles Hill		x			x	
Rt. Hon. Earl of Munster						(Lords)
Most Hon. Marquess of Reading						(Lords)
Rt. Hon. A.R.W. Low		x				x
Rt. Hon. Anthony Nutting			x			x

MINISTERS
Members not in the Cabinet (Cont'd)

	Feb. 16, 1956 /5487 2651-2656			June 28, 1956 /5557 837-840		
	YES	NO	ABSTAIN	YES	NO	ABSTAIN
Rt. Hon. Lord Strathclyde						(Lords)
Rt. Hon. John Hare		x				x
Rt. Hon. Sir Reginald Manningham-Buller		x			x	
Rt. Hon. W.R. Milligan		x			x	
Sir Harry Hylton-Foster		x				x
William Grant, Esq.		x			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS — Dec. 21, 1964
Members of the Cabinet — /704/ 1001-1006

	YES	NO	ABSTAIN	
Rt. Hon. Harold Wilson	x			
Rt. Hon. George Brown	x			
Rt. Hon. Patrick Gordon Walker			x	
Rt. Hon. Herbert Bowden	x			
Rt. Hon. The Lord Gardiner				(Lords)
Rt. Hon. James Callaghan			x	
Rt. Hon. Denis Healey	x			
Rt. Hon. Sir Frank Soskice	x			
Rt. Hon. Arthur Bottomley			x	
Rt. Hon. William Ross	x			
Rt. Hon. James Griffiths	x			
Rt. Hon. Anthony Greenwood	x			
Rt. Hon. Douglas Jay	x			
Rt. Hon. The Earl of Longford				(Lords)
Rt. Hon. Michael Stewart	x			
Rt. Hon. Richard Crossman	x			
Rt. Hon. Douglas Houghton	x			
Rt. Hon. R.J. Gunter	x			
Rt. Hon. Frank Cousins			x	
Rt. Hon. Fred Peart	x			
Rt. Hon. Frederick Lee	x			
Rt. Hon. Tom Fraser	x			
Rt. Hon. Barbara Castle	x			
Members not in the Cabinet				
Rt. Hon. Kenneth Robinson	x			
Rt. Hon. Margaret Herbison	x			
Rt. Hon. Charles Pannel	x			
Rt. Hon. Roy Jenkins	x			
Rt. Hon. Anthony Wedgwood Benn			x	
Rt. Hon. Frederick Willey	x			
Rt. Hon. Frederick Mulley			x	

MINISTERS
Members not in the Cabinet (Cond)

Dec. 21, 1964
/704/ 1001-1006

	YES	NO	ABSTAIN	
Sir Eric Fletcher			x	
The Lord Champion				(Lords)
Rt. Hon. George Wigg	x			
John Diamond, Esq.	x			
Anthony Crosland, Esq.	x			
Christopher Mayhew, Esq.	x			
The Lord Shackleton				(Lords)
The Lord Bowden				(Lords)
George Thomson, Esq.	x			
The Lord Caradon				(Lords)
Walter Padley, Esq.	x			
The Lord Chalfont				(Lords)
Miss Alice Bacon	x			
Cledwyn Hughes, Esq.	x			
George Darling, Esq.	x			
Edward Redhead, Esq.	x			
Roy Mason, Esq.			x	
George Willis, Esq.			x	
Goronwy Roberts, Esq.	x			
R.E. Prentice, Esq.	x			
Rt. Hon. Sir Elwyn Jones	x			
Rt. Hon. Gordon Stott			x	
Sir Dingle Foot	x			
James G. Leechman, Esq.			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS
Members of the Cabinet

Dec. 21, 1964
/704/ 1001-1006

	YES	NO	ABSTAIN	
Rt. Hon. Harold Wilson	x			
Rt. Hon. George Brown	x			
Rt. Hon. Patrick Gordon Walker			x	
Rt. Hon. Herbert Bowden	x			
Rt. Hon. The Lord Gardiner				(Lords)
Rt. Hon. James Callaghan			x	
Rt. Hon. Denis Healey	x			
Rt. Hon. Sir Frank Soskice	x			
Rt. Hon. Arthur Bottomley			x	
Rt. Hon. William Ross	x			
Rt. Hon. James Griffiths	x			
Rt. Hon. Anthony Greenwood	x			
Rt. Hon. Douglas Jay	x			
Rt. Hon. The Earl of Longford				(Lords)
Rt. Hon. Michael Stewart	x			
Rt. Hon. Richard Crossman	x			
Rt. Hon. Douglas Houghton	x			
Rt. Hon. R.J. Gunter	x			
Rt. Hon. Frank Cousins			x	
Rt. Hon. Fred Peart	x			
Rt. Hon. Frederick Lee	x			
Rt. Hon. Tom Fraser	x			
Rt. Hon. Barbara Castle	x			

Members not in the Cabinet

Rt. Hon. Kenneth Robinson	x			
Rt. Hon. Margaret Herbison	x			
Rt. Hon. Charles Pannel	x			
Rt. Hon. Roy Jenkins	x			
Rt. Hon. Anthony Wedgwood Benn			x	
Rt. Hon. Frederick Willey	x			
Rt. Hon. Frederick Mulley			x	

MINISTERS
Members not in the Cabinet (Cond)

Dec. 21, 1964
/704/ 1001-1006

	YES	NO	ABSTAIN	
Sir Eric Fletcher			x	
The Lord Champion				(Lords)
Rt. Hon. George Wigg	x			
John Diamond, Esq.	x			
Anthony Crosland, Esq.	x			
Christopher Mayhew, Esq.	x			
The Lord Shackleton				(Lords)
The Lord Bowden				(Lords)
George Thomson, Esq.	x			
The Lord Caradon				(Lords)
Walter Padley, Esq.	x			
The Lord Chalfont				(Lords)
Miss Alice Bacon	x			
Cledwyn Hughes, Esq.	x			
George Darling, Esq.	x			
Edward Redhead, Esq.	x			
Roy Mason, Esq.			x	
George Willis, Esq.			x	
Goronwy Roberts, Esq.	x			
R.E. Prentice, Esq.	x			
Rt. Hon. Sir Elwyn Jones	x			
Rt. Hon. Gordon Stott			x	
Sir Dingle Foot	x			
James G. Leechman, Esq.			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS
Members of the Cabinet

Dec. 21, 1964
/7047 1001-1006

	YES	NO	ABSTAIN	
Rt. Hon. Harold Wilson	x			
Rt. Hon. George Brown	x			
Rt. Hon. Patrick Gordon Walker			x	
Rt. Hon. Herbert Bowden	x			
Rt. Hon. The Lord Gardiner				(Lords)
Rt. Hon. James Callaghan			x	
Rt. Hon. Denis Healey	x			
Rt. Hon. Sir Frank Soskice	x			
Rt. Hon. Arthur Bottomley			x	
Rt. Hon. William Ross	x			
Rt. Hon. James Griffiths	x			
Rt. Hon. Anthony Greenwood	x			
Rt. Hon. Douglas Jay	x			
Rt. Hon. The Earl of Longford				(Lords)
Rt. Hon. Michael Stewart	x			
Rt. Hon. Richard Crossman	x			
Rt. Hon. Douglas Houghton	x			
Rt. Hon. R.J. Gunter	x			
Rt. Hon. Frank Cousins			x	
Rt. Hon. Fred Peart	x			
Rt. Hon. Frederick Lee	x			
Rt. Hon. Tom Fraser	x			
Rt. Hon. Barbara Castle	x			

Members not in the Cabinet

Rt. Hon. Kenneth Robinson	x			
Rt. Hon. Margaret Herbison	x			
Rt. Hon. Charles Pannel	x			
Rt. Hon. Roy Jenkins	x			
Rt. Hon. Anthony Wedgwood Benn			x	
Rt. Hon. Frederick Willey	x			
Rt. Hon. Frederick Mulley			x	

MINISTERS
Members not in the Cabinet (Cond)

Dec. 21, 1964
/704/ 1001-1006

	YES	NO	ABSTAIN	
Sir Eric Fletcher			x	
The Lord Champion				(Lords)
Rt. Hon. George Wigg	x			
John Diamond, Esq.	x			
Anthony Crosland, Esq.	x			
Christopher Mayhew, Esq.	x			
The Lord Shackleton				(Lords)
The Lord Bowden				(Lords)
George Thomson, Esq.	x			
The Lord Caradon				(Lords)
Walter Padley, Esq.	x			
The Lord Chalfont				(Lords)
Miss Alice Bacon	x			
Cledwyn Hughes, Esq.	x			
George Darling, Esq.	x			
Edward Redhead, Esq.	x			
Roy Mason, Esq.			x	
George Willis, Esq.			x	
Goronwy Roberts, Esq.	x			
R.E. Prentice, Esq.	x			
Rt. Hon. Sir Elwyn Jones	x			
Rt. Hon. Gordon Stott			x	
Sir Dingle Foot	x			
James G. Leechman, Esq.			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS — July 13, 1965
Members of the Cabinet — /7167 463-466

	YES	NO	ABSTAIN	
Rt. Hon. Harold Wilson			x	
Rt. Hon. George Brown			x	
Rt. Hon. Herbert Bowden	x			
Rt. Hon. The Lord Gardiner				(Lords)
Rt. Hon. James Callaghan			x	
Rt. Hon. Michael Stewart			x	
Rt. Hon. Denis Healey			x	
Rt. Hon. Sir Frank Soskice	x			
Rt. Hon. Arthur Bottomley			x	
Rt. Hon. William Ross	x			
Rt. Hon. James Griffiths	x			
Rt. Hon. Anthony Greenwood			x	
Rt. Hon. Douglas Jay			x	
Rt. Hon. The Earl of Longford				(Lords) ?
Rt. Hon. Anthony Crosland			x	
Rt. Hon. Richard Crossman	x			
Rt. Hon. Douglas Houghton	x			
Rt. Hon. R.J. Gunter			x	
Rt. Hon. Frank Cousins			x	
Rt. Hon. Fred Peart			x	
Rt. Hon. Frederick Lee			x	
Rt. Hon. Tom Fraser	x			
Rt. Hon. Barbara Castle	x			
Members not in the Cabinet				
Rt. Hon. Kenneth Robinson	x			
Rt. Hon. Margaret Herbison			x	
Rt. Hon. Charles Pannel			x	
Rt. Hon. Roy Jenkins	x			
Rt. Hon. Anthony Wedgwood Benn			x	
Rt. Hon. Frederick Willey	x			
Rt. Hon. Frederick Mulley	x			

MINISTERS
Members not in the Cabinet (Cond)

July 13, 1965
/7167 463-466

	YES	NO	ABSTAIN	
Sir Eric Fletcher			x	
The Lord Champion				(Lords)
Rt. Hon. George Wigg			x	
Rt. Hon John Diamond	x			
Austen Albu, Esq.	x			
Christopher Mayhew, Esq.			x	
The Lord Shackleton				(Lords)
The Lord Bowden				(Lords)
George Thomson, Esq.			x	
The Lord Caradon				(Lords)
Walter Padley, Esq.			x	
Rt. Hon. The Lord Chalfont				(Lords)
Miss Alice Bacon	x			
Cledwyn Hughes, Esq.			x	
George Darling, Esq.			x	
Edward Redhead, Esq.			x	
Roy Mason, Esq.			x	
George Willis, Esq.	x			
Goronwy Roberts, Esq.	x			
R.E. Prentice, Esq.			x	
Rt. Hon. Sir Elwyn Jones			x	
Rt. Hon. Gordon Stott			x	
Sir Dingle Foot	x			
James G. Leechman, Esq.			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS
Members of the Cabinet

July 13, 1965
/7167 463-466

	YES	NO	ABSTAIN	
Rt. Hon. Harold Wilson			x	
Rt. Hon. George Brown			x	
Rt. Hon. Herbert Bowden	x			
Rt. Hon. The Lord Gardiner				(Lords)
Rt. Hon. James Callaghan			x	
Rt. Hon. Michael Stewart			x	
Rt. Hon. Denis Healey			x	
Rt. Hon. Sir Frank Soskice	x			
Rt. Hon. Arthur Bottomley			x	
Rt. Hon. William Ross	x			
Rt. Hon. James Griffiths	x			
Rt. Hon. Anthony Greenwood			x	
Rt. Hon. Douglas Jay			x	
Rt. Hon. The Earl of Longford				(Lords) ?
Rt. Hon. Anthony Crosland			x	
Rt. Hon. Richard Crossman	x			
Rt. Hon. Douglas Houghton	x			
Rt. Hon. R.J. Gunter			x	
Rt. Hon. Frank Cousins			x	
Rt. Hon. Fred Peart			x	
Rt. Hon. Frederick Lee			x	
Rt. Hon. Tom Fraser	x			
Rt. Hon. Barbara Castle	x			
Members not in the Cabinet				
Rt. Hon. Kenneth Robinson	x			
Rt. Hon. Margaret Herbison			x	
Rt. Hon. Charles Pannel			x	
Rt. Hon. Roy Jenkins	x			
Rt. Hon. Anthony Wedgwood Benn			x	
Rt. Hon. Frederick Willey	x			
Rt. Hon. Frederick Mulley	x			

MINISTERS
Members not in the Cabinet (Cond)

July 13, 1965
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	YES	NO	ABSTAIN	
Sir Eric Fletcher			x	
The Lord Champion				(Lords)
Rt. Hon. George Wigg			x	
Rt. Hon John Diamond	x			
Austen Albu, Esq.	x			
Christopher Mayhew, Esq.			x	
The Lord Shackleton				(Lords)
The Lord Bowden				(Lords)
George Thomson, Esq.			x	
The Lord Caradon				(Lords)
Walter Padley, Esq.			x	
Rt. Hon. The Lord Chalfont				(Lords)
Miss Alice Bacon	x			
Cledwyn Hughes, Esq.			x	
George Darling, Esq.			x	
Edward Redhead, Esq.			x	
Roy Mason, Esq.			x	
George Willis, Esq.	x			
Goronwy Roberts, Esq.	x			
R.E. Prentice, Esq.			x	
Rt. Hon. Sir Elwyn Jones			x	
Rt. Hon. Gordon Stott			x	
Sir Dingle Foot	x			
James G. Leechman, Esq.			x	

May 9, 1967

VOTING OF MINISTERS

MINISTERS
Members of the Cabinet

July 13, 1965
/7167 463-466

	YES	NO	ABSTAIN	
Rt. Hon. Harold Wilson			x	
Rt. Hon. George Brown			x	
Rt. Hon. Herbert Bowden	x			
Rt. Hon. The Lord Gardiner				(Lords)
Rt. Hon. James Callaghan			x	
Rt. Hon. Michael Stewart			x	
Rt. Hon. Denis Healey			x	
Rt. Hon. Sir Frank Soskice	x			
Rt. Hon. Arthur Bottomley			x	
Rt. Hon. William Ross	x			
Rt. Hon. James Griffiths	x			
Rt. Hon. Anthony Greenwood			x	
Rt. Hon. Douglas Jay			x	
Rt. Hon. The Earl of Longford				(Lords) ?
Rt. Hon. Anthony Crosland			x	
Rt. Hon. Richard Crossman	x			
Rt. Hon. Douglas Houghton	x			
Rt. Hon. R.J. Gunter			x	
Rt. Hon. Frank Cousins			x	
Rt. Hon. Fred Peart			x	
Rt. Hon. Frederick Lee			x	
Rt. Hon. Tom Fraser	x			
Rt. Hon. Barbara Castle	x			
Members not in the Cabinet				
Rt. Hon. Kenneth Robinson	x			
Rt. Hon. Margaret Herbison			x	
Rt. Hon. Charles Pannel			x	
Rt. Hon. Roy Jenkins	x			
Rt. Hon. Anthony Wedgwood Benn			x	
Rt. Hon. Frederick Willey	x			
Rt. Hon. Frederick Mulley	x			

MINISTERS
Members not in the Cabinet (Cond)

July 13, 1965
/7167 463-466

	YES	NO	ABSTAIN	
Sir Eric Fletcher			x	
The Lord Champion				(Lords)
Rt. Hon. George Wigg			x	
Rt. Hon John Diamond	x			
Austen Albu, Esq.	x			
Christopher Mayhew, Esq.			x	
The Lord Shackleton				(Lords)
The Lord Bowden				(Lords)
George Thomson, Esq.			x	
The Lord Caradon				(Lords)
Walter Padley, Esq.			x	
Rt. Hon. The Lord Chalfont				(Lords)
Miss Alice Bacon	x			
Cledwyn Hughes, Esq.			x	
George Darling, Esq.			x	
Edward Redhead, Esq.			x	
Roy Mason, Esq.			x	
George Willis, Esq.	x			
Goronwy Roberts, Esq.	x			
R.E. Prentice, Esq.			x	
Rt. Hon. Sir Elwyn Jones			x	
Rt. Hon. Gordon Stott			x	
Sir Dingle Foot	x			
James G. Leechman, Esq.			x	

May 8, 1967

Pauline Sprague

Notes re: British Parliamentary Experience with
"Abolition of the Death penalty" legislation

1. 1947-48
Friday, Oct. 31, 1947

/1437 col. 1250 Commons Debates

Home Secretary, Mr. Chuter Ede, presented the Criminal Justice Bill, which was concerned with the treatment of offenders; it dealt with matters such as, abolishing penal servitude, hard labour, and revising the law relating to probation of offenders; it was also concerned with criminal procedures.

Friday, Nov. 28, 1947

/1447 2269-2353 CommonsDebates

Second reading of Criminal Justice Bill. Col. 2352-2353: Ede promises Sydney Silverman that there would be at least one half day set aside at the Report stage to discuss capital punishment, and added:

> "May I express the hope that we shall be able to avoid a discussion at the Committee stage if that is acceded to."

Col. 2353: Bill was read a second time and committed to a standing committee.

April 14, 1948

/1449 979 et seq. Commons Debates

Report stage from the Committee

Orders of the day: Chuter Ede moved that Silverman's clause be considered before other clauses.

Silverman's clause dealt with the suspension of the death penalty for 5 years. (for text, see /1449 cols. 979-80)

Chuter Ede, speaking on behalf of the government, asked the House to reject Silverman's clause, and added: (col. 1090)

....2

> "But we recognize that this is a matter on which persons feel an individual, personal conscientious responsibility. Therefore, the Government Whips will not be put on, but none the less we do urge the House to reject this new clause..... ."

At cols. 980-987, Silverman, in his speech, acknowledged the help of the Home Secretary in drafting.

Vote on Silverman's clause:

Ayes: 245
Noes: 222

Clause added to Bill.

April 16, 1948

/449/ 1306 et seq. Commons Debates

Mr. Chuter Ede introduced the Bill for 3rd reading.

Mr. Ede spoke of substantial changes in the Bill, i.e. that the House, by a majority, decided to insert a clause suspending the death penalty for five years, for murder cases.

Col. 1306, Ede: "The Government accept the decision of the House..... ."

Col. 1307, Ede, referring to the prospect of alteration in the law, set out his special course of action:

> ".....it will be my duty during the interim period to advise His Majesty to commute death sentence, by means of conditional pardons, to sentences of penal servitude for life."
> (these words later got him into trouble)

Col. 1370, Bill read 3rd time and passed.
No tally.

June 1, 1948

/1567 Lords cols. 176-178

The Lords rejected the Silverman clause.

Question put to the Lords: Whether clause I shall stand part of the Bill.

Contents: 28
Not Contents: 181

Lord Goddard was critical of Chuter Ede's policy statement concerning commutations. 3

June 3, 1948

/451/ Commons, 1236 et seq.

Business of the House.

Col. 1236: Mr. Anthony Eden chided Chuter Ede about his policy statement regarding carte blanche commutation of death sentences.

Mr. Herbert Morrison tried to turn off the attack, but Eden persisted, and wanted a further statement, adding, "....the Home Secretary appears to be taking action that is contrary to the law of the land." (col. 1240)

The Compromise Clause (Reference to Tuttle, "The Crusade Against Capital Punishment", at pp. 75 et seq.)

July 15, 1948

Sir Hartly Shawcross, the Attorney General, presented a proposal which, in effect, meant dividing murder into capital and non-capital categories. Generally, the death penalty would be maintained for murders committed during robbery, housebreaking, and in murders resulting from the use of explosives, rape, resisting, preventing, or escaping from arrest.

Silverman agreed to support the compromise proposal.

The House voted to insert the government's compromise proposal into the Criminal Justice Bill.

Tally: Ayes 307
Noes 209

July 20, 1948

The Lords voted to delete the government's compromise proposal 97 to 19.

July 22, 1948

/454/ Criminal Justice Bill passed the Commons without compromise clause. The whips were on. Tally: 215 to 34

July 27, 1948: Bill returned to Lords.

July 30, 1948: Bill obtained royal assent /454/ 1742

2. 1952-1953

July 1, 1953 (3:36 p.m.)

/517/ Col. 407

Mr. Sydney Silverman (Nelson & Colne) moved that leave be given to bring in a Bill to suspend the death penalty for the period of five years.

Col. 407: refers to 1948 - where majority of 23 voted that the death penalty should be suspended for five years. That proposal was defeated in the House of Lords.

Col. 411: Mr. Hylton-Foster (York) spoke against the motion - his main plank was that he wished to know the findings of the Royal Commission.

Vote Cols. 414 and 418 (incl.)

Ayes: 195

Noes: 256

Was vote free?

Silverman, Col. 407: refers to '48 when government permitted a free vote.

> ".....I realize that the House is differently constituted today, but I believe that the House today will not, any more than the House in 1948, allow its judgment on this question to be affected one way or the other by any kind of party political considerations or any considerations of party advantage. I believe that the House will be permitted today, as it was then, to make up its own mind, by each of us voting as we think right in our own consciences and judgments."

Hylton-Foster, who spoke in opposition to Silverman's Bill, said, in /517/ at Col. 411:

> "I entirely agree with (Silverman) that this is an absolutely non-party matter... ."

3. 1955-1956-1957

Feb. 10, 1955

Debate in the Commons on The Report of The Royal Commission on Capital Punishment.

The Home Secretary, Gwilym Lloyd-George, moved:

> "That this House takes note of the Report of The Royal Commission on Capital Punishment."

Chuter Ede spoke for labour, /536/ 2079 et seq.

Silverman moved an amendment to suspend the death penalty for a 5-year period. This was seconded by Christopher Hollis, a conservative.

The A.G., Reginald Manningham-Butler, spoke, following which a decision on a free vote was taken in the House of Commons. The Silverman amendment was defeated, 245:214, by basically a straight party vote.

(Reference: Tuttle, "The Crusade Against Capital Punishment", pp. 94-99)

.....5

Nov. 15, 1955 3:31 p.m. 1st reading

/5467 Col. 207-210 Commons

Mr. Silverman (Col. 207) asks for leave to bring in bill to abolish or suspend the passing and execution of the death penalty. Col. 207: says he really hopes it will be a bill for abolition and not suspension, but, at committee stage, bill could be amended to provide for a period of suspension.

Col. 208 reviews 1948 episode

Col. 207 1953 episode

Col. 210: Bill to abolish or for a period suspend the passing and execution of the death sentence on conviction of murder and to substantiate an alternative penalty therefore presented accordingly and read the first time. Bill 50.

Bill ordered to be brought in by S. Silverman et al.

Nov. 17, 1955

/5467 Col. 785 and 786

Silverman asked House to consider a Motion asking for a day to consider the Second Reading of the Bill - Refused.

Jan. 26, 1956

/5487 Col. 372

Gaitskill during business of the House asked when the government would find time for debate on capital punishment.

Mr. R.A. Butler (The Lord Privy Seal)

Not given definite answer - said discussions should proceed through the usual channels.

Feb. 2, 1956

/5487 Col. 1083

Gaitskill again asks about debate and for assurance that the debate will be open to a free vote of the House.

Butler. Not exact date, but thought it could take place within the next 2 or 3 weeks - his final decision not yet taken on the right to a free vote.

Col. 1084-5: Sydney Silverman asked about procedural difficulties (time precedence for private members bills).

Butler. Being discussed in highest quarters - through usual channels.

.....6

Feb. 9, 1956

/5487/Cols. 1814 and 1815

Gaitskill again asks:

1. When government Motion on capital punishment will be tabled.
2. Assurance that debate will be open to a free vote.

Butler. 1. Debate to be tabled soon - tonight or tomorrow.

2. The debate will be open to a free vote.

Feb. 16, 1956

/5487/Col. 2536

The Secretary of State for the Home Department and Minister for Welsh Affairs (Major Gwilym Lloyd-George)

moved:

"That this House is of opinion that, while the death penalty should be retained, the law relating to the crime of murder should be amended."

R.A. Butler - Col. 2636

Government Motion and free vote Col. 2636:

"...It may seem peculiar that we have a Government Motion and a free vote, but I think that on this issue that is the right decision. The Government should give a lead, the Government have a mind on the matter, as I shall indicate, and the Government have great responsibility to the public on this matter as the supreme authority. We are therefore right to put down a Government Motion, and the fact that we happen to have a free vote is the right way to handle the debate."

He said just previously, in the same speech, Col. 2635

".....when we have a free vote, we naturally expect to base our actions, if perhaps after necessary further deliberation, on the decision of the House. The decision for Honourable Members is therefore very serious."

Butler proceeded to set out amendments the government had in mind.

To vote on Motion.

Amendment of Government Motion

Feb. 16, 1956 - Mr. Chuter Ede

/5487/Cols. 2556-2557

it would read

"That this House believes that the death penalty for murder no longer accords with the needs of the true interests of a civilized society, and calls upon Her Majesty's Government to introduce forthwith legislation for its abolition or for its suspension for an experimentive period."

Voted against essence of Motion (Government Motion) as remaining part of the question.

Ayes: 262

Noes: 293

for amended Motion (Ede)

Ayes: 292

Noes: 246

Col. 2656: Mr. Ede asked if government would act on decision vote.
The Prime Minister (Sir Anthony Eden) - government will give full weight to decision of House on a free vote.

Feb. 23, 1956 Col. 574-81

/5497Col. 581 (Statement by P.M.)

Prime Minister (Sir Anthony Eden) -

Government has decided to find time for a Second Reading of the Death Penalty Abolition Bill, already introduced into the House by Mr. Silverman.

> "This would be on a free vote. It would not, in our view, be appropriate for the Government themselves to bring forward a Measure which they have so recently advised the House against.
>
> The necessary arrangements will be made with the Honourable Members through the usual channels." (Col. 574)

Gaitskill - thought government should have sponsored Measure, because of previous decisive vote in the House of Commons.

Prime Minister, Col. 575 refers to - assurance given - quote from Feb. 16, 1956 and says:

> "The government have tried hard to work out a fair arrangement. We offer two things. The first is that there should be time for the Bill, which will be taken out of our time. The second is that there should be a free vote on the stages of the Bill."

Col. 575: the Committee should be taken on the Floor of the House.

Col. 575-6: Mr. H. Morrison presses the government to take over the matter and implies that the government should bring in a government bill.

P.M. replies (Col. 576) -

> "...We offer, first, time for the Bill both on Second Reading and, of course, after Second Reading, should it be passed, on the later stages of the Bill; and, secondly, at each stage we offer a free vote. I do not think that more can be asked of a government. We certainly cannot contemplate introducing legislation in a sense contrary to our own expression of view."

.....8

Col. 578: reiterates - government offers a "free vote and time to get on with the Bill".

Cols. 580-581: Silverman again asks the government to follow 1948 precedent and have government give its authority to the Bill.

Col. 581: Secretary of State for the Home Department and Minister for Welsh Affairs - Major Gwilym Lloyd-George made a statement:

> "The Secretary of State for Scotland and I have considered what course we ought to adopt in considering in future the cases of persons sentenced to death. It would be unconstitutional for us to abrogate capital punishment by administration action in anticipation of the amendment of the law and it is our duty to apply our minds to the circumstances of each particular case. Each case will be considered on its merits, regard being had to the special circumstances relating to that case and all relevant considerations of either a public or private nature."

Mar. 12, 1956

/550/Cols. 36-152

Sydney Silverman, on February 16, House adopted a motion accepting principle of the Bill (Col. 36)

Silverman moved that the Bill be read a second time. Vote was: 286 for, 262 against (Cols. 145-152)

Mar. 22, 1956

/550/ 1955-56 - Col. 1468

Mr. Paget asked Mr. Butler when the Committee stage of the Death Penalty (Abolition Bill) would take place. Mr. Butler could not promise when.

Mar. 22, 1956

Col. 1470: Mr. S. Silverman asked to be consulted about "consultations through the usual channels arranging for the Death Penalty Abolition Bill".

Apr. 25, 1956

/551/Cols. 1789-1935 - Committee stage.

May 16, 1956

/552/Cols. 2019-2169 - Committee

May 29, 1956

/553/Cols. 132-197 - Committee

June 28, 1956

/555/ Cols. 713-787 - Report of Committee (Amendments during committee remand p. 113, Tuttle)

June 28, 1956

/555/ Cols. 787-840 - Third Reading of Bill

Ayes: 152

Noes: 133

read and passed

July 10, 1956

/198/ Col. 840, Lords

Lords voted on the Silverman Bill

238 against Bill

95 for Bill

The vote in the Lords was free. Silverman, on July 17, 1956, implied this in a speech in the Commons, and in:

/198/ Lords, Col. 561, July 9, 1956, Viscount Alexandre of Hillsborough asked the leader of the House whether Her Majesty's government intended to permit a free vote in that day's debate on the Death Penalty (Abolition) Bill, and, if that were so, whether the government intended to base their actions on the result of such a free vote. The Marquess of Salsbury replied on behalf of the government that the vote would be free, and that the government would consider further action when they saw the result of the vote.

July 17, 1956

/556/ Cols. 1037-8

Mr. Silverman asked the Prime Minister to make a statement about government policy in respect of Death Penalty Bill, in view of the fact that, on a free vote, the House of Lords and the House of Commons reached different conclusions.

Prime Minister indicated that he would make a statement on it before end of session.

Aug. 1, 1956

/557/ Col. 1397

Mr. Silverman asks for a government statement of policy on future stages of the Bill before the end of Session.

Mr. Butler promised that a statement would be made before the end of the session.

.....10

Oct. 24, 1956

Homicide Bill

Prime Minister Sir Anthony Eden stated that the Government would present its legislative proposals on capital punishment to the House early in the next session, and indicated that any new Abolition Bill would be a private member's Bill. (Tuttle, supra, pages 123-4; [558] Commons, Cols. 827-828)

Nov. 7, 1956: Homicide Bill read for the first time.

Nov. 21, 1956

[?] Col. 1755

Death Penalty (Abolition)

Bill to abolish or for a period suspend the passing and execution of the death sentence, etc., presented by Miss Alice Bacon - read the first time during Private Members' Bills - (Bill 19)

No debate took place.

To be read a second time on Feb. 1, 1957.

Miss Bacon's Bill was apparently not read a second time. There was no mention of it during the proceedings on Feb. 1, 1957. Vol. 563.

Tuttle (supra), at page 131:

> "The chance for consideration of this measure in the House of Commons was, however, not good, for there were only 10 days for considering private members' measures, of which 6 were to be devoted to second readings."

The Homicide Bill was read for the third time in the Commons on Feb. 6, 1957 [564] Cols. 566-7.

On Mar. 19, 1957, the Bill was read for the third time in the Lords.

On Mar. 21, 1957, the Bill received Royal Assent.

Comment: The Homicide Bill was a government Bill and there was not a free vote.

> (Ref. to: Sir Anthony Greenwood's speech, when he said that the whips were on the government side, and that members of the government side were not free agents in the committee. [564] Cols. 461-2, Feb. 6, 1957)
>
> Ref. also to speech by Sydney Silverman on Dec. 21, 1964 - [704] Commons, Cols. 870-871 - when he referred to the fact that there was not a free vote on the Homicide Bill.

.../11

4. 1964-65

Dec. 4, 1964

[703] Cols. 927-8

Bills presented:

Presented by Mr. Silverman - 1st reading.

> "Bill to abolish capital punishment in the case of persons convicted in Great Britain of murder or convicted of murder or a corresponding offence by court martial and, in connection therewith, to make further provision for the punishment of persons so convicted."

No debate.

Dec. 21, 1964

[704] Cols. 870-1010

Order for second reading. Col. 870 -

Silverman speaks of Homicide Act of 1957, a government Act to abolish death penalty for murder with stipulated exceptions.

Motion made and question put to send Bill to Committee of Whole House was defeated:

Ayes: 229

Noes: 247

(The government was officially neutral; the vote was a free vote. Silverman, Cols. 870-871)

It therefore went to Standing Committee C and, on second reading, vote was:

Ayes: 335

Noes: 170

Mar. 5, 1965

[707] Cols. 1701-1812

Mr. Forbes Hendry moved that Standing Committee C be discharged from further consideration of the Murder (Abolition of Death Penalty Bill) and that the Bill be moved to a Committee of the Whole House.

- slow progress -

Result - Standing Committee C was discharged from further consideration of the Murder (Abolition of Death Penalty Bill) and it was committed to the Committee of the Whole House.

Mar. 18, 1965

[708] Cols. 1486-1616

Lord President of the Council (Mr. Herbert Bowden)

Cols. 1486-7: referred to Queen's speech -

> "....when we promised that facilities would be provided for a free discussion by parliament on the issue of capital punishment."

Col. 1487: says no undertaking was given that the Bill would be brought to the floor of the House at Committee stage -

Motion to have Committee of Whole House discuss the Bill for 3 hours on Wednesday mornings - for 5, 6 or 7 mornings.

Votes: Ayes: 299
Noes: 229

Wed. Mar. 24, 1965

[709] Cols. 487-536 - Committee debate.

[710] Cols. 405-454 - Committee debate - Date?

Wed. Apr. 28, 1965

[711] Cols. 373-418 - Committee

Wed. May 12, 1965

[712] Cols. 459-486 - Committee continued

Fri. June 25, 1965

[714] Cols. 2113-2209 - Committee

July 13, 1965

[716] Cols. 358-466

Bill read the third time and passed

Ayes: 200
Noes: 98

.....13

Oct. 26, 1965

Bill passed third reading in the Lords with amendments relating to the judge's right to comment on the duration of a life sentence, and stipulating the conditions of parole.

[269] Lords
Vote: Ayes: 169
Noes: 75

Oct. 28, 1965

[718] Cols. 365-399

Lords Amendments to the Bill considered - concerns rights of judges to express opinions as to length of sentence, and the stipulated conditions for granting license to leave prison for prisoners with commuted sentences.
Lords amendments agreed to.

Nov. 2, 1965

Bill returned to Lords from Commons with amendments agreed to.
[269] Lords, Col. 735

Nov. 8, 1965

Royal Assent to Bill
[269] Lords, Col. 872

A

B I L L

TO

Abolish or for a period suspend the passing and execution of the death sentence on conviction of murder and to substitute an alternative penalty therefor. A.D. 1956

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Abolition of death penalty.

1.—(1) During the continuance in force of this Act, no person shall be sentenced by a court to death for murder; and every enactment requiring a court to pronounce or record a sentence of death in any case of murder shall be construed as requiring the court to sentence the offender to imprisonment for life.

(2) Nothing in this Act shall affect the provisions of section fifty-three of the Children and Young Persons Act, 1933 (which prohibits the passing of sentence of death against a person under the age of eighteen years, and requires the court, in lieu thereof, to sentence him to be detained during Her Majesty's Pleasure).

(3) In the application of this Act to Scotland the reference to sentencing to imprisonment for life shall be construed as a reference to sentencing to penal servitude for life, and for the reference to the Children and Young Persons Act, 1933, and section fifty-three thereof there shall be substituted a reference to the Children and Young Persons (Scotland) Act, 1937, and section fifty-seven thereof.

[Bill 50]

A

B I L L

To pro[illegible] for the reconstitution of the [illegible] Commissioners of Crown Lands under

Crown Estate

A.D. 1956

Short title, commencement and duration.

2.—(1) This Act may be cited as the Death Penalty (Abolition) Act, 1956.

(2) This Act shall continue in force for a period beginning with the passing of this Act and ending as hereinafter provided.

(3) If at any time not earlier than a period of five years beginning with the passing of this Act an Address is presented to Her Majesty by each House of Parliament praying that this Act shall not continue in force beyond such date as shall be therein specified Her Majesty may by Order in Council make provision for that purpose, and this Act shall expire on such date as such Order in Council may appoint but without prejudice to the validity of anything previously done thereunder, but if no such Order in Council is made within a period of ten years beginning with the passing of this Act then this Act shall thereafter continue in force without limitation of time.

Death Penalty (Abolition)

A

BILL

To abolish or for a period suspend the passing and execution of the death sentence on conviction of murder and to substitute an alternative penalty therefor.

Ordered to be brought in by Mr. Sydney Silverman, Mr. Ede, Mr. Clement Davies, Mr. Bevan, Mr. Montgomery Hyde, Mr. Paton, Mr. Daines, Dr. Barnett Stross, Mr. Wedgwood Benn, Mr. Paget, Sir Beverley Baxter and Mr. Wade

Ordered, by The House of Commons, *to be printed,* 15 *November* 1955

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PRINTED AND PUBLISHED BY
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Price 3*d.* net

[Bill 50] (3849)

B I

[AS AMENDE

Provide (subject to an ex persons already serving for life) for abolishing, the passing and execut conviction of murder a penalty therefor.

BE it enacted by the Quee with the advice and c Temporal, and Comn assembled, and by the authori

1.—(1) During the continua shall be sentenced by a cour enactment requiring a court t of death in any case of murc the court to sentence the offen

Provided that this Act sha the murder was committed by of imprisonment for life.

(2) Nothing in this Act sh fifty-three of the Children anc prohibits the passing of sen under the age of eighteen yea thereof, to sentence him to Pleasure).

(3) In the application of thi to the Children and Young

[Bill 143]

MEMORANDUM TO: THE SOLICITOR GENERAL

FROM: Mr. D.H. Christie

Re: Capital Punishment

The attached memorandum has gone forward for circulation to your colleagues. This matter will probably ~~not~~ be on the agenda for tomorrow's meeting of Cabinet, ~~but will probably be on the agenda for next Thursday~~.

I understand from Mr. Wall of the Office of the Privy Council that Cabinet is particularly interested in the question whether in the United Kingdom there was "Cabinet solidarity" notwithstanding the fact that other members of Parliament were given a free-vote on the question of abolition of capital punishment. It is clear that there was Cabinet solidarity when the House voted on April 14, 1948 on Silverman's amendment to the Criminal Justice Bill that the imposition of the death penalty be suspended for five years. It is not clear whether there was Cabinet solidarity on February 16, 1956 as on the motion by Home Secretary Gwilym Lloyd-George "that this House is of the opinion, that, while the death penalty should be retained, the law relating to the crime of murder should be amended". Nor is it clear whether there was Cabinet solidarity when on July 13, 1965, the House of Commons voted in favour of abolishing capital punishment. I am endeavouring through External Affairs, to secure more accurate information on this in the United Kingdom and I will let you know the result.

000207

FM LDN MAY9/67 RESTR

TO EXTERL 2490 FLASH'''

INFO SOLICITOR GENERALS DEPT(P SPRAGUE)FLASH''DE OTT

REF OURTEL 2479 MAY8 AND UNNUMBERED TEL MAY8 FROM DEPT SOLICITOR GENERAL

CAPITAL PUNISHMENT-UK PARLIAMENTARY PROCEDURE

YOURTEL L458 MAY8 ARRIVED AFTER COMPLETION OF WORK LAST EVENING AND HOME OFFICE OFFICIAL REFERRED TO IN OURTEL 2479 WAS ONLY KNOWLEDGEABLE PERSONNE WERE ABLE TO CONTACT AT THAT HOUR.HAD YOUR REQUEST FOR INFO COME EARLIER WE UNDOUBTEDLY COULD HAVE OBTAINED YESTERDAY FULL ANSWERS TO ALL QUESTIONS ASKED ALTHOUGH NOT RPT NOT THROUGH SOURCE SOLICITOR GENERALS DEPT SEEMS TO FAVOUR.AS YESTERDAYS COMMON MARKET DEBATE AMPLY DEMONSTRATED SILVERMAN IS APPROACHING SENILITY WE ARE MENTIONING THIS NOW SINCE IT WILL EXPLAIN OUR RELUCTANCE TO APPROACH SILVERMAN.WE DOUBT IF SILVERMAN EVER HAD FULL KNOWLEDGE OF CABINET DECISIONS IN CASES MENTIONED AND IF SO IT IS HIGHLY UNLIKELY THAT UNDER PRESENT CONDITIONS HE COULD PROVIDE ANSWERS REQUIRED.

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...2

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MURRAY

FM LDN MAY8/67 RESTR

TO EXTERL 2479 FLASH ° °

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4.HANSARD EVERY COUPLE OF WEEKS CONTAINS A LIST OF MINISTERS.

May 8, 1967

Telegram to Great Britain

Question 1. We understand that, on April 14, 1948, when there was a Commons vote on an amendment to the Criminal Justice Bill to add a clause to suspend the death penalty for five years, government backbenchers were given a free vote, but there was cabinet solidarity in voting against the amendment. Is this correct?

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Question 3. We understand that, on June 28, 1956, at the time of the third Commons reading of the Death Penalty (Abolition) Bill, sponsored by private member Sydney Silverman, the government backbenchers were given a free vote. Was there cabinet solidarity in voting against this Bill?

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1430

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MURRAY

140-30

Ottawa, May 8, 1967

Mr. Alan E. Gotlieb,
Head of Legal Division,
Department of External Affairs,
Room 520, Daly Building,
OTTAWA 4, Ontario

Dear Mr. Gotlieb:

Referring to my telephone conversation with you this morning, we would be grateful if you would send a telegram, as attached, to the appropriate persons in the United Kingdom. This information is needed immediately for the purpose of cabinet consultations, and we wonder if it would be possible to have a reply by tomorrow.

Yours truly,

PMS

PMS/mab

(Miss) Pauline Sprague
(Tel. 996-1812)

May 8, 1967

Telegram to Great Britain

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MESSAGE

146-30

		DATE	FILE/DOSSIER		SECURITY SECURITE
FM/DE	EXTERNAL OTTAWA	MAY 8/67			RESTRICTED
TO/A	LONDON		NO L-458		PRECEDENCE FLASH
INFO					

REF

SUB/SUJ CAPITAL PUNISHMENT - UK PARLIAMENTARY PROCEDURE

GRATEFUL IF YOU WOULD IMMEDIATELY ATTEMPT TO OBTAIN ANSWERS TO FOLLOWING QUESTIONS ASKED BY SOLICITOR GENERAL'S DEPT. WE HAVE BEEN INFORMED THAT INFORMATION REQUESTED IS NEEDED FOR CABINET CONSULTATIONS TOMORROW, MAY 9.

2. QUESTION 1 ON APRIL 14, 1948, WHEN COMMONS VOTED ON AN AMENDMENT TO CRIMINAL JUSTICE BILL TO ADD A CLAUSE TO SUSPEND DEATH PENALTY FOR FIVE YEARS, WERE GOVT BACKBENCHERS GIVEN A FREE VOTE AND WAS THERE CABINET SOLIDARITY IN VOTING AGAINST AMENDMENT?

QUESTION 2 ON FEB 16, 1956, WHEN COMMONS VOTED ON AN AMENDMENT TO A GOVT MOTION, TO EFFECT THAT HOUSE OF COMMONS CALLED UPON GOVT TO INTRODUCE LEGISLATION TO ABOLISH, OR SUSPEND FOR AN EXPERIMENTIVE PERIOD, DEATH PENALTY FOR MURDER, WERE GOVT BACKBENCHERS GIVEN A FREE VOTE? WAS THERE CABINET SOLIDARITY IN VOTING AGINST THIS AMENDMENT TO ORIGINAL GOVT MOTION, WHICH RELATED TO AMENDMENT OF CRIME OF MURDER?

.....2

DISTRIBUTION
LOCAL/LOCALE NO STANDARD c.c.P Solicitor General's Dept.(P. Sprague)

ORIGINATOR/REDACTEUR	DIVISION	TELEPHONE	APPROVED/AUTORISE
SIG D.M. Miller/bmc	LEGAL	2-2104	SIG A.E. GOTLIEB A.E. Gotlieb

QUESTION 3 ON JUNE 28, 1956, AT TIME OF COMMONS THIRD READING OF DEATH PENALTY (ABOLITION) BILL, SPONSORED BY PRIVATE MEMBER SYDNEY SILVERMAN, WERE GOVT BACKBENCHERS GIVEN A FREE VOTE? WAS THERE CABINET SOLIDARITY IN VOTING AGAINST THIS BILL?

QUESTION 4 ON DEC. 21, 1964, AT TIME OF COMMONS SECOND READING OF A BILL TO ABOLISH CAPITAL PUNISHMENT FOR MURDER, SPONSORED BY PRIVATE MEMBER SYDNEY SILVERMAN, WERE GOVT BACKBENCHERS GIVEN A FREE VOTE? WAS THERE CABINET SOLIDARITY IN VOTING IN THIS INSTANCE? IF SO, WAS IT FOR BILL?

QUESTION 5 WE UNDERSTAND THAT, ON JULY 13, 1965, AT TIME OF COMMONS THIRD READING OF A BILL TO ABOLISH CAPITAL PUNISHMENT FOR MURDER, SPONSORED BY PRIVATE MEMBER SYDNEY SILVERMAN, WERE GOVT BACK-BENCHERS GIVEN A FREE VOTE. WAS THERE CABINET SOLIDARITY IN VOTING IN THIS INSTANCE? IF SO, WAS FOR BILL?

3. WE SUGGEST THAT POSSIBLY QUICKEST WAY TO OBTAIN THIS INFORMATION MIGHT BE TO CONTACT SYDNEY SILVERMAN, WHO IS THOROUGHLY FAMILIAR WITH RECENT HISTORY OF ABOLITION OF DEATH PENALTY IN UNITED KINGDOM.

140-30

FM LDN MAY8/67 RESTR

TO EXTERL 2479 FLASH ° °

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140-30

DEPARTMENT OF THE SOLICITOR GENERAL

TELEGRAM

OTTAWA MAY 8 1967

TELEGRAM TO GREAT BRITAIN

REPLY TO TELEGRAM RE CAPITAL PUNISHMENT OF NO ASSISTANCE WHATEVER AND FURTHERMORE INACCURATE. FOR EXAMPLE NO CONSERVATIVE GOVERNMENT IN 1948. SILVERMAN INTIMATELY CONNECTED WITH HISTORY OF ABOLITION DURING PERIOD REFERRED TO AND CAN UNDOUBTEDLY ANSWER SOME IF NOT ALL QUESTIONS. IF HE CANNOT SUPPLY ALL INFORMATION CAN UNDOUBTEDLY DIRECT YOU TO ACCURATE SOURCE STOP. PLEASE TREAT AS MOST URGENT.

D.H. Christie

DEPARTMENT OF THE SOLICITOR GENERAL

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D.H. Christie

PRIVY COUNCIL OFFICE

CANADA

BUREAU DU CONSEIL PRIVÉ

CONFIDENTIAL

RECORD OF CABINET DECISION

Meeting of May 2nd, 1967

Capital Punishment

The Cabinet noted the recommendation of the Solicitor General with respect to the introduction of a Bill to abolish capital punishment and agreed that:

(a) a draft Bill be prepared by the Solicitor General with exception from abolition where the murder of a policeman or prison guard was involved; and

(b) the Minister of Justice prepare for consideration, simultaneously with the draft Bill, a memorandum regarding procedures insofar as they affected the issues of confidence, Cabinet solidarity and a free vote.

D.J. Leach,
Supervisor of Cabinet Documents.

May 8th, 1967.

SOLICITOR GENERAL

MEMORANDUM

Mr MacDonald

CAPITAL PUNISHMENT

(An article prepared for the Alberta Law Review, (Spring, 1967, edition) by the Honourable L.T. Pennell, Solicitor General of Canada).

The question of the abolition of capital punishment has had an extensive airing in the Parliaments of both Canada and the United Kingdom during recent years. In the most recent debate in the Canadian House of Commons, the member for Leeds, Mr. John Matheson, suggested that this renewed interest in the subject is attributable to the fact that "we belong to the caring generation". Whatever the merits of this statement, it is clear that across a wider spectrum of our community than has ever before been the case, capital punishment is now considered to be a moral and political issue of the first magnitude.

At the same time, it cannot be said the extensive debate to this date has resulted in any consensus. In the United Kingdom, capital punishment was abolished for a five-year period by a bill adopted by Parliament during the summer and autumn of 1965, and given Royal Assent on November 8 of that year. That there is still a good deal of sentiment in favour of the death penalty in that country, however, is illustrated by the recent furore there surrounding the shooting murder of three London police constables, which was followed by a debate in the Commons on Mr. Duncan Sandys' motion for re-introduction of the death penalty. The Sandys' motion was de-

feated but the heat of the debate indicated that the abolitionists have not yet completely carried the day.

In Canada, the House of Commons devoted a full five days to the subject in March of last year. By any standard of measurement of Parliamentary debates, this was an excellent one. Speeches were lucid, delivered with great sincerity on all sides, and extremely well researched. At the conclusion of the debate, three separate motions were put to the House, each of which would have abolished capital punishment to some degree. In each case, the motion was defeated.

Because of the manner in which the motions were worded, however, it remains unclear what were the sentiments which the House actually put on the record. On the one hand, it could be argued, I suppose, that the votes were in fact a resounding defeat for the abolitionist cause. On the other hand, it could be argued, with equal respectability, that the House really showed itself to be almost evenly divided on the question of some form of abolition.

If nothing else, the recent Parliamentary history indicates that the movement towards greater leniency in our criminal law, which began centuries ago with the abolition of the rack and the wheel, is a slow and tortured process.

Perhaps it would be useful if I were to set out this recent Parliamentary history in greater detail.

One of the most significant occurrences in this area in the post-World-War-II period was the report of the U.K. Royal Commission on Capital Punishment. This Royal Commission, under the chairmanship of Sir Ernest Gowers, carried out its studies over the four-year period from 1949 to 1953. Its terms of reference were not to bring in a recommendation either for or against the abolition of capital punishment, but rather to consider whether there should be amendments to the statutory definition of capital murder; to make recommendations as to the proper term of imprisonment for persons guilty of some lesser form of culpable homicide; and to consider the problem of imprisonment of such persons in its wider aspects.

Sir Ernest Gowers has since been reported as having said that he began his work disposed, if anything, towards retention of the death penalty as an effective deterrent to murder. After four years of careful consideration of the problem, he was able to suggest in his final report that he agreed with the American sociologist Thorsten Sellin that it was absolutely impossible to demonstrate, on any reliable statistical basis, that the death penalty serves in any way as a deterrent to the commission of homicides. "It is accordingly important" the Report concluded, "to view the question in a just perspective and not to base a penal policy in relation to murder on exaggerated estimates of the uniquely deterrent force of the death penalty". Royal Commission Paragraph 68.

It is interesting to note in passing that the Royal Commission also concluded that it was impractical to attempt to draw up a criminal statute which would segregate murder into various shades of culpability. The Royal Commission therefore put the issue squarely before Parliament on this basis: Parliament, it said in effect, had to make up its mind either for or against abolition. The matter could not effectively be settled, it said, by attempting to distinguish "capital" from "non-capital" murders. This advice was later ignored by the U.K. government, which introduced "non-capital" murder concepts into the law of the land in 1957. A similar step was taken in Canada in 1961.

Although the Report of the Royal Commission has been a valuable instrument in the hands of abolitionists in the U.K. since 1953, it should not be forgotten that there were a considerable number of abolitionists in Parliament even before that date.

Indeed, one of the reasons for the appointment of the Commission was the unusual occurrence in the House of Commons of April 14, 1948, when Mr. Sidney Silverman's amendment (to the Criminal Justice Bill which was then before the House), proposing abolition for an experimental five-year period, was carried 245-222 over the protests of the Home Secretary. The Labour government was later rescued from this position of having

policy thrust upon it by the Commons when the House of Lords refused to pass the Bill as amended.

At this late stage, the Labour government attempted a compromise, and introduced a bill which would have reserved the death penalty only for the most heinous crimes. The approval of the House of Commons was obtained easily, but once again the measure was defeated by the Lords.

The matter was largely left in abeyance until 1956, although several private members attempted (unsuccessfully) during the interim to advance abolition bills to the debate stage.

The 1956 experience was largely a repetition of the 1949 one. On February 16, 1956, the Home Secretary introduced a motion calling for an amendment to the law of murder, while retaining the death penalty in some circumstances. The motion was defeated, the House choosing instead to adopt Mr. Chuter Ede's amending motion that legislation should be introduced abolishing capital punishment for five years. The Prime Minister then announced that the government would give expression to the resolution by advancing Mr. Sidney Silverman's private bill to the debate stage. When this was done, the bill carried; only to be rejected 283-95 in the House of Lords.

At this stage, the government of the day attempted another compromise, this time with success. The U.K. Homicide

Act of 1957, providing for a distinction between "capital" and "non-capital" murders, secured the approval of both Houses.

In any event, the 1957 legislation remained the law of the United Kingdom until 1965, when the Murder (Abolition of Death Penalty) Act was passed, providing the five-year ban on executions which many members of the House of Commons had been seeking. I have already mentioned the recent unsuccessful assault on that legislation made by Mr. Duncan Sandys.

I have outlined this British legislative history at some length, to illustrate how difficult it is to secure public and parliamentary acceptance for abolition legislation. The question of the death penalty seems to be a problem which touches the social conscience at its very roots.

Despite this, there seems to be an increasing number of jurisdictions which have abolished the death penalty. Some forty countries no longer execute their murderers, and the list includes Austria, Argentina, Belgium, Brazil, Italy, West Germany, Israel, Norway, Sweden, Denmark, The Netherlands, Mexico, Portugal, Switzerland, Venezuela and New Zealand. The Australian state of Queensland, and the American states of Michigan, Wisconsin, Maine, Minnesota, Hawaii, and Alaska, are also on the list. In Rhode Island and North Dakota, I understand the death penalty is provided only for those who commit first degree murder while

serving a sentence of imprisonment for a previous first degree murder.

The question of abolition was considered in detail in Canada by a joint committee of the Senate and House of Commons, which submitted its report to Parliament on June 27, 1956. In General, the report did not support in any way the cause of the abolitionists of the day. It recommended against any change in the definition of murder; suggested nothing could be gained by creating "degrees" of murder; and opted for retention of death as the mandatory penalty for murder and treason. At the same time, however, it suggested certain improvements in the appeal procedures applicable to murder convictions; said that murderers under 18 should not be hanged (a provision brought into Canadian law in 1961, several years after the conviction of Stephen Truscott, whose sentence had nevertheless been commuted by the Cabinet); and recommended that the gallows be replaced by electrocution or the gas chamber as a means of execution.

In 1961, the government of the day amended the Criminal Code by instituting the "non-capital" murder provisions which are still in force. The effect of these, of course, was to confine the designation of "capital murder" to homicides carried out on the basis of a deliberate plan; to homicides of police officers and prison guards; and to a number of "felony murders",

that is, homicides committed in the course of some felony such as robbery or rape. For "non-capital" murder, life imprisonment was provided as the mandatory penalty. We now stand at this halfway house and perhaps I might be permitted this margenal note. In my respectful opinion the divisions of capital and non-capital murders cannot be defended on grounds of logic. Certainly it does not divide crimes according to their moral culpability. Some less heinous acts are deemed capital murders while more heinous acts are sometimes held to be non-capital murders.

This 1961 legislation had been preceded by a two-day debate in February, 1960, on Mr. Frank Magee's private abolition bill. That debate had provided a forum for M.P's to air their views on the subject, but the motion for second reading of Mr. Magee's bill never came to a vote, and so the debate had fizzled out. Mr. Magee himself moved to withdraw his bill on August 10, 1960, his conferences with fellow-M.P's apparently having convinced him that there was no chance of pursuing the matter to a successful conclusion.

Finally, in April, 1966, the government made time available for the House to debate an abolition bill co-sponsered by four private members, representing the Liberal, Conservative, and New Democratic parties. It was announced that the whips would be called off, and that each member of the House could

vote on the matter as his conscience dictated. The result, as I have indicated, was defeat of the bill, and defeat as well for two proposed amendments to it.

The manner in which the House voted on these various proposals is of some interest.

To begin with, Mr. Donald MacDonald (Liberal, Rosedale), proposed an amendment to the abolition bill which would have had the result of giving the measure effect only "on a trial basis for a period of five years". This was defeated 138-113.

The House next voted on an amendment proposed by Mr. Milton Klein (Liberal, Cartier), which would have abolished capital punishment except in cases of murders of prison guards or police officers. This was defeated 179-112.

Finally, on the main motion for a total abolition of the death penalty, the vote was 143-112 against.

The absence of any floor leadership in the House while this voting was going on produced some confusion. In particular, many of those who strongly favoured total abolition voted against any watered-down formula, and allowed the two amendments to be defeated by unrealistically large votes. I have since calculated that if all those who favoured a regime of total abolition had voted for Mr. Milton Klein's amendment, that amendment would have been defeated only by a relatively narrow vote of 133-127.

It is on this basis that I feel that the House showed itself at that time to be closely divided on the question of partial abolition.

My own position in all this was that I voted in favour of each amendment, and also in favour of the main proposal. I believe that the death penalty should be abolished, but I would have been willing to compromise to achieve at least a measure of aboletion.

Perhaps I should now say something about why I feel the death penalty is an anachronism which should be removed from our system of administration of justice.

In the space of a short article, I cannot hope to deal with each of the arguments put forward last year and in 1960 by those who favoured retention. Many said they were convinced the death penalty served a deterrent effect. Others said that no less severe penalty could adequately express the community's sense of revulsion at murder. Some members spoke of the necessity of "amputating" the murderer from the community, in the manner that a surgeon amputates a gangrenous limb. Finally, some members suggested that the scriptures endorse the death penalty as a fitting reward for murder, and that any lesser punishment would run counter to Divine will. History has shown that every mitigation of penal severity has always produced loud protests and dark forecasts of disaster. But

time and experience has destroyed the illusion that we can overcome violent crime by ourselves adopting violent methods.

My basic philosophical approach is simple enough, I think. I believe we should not take human life unless it is absolutely clear that some worthwhile purpose would be served by doing so. If we are in the administration of justice, it should be in the direction of preserving life, rather than towards taking it, even when the life being taken is that of a convicted murderer.

The second half of my approach to the problem consists of this; that so far as I can tell it cannot be shown, in any objective way, that any useful purpose is really served when the community follows up a murder with a judicial execution.

On this question of deterrence, I am profoundly impressed by the findings of the statisticians, including in particular Professor Thorsten Sellin, that the experience of jurisdictions which have abolished the death penalty does not tend to show, statistically, that the execution of murderers deters the commission of the crime. The Report of the Royal Commission on capital punishment said: "We agree with Professor Sellin that the only conclusion which can be drawn from the figures is that there is no clear evidence of any influence of the death penalty on the homicide rates of these states

and that whether the death penalty is used or not and whether executions are frequent or not both death penalty states and abolition states show rates which suggests that these rates are conditioned by factors other than the death penalty". Royal Commission Report - Paragraph 64.

Indeed, Professor Sellin went so far as to say before the 1956 Canadian Parliamentary Committee that the statistics actually point the other way, and indicate that more murders tend to be committed where the death penalty is in force.

Of course, I appreciate that those who speak of deterrence do not have in mind only the statistics of the matter. There is a more subtle variation on the "deterrence" theme which was very well expressed in the words of the Royal Commission Report:

> "... the deterrent force of capital punishment operates not only by affecting the conscious thoughts of individuals tempted to commit murder, but also by building up in the community, over a long period of time, a deep feeling of peculiar abhorrence for the crime of murder. The fact that men are hung for murder is one great reason why murder is considered so dreadful a crime. This widely diffused effect on the moral consciousness of society is impossible to assess, but it must be at least as important as any direct part which the death penalty may play as a deterrent in the calculations of potential murderers. It is likely to be specially potent in this country, where the punishment for lesser offences is much more lenient than in many other countries, and the death penalty stands out in sharper contrast". Royal Commission Report - Paragraph 20.

This is an interesting approach, but is it a valid one?

To begin with, it seems to assume that the type of person who commits murder would be affected by rather subtle ideas at large in the community about the sanctity of life. My own belief, based partly on practical experience in the criminal courts, is that the murderer does not usually care about subtleties of that kind. Murders are usually done as crimes of passion, or by persons who have lost the will to live themselves and express their hopelessness by ending other persons' lives, or by individuals whose contempt for the sanctity of life frequently verges on the psychopathic.

Of course I appreciate that those who speak of deterents do not have in mind only the statistics of the matter. There is a more subtle variation which was expressed by Lord Justice Denning when he said:

> "The ultimate justification of any punishment is not that it is a deterent, but that it is an emphatic denunciation by the community of a crime: And from this point of view there are murders which, in the present state of public opinion, demand the most emphatic denunciation of all - namely the death penalty".

In my humble opinion, this is in essence an appeal to the old Lex Talionis, the law of an eye for an eye, a tooth for a tooth. Our penal system has a three-fold function. It seeks to punish the offender, tries to reform him and aims to deter others from renewing his offence. It is not concerned with exact retaliation or precise retribution, but it seems to

me that this is the principle that is kept alive by the imposition of the death sentence. It is my submission that severity of punishment alone cannot lead to the maintenance of respect for the law. The question of the certainty of detection and conviction is the overriding factor. It is, I suggest, common sense that crime will continue to flourish if those who are committing crimes go unapprehended. The basic point, in my view, is the certainty of detection and conviction.

Apart from this, there are other considerations.

One is that judicial execution is a very cold-blooded and horrifying act that cannot be justified unless it is established that it is absolutely necessary. If we want to instill respect for life among all members of our community, surely we do not do it by acts of this kind at the highest level of our system of justice. A much better alternative, I think, is to demonstrate in a practical way that our system of justice abhors the taking of any life under any circumstances.

Then there is the awful fact that innocent men have been executed in the past, and may die in the future if the death penalty remains in force. The English author Arthur Koestler has documented a number of such cases in his book Reflections on Hanging. In the recent past in England, we have had the murder case involving John Reginald Christie and Timothy Evans.

Evans was executed for murdering his child, but Christie later confessed the crime and Evans has since been awarded a posthumous pardon.

In the words of Lord Birkett:

> "The case against Evans at his trial on the facts as they were then known was quite overwhelming. There was no failure in the administrative machinery of the criminal law. No human skill could have prevented the conviction, and no human judicial system, whatever its checks and safeguards, can ever provide complete security against the exceedingly rare and utterly exceptional case such as that of Evans". The Observer, January 15, 1961.

Whatever care you take in the judicial process, the chance of mistakes is bound to arise. Do we have the moral right, being fallible and human, to administer a punishment we cannot undo if subsequently the judgment is found to be wrong?

There is a final point which I should make. The interests of humanitarianism will not be served simply by commuting death sentences to sentences of life imprisonment, and then allowing the condemned man to languish indefinitely in a cell. There can be no question that there are some murderers who are so dangerous that it would be unsafe to let them ever go free for the protection of society is paramount. But is it too much to suggest that with the present development of the scientific study of the human mind society, in the long

run, would receive more benefit from the study of the psychopath than it would benefit by hanging him? Abolition should be accompanied also by efforts within our penitentiaries to achieve a rehabilitation of the murderer himself, with the object of eventually releasing him, after a period of appropriate length, to some sort of productive work in the community. Nathan Leopold's work in hospitals today is perhaps some compensation for "the crime of the century" which he committed many years ago in Chicago.

I hope that, in time, it will be possible for Canada to achieve all these goals. At that time, perhaps, we will be closer to that perfect justice which we all desire.

DEPARTMENT OF THE SOLICITOR GENERAL
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

March 16, 1967

Note for the Commissioner of Penitentiaries

Would you kindly arrange to have someone send Miss Hardy a copy of the Report of the Correctional Planning Committee of the Department of Justice, 1961, as requested in the attached letter of March 10, 1967. I have already sent her a copy of the book entitled "Capital Punishment - Material Relating to Its Purpose and Value".

T. D. MacDONALD

Attach. T.D.M.

CENTRE OF CRIMINOLOGY
UNIVERSITY OF TORONTO
TORONTO 5, CANADA

March 22nd, 1967

Mr. T. D. MacDonald
Deputy Solicitor General
Department of the Solicitor General
Government of Canada
OTTAWA 4

Dear Mr. MacDonald :

Thank you for sending us a copy of the book - "capital Punishment: Material Relating to Its Purpose and Value" and for arranging with the Penitentiaries Branch to send us a copy of the Report of the Correctional Planning Committee of the Department of Justice.

Sincerely,

Judith Hardy
Librarian

JH/is

T. D. MacDonald

CENTRE OF CRIMINOLOGY
UNIVERSITY OF TORONTO
TORONTO 5, CANADA

March 10th 1967

Department of Justice
Government of Canada
Justice Building
Wellington Street
OTTAWA, Ontario

Dear Sir :

We should very much like to obtain one copy of the - Report of the Correctional Planning Committee of the Dept. of Justice. 1961.

Would this be available from your office or could you let us know from whom it might be obtained?

We should also like to have a copy of - "Capital Punishment, material relating to its purpose and value". 1965 - if available.

Yours sincerely,

Judith Hardy

Judith Hardy
Librarian

JH/is

Ottawa 4, March 16, 1967

Dear Miss Hardy:

I wish to acknowledge your letter of March 10, 1967 addressed to the Department of Justice, requesting a copy of the Report of the Correctional Planning Committee of the Department of Justice, 1961 and also a copy of the book entitled "Capital Punishment - Material Relating to Its Purpose and Value". I now enclose a copy of the book on Capital Punishment and am sending a copy of your letter to the Penitentiaries Branch so that they may deal with your request for a copy of the Report of the Correctional Planning Committee of the Department of Justice.

Yours truly,

T. D. MacDONALD

T. D. MacDonald,
Deputy Solicitor General

Encl.

Miss Judith Hardy,
Librarian,
Centre of Criminology,
University of Toronto,
Toronto 5, Ontario

TDM/ROA

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, February 14, 1967

NOTE TO MR. D. H. ~~CHRISTIE~~ Macdonald:

Would you please let the Solicitor General know first thing tomorrow morning whether the Shirm and Guinette cases involved the murder of a policeman. (I told him it was my recollection they did not but I could not be categorical). Would you also let him know whether any of the other cases outstanding involve the murder of a policeman or prison guard.

T.D.M.
T.D.M.

P.S. I shall be in Montreal
this morning.

T.D.M.

Informed S.G. No cases
involving murder of
police officer or prison
guard on current list.

pwc.
15 Feb. 67

TDM/ROA

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, February 14, 1967

NOTE TO MR. D. H. CHRISTIE:

Would you please let the Solicitor General know first thing tomorrow morning whether the Shirm and Guinette cases involved the murder of a policeman. (I told him it was my recollection they did not but I could not be categorical). Would you also let him know whether any of the other cases outstanding involve the murder of a policeman or prison guard.

T.D.M.

P.S. - I shall be in Montreal tomorrow.

T.D.M.

141-206
(Vol. 12)

Ottawa 4, February 9, 1967

BY HAND

Re: Capital Punishment

Dear Mr. Robertson:

I am enclosing fifty copies of a second Memorandum on this subject with enclosures. The Solicitor General has requested that this Memorandum go direct to the Cabinet Committee on Legislation.

Yours truly,

T. D. MacDONALD

T. D. MacDonald,
Deputy Solicitor General

Attachs.

Mr. R. G. Robertson,
Clerk of the Privy Council,
Privy Council Office,
East Block,
Ottawa, Ontario

Bill to extend Capital Punishment

for 1961 murder was decided as

capital and non capital murder. ~~As punishment~~

~~for the latter murder the~~ Capital murder

now, generally speaking,

includes murder that was planned &

deliberate, ~~and~~, certain murders committed in

~~the course of certain crimes, whether of~~

~~course of~~ and

violence, e.g. robbery, and murder of a

~~police~~ officer

police or prison ~~guard~~ official in

the course of duty. The punishment for

capital murder is death & for non-capital

murder it is usually life imprisonment.

The proposed Bill would ~~abolish~~

further

punish the definition of capital murder

li the murder of a policeman or person
therein acting in the course of duty,
amendment
and the change would remain in force
for five years & then expire, there remains
li the present law, unless, before the end of
the five year period, Parliament, by joint
resolution of both Houses, decides that the
sentence
amendment remains in force.

The Penitentiaries made the Parole
Act, as amended provide that the portion
of the term of imprisonment that ~~is~~
which shall ordinarily, before
before parole is granted by the N.P.B.

shall be served where the sentence of imprisonment is for life, but not a sentence to which a sentence of death has been commuted, is seven years. The Regulations further provide that where a person undergoing a sentence ~~of death~~ ~~commuted to~~ life imprisonment to which a sentence of death has been commuted shall serve the entire term of such sentence unless, upon the recommendation of the N.P.B. the G. in C. otherwise directs and that the N.P.B. shall not recommend parole in such a case until at least ten years have been served.

~~In if the The House, deciding~~

~~the debate upon the Bill will likely ask~~

~~asked~~ for a ~~statement~~

Thus, under the present provisions, a person convicted of non capital murder is ordinarily eligible for parole after seven without reference to the G in C; on imprisonment, while a person convicted of capital murder and commuted to life imprisonment is not eligible until after ten years imprisonment and then only with the express approval of the G in C.

The House, debating the debate on the Bill, will no doubt ~~ask~~ inquire how ~~these~~ cases are to be ~~dealt~~ dealt with in regard to

parole, which, by reason of the Bill
become cases of non capital rather than
the murder of a non-policeman
capital murder, e.g. ~~murders other than murders~~
~~of policemen committed~~ in the ~~same~~ course of an
armed robbery. If the present ~~text~~ Regulations
~~to~~ stand, such cases will be eligible for
parole, without reference to the G in C, at the
end of seven years imprisonment. On the
other hand, if the Regulations are amended
to make all ~~or~~ cases of murderers subject
to the ten year rule & the approval of
the G in C, this will have the
effect of ~~removing out this category the~~
~~present class of non capital~~ ~~shifting the~~
present cases of ~~non cap~~ imprisonment for
~~present class~~ of non capital murder

~~cases~~ from the release year to the tenth ~~year~~ rule and also making parole in such cases subject to the approval of the G. in C.

This would mean, incidentally, a considerable additional number of cases coming before Cabinet for consideration of parole, perhaps, eventually, of the order of ~~some~~ thirty to thirty-five per year. It would be a ~~to the view of the undersigned~~ ~~the position to be~~ practical impossibility to try to distinguish, in the ~~parole~~ Regulations, ~~for parole purposes~~, between present cases of non capital ~~murder~~ murder and cases which become non capital under the Bill, because there will be no court decisions

upon which to base such a determination.

The underwriter would propose to take the position, in the debate, that the most categories of non capital murders, like the present categories, will fall under the seven year rule ~~but that~~ that cases of capital murder will continue to fall under the ten year rule; and the Regulations would be amended to provide that all parties of murders, whether convicted of non capital murder, or convicted of capital murder and commuted, would require the prior approval of the Minister.

~~f the Crim C.~~

It is possible, of course, that the House may not be satisfied with an undertaking to deal with the matter in the Parole Reg's and may press for some provision to be written into the Criminal Code itself. In that case the undertaking would appear to ~~be a provision~~ to except an amendment to the Bill to provide that no person in respect of whom a sentence of death has been commuted to imprisonment for life, or ~~a term of~~ ~~imprisonment and~~ ~~the person~~ convicted of a capital murder, shall be released on parole without the prior approval

2025

Answer by Honourable L.T. Pennell, Solicitor General

1.	(a)	May 25, 1965 to December 31, 1965	- 10
		1966	- 12
		January 1, 1967 to January 27, 1967	- 1
	(b)	May 25, 1965 to December 31, 1965	- 0
		1966	- 0
		January 1, 1967 to January 27, 1967	- 0
	(c)	May 25, 1965 to December 31, 1965	- 3
		1966	- 2
		January 1, 1967 to January 27, 1967	- 0
	(d) (i)	May 25, 1965 to December 31, 1965	- 3
		1966	- 9
		January 1, 1967 to January 27, 1967	- 1
	(d) (ii)	As of January 27, 1967	- 0

NOTE: In accordance with the practice in recording such statistics, each case is carried through to its conclusion under the year in which the sentence was imposed. Thus the two cases shown under 1 (c) for 1966 were actually commuted on January 24, 1967. The cases shown under (d) (i) are presently before the Appeal Courts. It should also be noted that in the period May 25, 1965 to January 27, 1967 there were five capital cases in which new trials were ordered which did not result in subsequent convictions for capital murder.

2.	(a)	1962	- 0
		1963	- 0
		1964	- 1 (+)
		January 1, 1965 to May 25, 1965	- 0
	(b)	1962	- 0
		1963	- 0
		1964	- 0
		January 1, 1965 to May 25, 1965	- 0
	(c)	1962	- 1
		1963	- 1
		1964	- 0
		January 1, 1965 to May 25, 1965	- 4

(+) In this case the accused was again convicted of capital murder on his second trial.

NOTE: Two of the cases shown as sentenced to death in the period January 1, 1965 to May 25, 1965 are still before the Appeal Courts.

3. The cases subsequent to May 6, 1965 up to and including January 27, 1967 are shown on the attached Table.

Supplement to Table D of Appendix "I" of "Capital Punishment: Material relating to Its Purpose and Value", bringing Table up to January 27, 1967.

Case	Age	Date of decision by Governor in Council	Motive	Recommendation of mercy		Murdered	Murder Weapon	Whether murder premeditated	Mental condition	Commuted or Executed
				Jury	Judge					
86	18	Nov.10, 1965	Escape arrest	Yes	Yes	Policeman	Revolver	No	Non-psychotic and no evidence of neurosis	Commuted
87	21	Nov.10, 1965	Robbery	Yes	Yes	76 year old man	Boot-lace (strangled)	No	Mentally defective and severe alcoholic	Commuted
88	43	Nov.29, 1965	Sex (pervert)	No	No	13 year old boy	Hands	Yes	Sexual psychopath showing psychotic behaviour	Commuted
89	64	Nov.29, 1965	Revenge	Yes	No	Middle aged farmer	Homemade bomb	Yes	Psychic enfeeblement of psychotic character	Commuted
90	25	Nov.29, 1965	Robbery	No	No	Bank customer	.308 calibre rifle	No	Paranoid schizophrenic	Commuted
91	19	Jan.14, 1966	No immediate motive	No	No	Penitentiary guard	Knife	Yes	Sociopathic personality disturbances	Commuted
92	25	May 12, 1966	Jealousy	*	Yes	Estranged wife	.22 calibre revolver	Yes	Psychopathic personality	Commuted
93	24	Aug.3, 1966	Robbery	No	No	Asst.manager of Trust Co.	.357 revolver	No	Sociopathic personality disturbance, neurological cripple.	Commuted
94	28	Oct. 6, 1966	Robbery	Yes	No	Bank manager	.32 calibre pistol or revolver	No	Refused to be examined	Commuted
95	31	Jan.24, 1967	Jealousy and revenge	Yes	Yes	Sister-in-law	.303 calibre rifle	Yes	Not psychotic but neurotic complex, disturbed and irrational	Commuted
96	36	Jan.24, 1967	Jealousy and revenge	Yes	Yes	Common law wife	.270 calibre rifle	Yes	Not psychotic but emotionally unstable	Commuted

* Trial by judge alone.

NOTE: The classifications "Whether murder premeditated" and "Mental Condition" are in accordance with the foot-notes to Table D. The latter classifications are Departmental assessments based upon the opinions of various medical experts not all of whom were engaged by the Department of Justice.

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

Ottawa, February 7, 1967

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

The undersigned has the honour to refer to his memorandum, on the above-mentioned subject, dated December 7, 1966, in which (paragraph 9) he recommended that he be authorized to introduce a bill for the outright abolition of the death penalty under the Criminal Code. Various considerations bearing upon such a bill were set out in that memorandum, a copy of which is attached for convenient reference.

Of the fifteen persons referred to therein (paragraph 5) who were convicted of capital murder and whose cases had not then come before Cabinet, the two cases in which the date of execution had been set for January 31, 1967 (Turner and Kuzyk) have now been commuted by the Governor-in-Council to life imprisonment. In the meantime we have been informed of four additional convictions for capital murder between December 1, 1966 and the present date. In only one such case has the Judge's Report been received and it discloses a recommendation by the jury for clemency.

The memorandum of December 7, 1966 raised the possibility of alternative bills, one of which would abolish capital punishment under the Criminal Code entirely and the other of which would restrict capital punishment under the Criminal Code to the murder of a policeman or prison guard.

Upon the instructions of Cabinet, and for the purposes of further discussion, the undersigned now attaches copies of such Bills. The Bill marked "An Act to amend the Criminal Code. (Version 1)" would abolish capital punishment under the Criminal Code entirely and the most significant clauses are clauses 4 and 5, on page 2, which would eliminate the distinction between capital and non-capital murder and substitute a mandatory sentence of life imprisonment for the death penalty; clauses 17 and 20, on pages 5 and 6 respectively, which restrict the right of appeal to the Court of Appeal and the Supreme Court of Canada in what would previously have been capital cases; and clause 24, on pages 7 and 8, which provides expressly that a person in respect of whom a sentence of death has been commuted to imprisonment for life or a person upon whom a mandatory sentence of life imprisonment has been

imposed shall not be released without the prior approval of the Governor-in-Council. The other provisions of the Bill are essentially incidental and transitional. The Bill marked "An Act to amend the Criminal Code. (Version 2)" would retain capital punishment for the murder of a policeman or prison guard and the most significant clauses are clause 3, on page 2, which redefines capital murder; clause 4, on page 3, which repeals the direction to the Trial Judge to canvass the jury on the subject of clemency; and clause 5, on page 3 which, as in the case of the first mentioned Bill, provides expressly that a person in respect of whom a sentence of death has been commuted to imprisonment for life or a person upon whom a mandatory sentence of life imprisonment has been imposed shall not be released without the prior approval of the Governor-in-Council.

The undersigned, as in the case of his first mentioned memorandum of December 7, 1966 recommends that he be authorized to introduce a bill in Version 1 to abolish capital punishment under the Criminal Code entirely.

Respectfully submitted,

L. T. Pennell

Solicitor General

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

Ottawa, December 7, 1966

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

1. The purpose of this Memorandum is to seek authority for the Solicitor General to introduce a bill either to abolish capital punishment under the Criminal Code entirely or restrict it to the murder of a policeman or prison officer.

2. In April 1966 the private member's resolution in favour of abolition of the death penalty was rejected 143 to 112. Three amendments were proposed. The first would have retained the death penalty for a person who committed capital murder while serving a life sentence and it was defeated 199 to 23. The second would have abolished the death penalty for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of a policeman or prison officer and it was defeated 179 to 74.

3. If a bill is brought in, a decision will have to be made as to whether it is to be a straightforward Government measure or subject to another free vote. We have already gone on record that it is a matter of conscience, appropriate to a free vote. On the other hand it will be pointed out that there has already been a free vote this year and argued that the Government cannot simply arrange another free vote but must take some responsibility in the matter.

4. The vote pattern referred to in paragraph 2 indicates that the division between total and partial abolitionists tends to defeat a partial abolition that, failing total abolition, would probably be in the interest of both groups. This raises a question of whether it would be in the abolitionist interest to introduce a bill for partial abolition, which could be amended to bring about total abolition, rather than vice versa.

5. At present there are 15 persons convicted of capital murder whose cases have not come before Cabinet. In two such cases the convictions and sentences have been finally confirmed; the execution dates are January 31, 1967 and they should therefore be dealt with not later than January 20, 1967; in both

cases there is a recommendation for mercy by the jury and by the judge. The remaining 13 cases are all before the courts of appeal and it is therefore not possible to say whether or when they will come before Cabinet, and if they do, it may not be for several months, having regard to the fact that most capital cases go to the Supreme Court of Canada. In 4 such cases there is no recommendation for mercy by judge or jury (two make up the "separatist" case); in 5 such cases there are recommendations for mercy by the jury; and in 4 such cases the record is not yet complete.

6. If a bill is introduced, arrangements could be sought with the leaders of the opposition parties to limit the debate to a fixed period.

7. The undersigned favours a Government bill for outright abolition of the death penalty under the Criminal Code, with the understanding of a free vote but greater Government participation in the debate. Decisions will have to be taken, during the course of the debate, as to the position the Government will adopt in respect of any amendments that may be proposed, such as to retain the death penalty for the murder of a policeman or prison officer, or to put the measure into effect for a trial period.

8. It is interesting to note that on November 23, 1966 Mr. Duncan Sandys, M.P., as the result of the murder of three policemen in August, moved in the U.K. House of Commons for leave to bring in a bill to restore capital punishment for the murder of police or prison officers but the motion was lost 292 against 170.

9. The undersigned therefore recommends that he be authorized to introduce a bill for the outright abolition of the death penalty under the Criminal Code.

Respectfully submitted,

L. T. Pennell

Solicitor General

CONFIDENTIAL November 4, 1966.

BILL

An Act to amend the Criminal Code.

(Version 1)

1953-54, c. 51;
1955, cc. 2, 45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc. 40, 41;
1960, cc. 37, 45;
1960-61, cc. 21, 42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc. 22, 35, 53;
1966, cc. 23, 25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No person shall suffer death for any offence under the Criminal Code and a person who is convicted of an offence under the Criminal Code for which, but for this Act, he would or might be sentenced to death shall be sentenced instead in accordance with the Criminal Code as amended by this Act.

2. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under para-

graph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

3. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

4. Section 202A of the said Act is repealed.

1960-61, c. 44, s. 2.

5. Section 206 of the said Act is repealed and the following substituted therefor:

Punishment for murder.

"206. (1) Every one who commits murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

Minimum punishment.

(2) For the purposes of Part XX, the sentence of imprisonment for life prescribed by this section is a minimum punishment."

6. Paragraph (a) of section 406 of the said Act is repealed and the following substituted therefor:

Where offence punishable with life imprisonment.

"(a) every one who attempts to commit or is an accessory after the fact to the commission of an offence for which, upon conviction, an accused shall be or is liable to be sentenced to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years;"

1960-61, c. 43, s. 16.

7. Paragraph (a) of subsection (1) of section 463 of the said Act is repealed and the following substituted therefor:

By judge or magistrate.

"(a) where an accused is charged with an offence, other than an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and"

1960-61, c. 43, s. 17.

8. Section 464 of the said Act is repealed and the following substituted therefor:

Bail in certain cases.

"464. Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, may admit that accused to bail before or after committal for trial."

1960-61, c. 44, s. 3.

9. Section 492A of the said Act is repealed.

1960-61, c. 44, s. 4.

10. Subsections (1) to (2b) of section 515 of the said Act are repealed and the following substituted therefor:

Pleas permitted.

"515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where an accused refuses to plead or does not answer directly, the court shall order the clerk of the court to enter a plea of not guilty."

1960-61, c. 44, s. 5.

11. Subsection (4) of section 516 of the said Act is repealed and the following substituted therefor:

Pleading over.

"(4) When the pleas referred to in subsection (3) are disposed of against the accused he may plead guilty or not guilty."

1960-61, c. 44, s. 6.

12. Subsection (2a) of section 519 of the said Act is repealed.

13. Subsections (1) and (2) of section 542 of the said Act are repealed and the following substituted therefor:

Peremptory challenges by accused. Twenty in certain cases.

"542. (1) An accused who is charged with an offence for which imprisonment for life is a minimum punishment is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence for which imprisonment for life is a minimum punishment, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily."

14. Subsection (1) of section 556 of the said Act is repealed and the following substituted therefor:

Separation of jurors.

"556. (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is charged with an offence for which imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 7.

15. Subsection (1a) of section 569 of the said Act is repealed.

16. Section 577 of the said Act is repealed.

1960-61, c. 44, s. 8.

17. Section 583A of the said Act is repealed.

1960-61, c. 44, s. 9.

18. Subsections (2) to (5) of section 586 of the said Act are repealed and the following substituted therefor:

Extension of time.

"(2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

Delay in execution of sentence of whipping.

(3) Where, pursuant to a conviction, a sentence of whipping has been imposed,

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of whipping."

1960-61, c. 44, s. 10(1).

19. (1) Paragraph (d) of subsection (2) of section 588 of the said Act is repealed and the following substituted therefor:

"(d) the addresses of the prosecutor and the accused or counsel for the accused by way of summing up, if a ground for the appeal is based upon either of the addresses,"

1960-61, c. 44, s. 10(2).

(2) Subsection (4) of section 588 of the said Act is repealed and the following substituted therefor:

Copies to interested parties.

"(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (2) and (3)."

1960-6. c. 43, s. 27; 1960-61, c. 44, s. 11.

20. Sections 597 and 597A of the said Act are repealed and the following substituted therefor:

Appeal from conviction.

"597.(1) A person who is convicted of an indictable offence and whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents; or

question of law with leave.

(b) on any question of law, if leave to appeal is granted by the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the Supreme Court of Canada or a judge thereof may, for special reasons, allow.

(2) A person

Appeal where acquittal set aside.

(a) who is acquitted of an indictable offence and whose acquittal is set aside by the court of appeal, or

Where joint trial.

(b) who is tried jointly with a person referred to in paragraph (a) and is convicted and whose conviction is sustained by the court of appeal,

may appeal to the Supreme Court of Canada on a question of law."

1960-61, c. 44, s. 12.

21. All that portion of subsection (1) of section 598 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Appeal by Attorney General.

"598. (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under section 583 or dismisses an appeal taken pursuant to paragraph (a) of subsection (1) of section 584, the Attorney General may appeal to the Supreme Court of Canada"

22. The heading preceding section 642 and sections 642 to 653 of the said Act are repealed.

23. Subsections (1) and (2) of section 654 of the said Act are repealed and the following substituted therefor:

Conviction of person holding public office vacates office.

"654. (1) Where a person who is convicted of treason or of an indictable offence for which he is sentenced to imprisonment for a term exceeding five years holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant.

When disability ceases.

(2) A person to whom subsection (1) applies or in respect of whom a sentence of death has been commuted is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage."

24. Section 656 of the said Act is repealed and the following substituted therefor:

Prior approval of release.

"656. Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed

as a minimum punishment shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

25. Forms 40 and 41 in Part XXVI of the said Act are repealed.

Transitional.

26. Where any person has been sentenced to death before the coming into force of this Act, and his sentence has not been carried into execution or commuted,

(a) the provisions of the Criminal Code relating to appeals, as they existed immediately prior to the coming into force of this Act, shall, notwithstanding this Act, continue to apply in the case of such person; and

(b) such person, unless his conviction or sentence is set aside on appeal, shall be dealt with as if there were substituted, for the sentence of death, a sentence of imprisonment for life as a minimum punishment, and a certificate or other instrument signed by the clerk of the appropriate court, setting out the sentence of death, shall be sufficient authority for such imprisonment.

Where verdict not given previously.

27. (1) Where, in a prosecution for capital murder or non-capital murder, whether by way of original proceedings or pursuant to an order for a new trial, commenced before the coming into force of this Act, a verdict has not been given before such coming into force, the proceedings shall be continued as if the indictment charged simply murder and the offence had been committed after the coming into force of this Act.

When verdict of guilty given but accused not sentenced previously.

(2) If, in any prosecution described in subsection (1), a verdict of guilty of capital or non-capital murder has been given but the accused has not been sentenced before the coming into force of this Act, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment.

Where offence committed but prosecution not commenced previously.

(3) Where a prosecution is commenced after the coming into force of this Act, in respect of a murder committed before such coming into force, the offence shall be dealt with, inquired into, tried and determined and any punishment in respect of the offence shall be imposed, as if the offence had been committed after the coming into force of this Act.

When prosecution deemed commenced.

(4) For the purposes of this section, a prosecution shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

28. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

CONFIDENTIAL

October 14, 1966.

BILL

An Act to amend the Criminal Code.

(Version 2)

1953-54, c. 51;
1955, cc.2,45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc.40,41;
1960, cc.37,45;
1960-61, cc.21,
42, 43, 44;
1962-63, c. 4;
19[illegible], c. 8;
1964-65, cc.22,
35, 53;
1966, cc. 23,25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

2. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

3. Subsection (2) of section 202A of the said Act is repealed and the following substituted therefor:

Capital murder defined.

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death."

1960-61, c. 44, s. 13; 1966, c. 25, s. 45.

4. Section 642A of the said Act is repealed.

1960-61, c.44, s. 15.

5. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

Approval by Governor in Council of release after commutation of sentence.

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

Transitional.

6. (1) Where proceedings in respect of an offence that, under the provisions of the Criminal Code as it was before being amended by this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, namely:

(a) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and

(b) where a new trial of a person for the offence has been ordered by the court of appeal or the Supreme Court of Canada and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court before which the accused is to be tried, and

thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act.

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed.

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

7. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

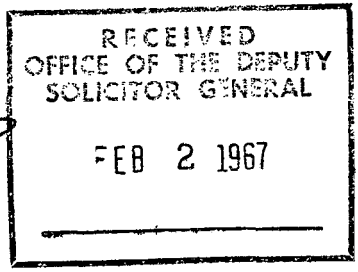
Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre

To The Minister of Deputy Solicitor General
Au Ministre d

Attention: Mr. E.R.M. Griffiths.

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

Also referred to:
Également transmis à



Ottawa, Jan. 31, 1967.

Don MacKenzie,
Secretary.

CANADA

COPY
COPIE

OFFICE OF THE PRIME MINISTER . CABINET DU PREMIER MINISTRE

Ottawa 4,
January 31, 1967.

Dear Mr. Swaren:

The Prime Minister has asked me to acknowledge receipt of your letter of January 27th, and to thank you for your further comments with regard to the question of commutation of death sentences for persons convicted of capital murder.

Under Sections 655-658 of the Criminal Code, the Governor-in-Council is under a statutory duty to consider applications for the exercise of the Royal Prerogative of Mercy, when such applications are made by persons who have been sentenced to death for capital murder. No statute of the Parliament of Canada has ever placed any limitation upon the historic power of the executive in our system to exercise the Royal Prerogative.

I should mention that the Prime Minister and his colleague, the Solicitor General, have stated publicly on several occasions that each application for exercise of the Royal Prerogative of Mercy would be considered. This is perfectly consistent with the manner in which the Royal Prerogative has been exercised historically.

Yours sincerely,

ORIGINAL SIGNED BY
DON MACKENZIE

Don MacKenzie,
Secretary.

Rev. M. A. Swaren,
Gilmour Memorial Church,
R.R. 1,
Peterborough, Ontario.

RECEIVED
OFFICE OF THE
SOLICITOR GENERAL
JAN 32 10 00 AM '67

Registered

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REV. M. A. SWAREN B.TH.
R. R. NO. 1, PETERBOROUGH, ONT.

PHONE 742-1015 PETERBOROUGH

OFFICE OF THE PRIME MINISTER
CABINET DU PREMIER MINISTRE

'67 JAN 30 PM 2 28

Gilmour Memorial Church
Reaboro Baptist Church

January 27,1967

The Right Honorable Lester B.Pearson,
Prime Minister of Canada,
Ottawa,Ontario.

Dear Sir:

I received a letter from your Secretary,Mr.Don MacKenzie, today. This was in reply to mine of January 23rd,concerning the commutation of the death sentence to life imprisonment for murder.

Your secretary says:"Mr.Pearson noted your comments and also that a copy of your letter had been brought to the attention of his colleague,the Solicitor General."

No mention has been made as to what you propose to do about this matter. This is not the first evasive letter I have received from your office and that of the Solicitor General on this matter. How long does the Prime Minister of a minority government think he can put off vital issues and ignore requests of the people he professes to serve?

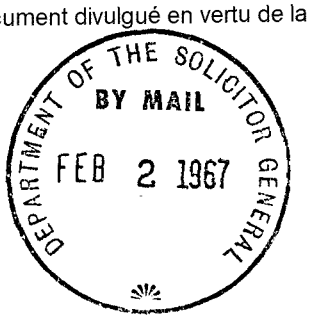
I only want to know why you have any more right to break a law and not be punished than anyone else. I pointed out that by a democratic vote of Parliament it was decided to retain the death sentence for murder. You choose to ignore this fact and break a law. This means that we need no police force,and that we need no Parliament to make laws because they are not meant to be kept. I have a right then to endanger lives by speeding on our highways without incurring a penalty.
Surely any reasonable person will admit that this is the right of every citizen of our country if it is the right of the Prime Minister, who(I would remind you)is the leader of the people and should set the example in obedience.

I demand a less evasive answer to my question,and for once in your life,please let your nation know where you stand,and if there are any principles in you,do the honest thing,(as I would do in your position)and resign as leader of our nation if you find youbself unable to obey the laws of your government.
I shall await a more positive statement of your position.

Sincerely Yours,

Milton A. Swaren

M.A.Swaren



TDM/JL

Ottawa 4, February 1, 1967.

Dear Mr. Swaren:

The Solicitor General has asked me to thank you very much for sending him the September 1966 number of Good News Broadcaster containing the article "Thou Shalt Not Kill", in which he has been much interested.

Yours truly,

T. D. MacDONALD

T. D. MacDonald,
Deputy Solicitor General

Rev. M. A. Swaren,
R.R. # 1,
Peterborough, Ontario.

DEPARTMENT OF THE SOLICITOR GENERAL
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

January 24, 1967

Confidential

Note for the Solicitor General:

Re: Capital Punishment

Herewith for your consideration is a draft Memorandum for the Cabinet with the appropriate attachments. If you agree with it I will have it reproduced and placed on the Cabinet Agenda.

T. D. MacDONALD

Attach. T.D.M.

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

Ottawa, January 24, 1967

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

The undersigned has the honour to refer to his memorandum, on the above-mentioned subject, dated December 7, 1966, in which (paragraph 9) he recommended that he be authorized to introduce a bill for the outright abolition of the death penalty under the Criminal Code. Various considerations bearing upon such a bill were set out in that memorandum, a copy of which is attached for convenient reference.

Of the fifteen persons referred to therein (paragraph 5) who were convicted of capital murder and whose cases had not then come before Cabinet, the two cases in which the date of execution had been set for January 31, 1967 (Turner and Kuzyk) have now been commuted by the Governor-in-Council to life imprisonment.

The memorandum of December 7, 1966 raised the possibility of alternative bills, one of which would abolish capital punishment under the Criminal Code entirely and the other of which would restrict capital punishment under the Criminal Code to the murder of a policeman or prison guard.

Upon the instructions of Cabinet, and for the purposes of further discussion, the undersigned now attaches copies of such Bills. The Bill marked "An Act to amend the Criminal Code. (Version 1)" would abolish capital punishment under the Criminal Code entirely and the most significant clauses are clauses 4 and 5, on page 2, which would eliminate the distinction between capital and non-capital murder and substitute a mandatory sentence of life imprisonment for the death penalty; clauses 17 and 20, on pages 5 and 6 respectively, which restrict the right of appeal to the Court of Appeal and the Supreme Court of Canada in what would previously have been capital cases; and clause 24, on pages 7 and 8, which provides expressly that a person in respect of whom a sentence of death has been commuted to imprisonment for life or a person upon whom a mandatory sentence of life imprisonment has been imposed shall

not be released without the prior approval of the Governor-in-Council. The other provisions of the Bill are essentially incidental and transitional. The Bill marked "An Act to amend the Criminal Code. (Version 2)" would retain capital punishment for the murder of a policeman or prison guard and the most significant clauses are clause 3, on page 2, which redefines capital murder; clause 4, on page 3, which repeals the direction to the Trial Judge to canvass the jury on the subject of clemency; and clause 5, on page 3 which, as in the case of the first mentioned Bill, provides expressly that a person in respect of whom a sentence of death has been commuted to imprisonment for life or a person upon whom a mandatory sentence of life imprisonment has been imposed shall not be released without the prior approval of the Governor-in-Council.

The undersigned, as in the case of his first mentioned memorandum of December 7, 1966 recommends that he be authorized to introduce a bill in Version 1 to abolish capital punishment under the Criminal Code entirely.

Respectfully submitted,

Solicitor General

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

Ottawa, December 7, 1966

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

1. The purpose of this Memorandum is to seek authority for the Solicitor General to introduce a bill either to abolish capital punishment under the Criminal Code entirely or restrict it to the murder of a policeman or prison officer.

2. In April 1966 the private member's resolution in favour of abolition of the death penalty was rejected 143 to 112. Three amendments were proposed. The first would have retained the death penalty for a person who committed capital murder while serving a life sentence and it was defeated 199 to 23. The second would have abolished the death penalty for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of a policeman or prison officer and it was defeated 179 to 74.

3. If a bill is brought in, a decision will have to be made as to whether it is to be a straightforward Government measure or subject to another free vote. We have already gone on record that it is a matter of conscience, appropriate to a free vote. On the other hand it will be pointed out that there has already been a free vote this year and argued that the Government cannot simply arrange another free vote but must take some responsibility in the matter.

4. The vote pattern referred to in paragraph 2 indicates that the division between total and partial abolitionists tends to defeat a partial abolition that, failing total abolition, would probably be in the interest of both groups. This raises a question of whether it would be in the abolitionist interest to introduce a bill for partial abolition, which could be amended to bring about total abolition, rather than vice versa.

5. At present there are 15 persons convicted of capital murder whose cases have not come before Cabinet. In two such cases the convictions and sentences have been finally confirmed; the execution dates are January 31, 1967 and they should therefore be dealt with not later than January 20, 1967; in both

cases there is a recommendation for mercy by the jury and by the judge. The remaining 13 cases are all before the courts of appeal and it is therefore not possible to say whether or when they will come before Cabinet, and if they do, it may not be for several months, having regard to the fact that most capital cases go to the Supreme Court of Canada. In 4 such cases there is no recommendation for mercy by judge or jury (two make up the "separatist" case); in 5 such cases there are recommendations for mercy by the jury; and in 4 such cases the record is not yet complete.

6. If a bill is introduced, arrangements could be sought with the leaders of the opposition parties to limit the debate to a fixed period.

7. The undersigned favours a Government bill for outright abolition of the death penalty under the Criminal Code, with the understanding of a free vote but greater Government participation in the debate. Decisions will have to be taken, during the course of the debate, as to the position the Government will adopt in respect of any amendments that may be proposed, such as to retain the death penalty for the murder of a policeman or prison officer, or to put the measure into effect for a trial period.

8. It is interesting to note that on November 23, 1966 Mr. Duncan Sandys, M.P., as the result of the murder of three policemen in August, moved in the U.K. House of Commons for leave to bring in a bill to restore capital punishment for the murder of police or prison officers but the motion was lost 292 against 170.

9. The undersigned therefore recommends that he be authorized to introduce a bill for the outright abolition of the death penalty under the Criminal Code.

Respectfully submitted,

L. T. Pennell

Solicitor General

CONFIDENTIAL

November 4, 1966.

BILL

An Act to amend the Criminal Code.

(Version 1)

1953-54, c. 51;
1955, cc. 2, 45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc. 40, 41;
1960, cc. 37, 45;
1960-61, cc. 21, 42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc. 22, 35, 53;
1966, cc. 23, 25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No person shall suffer death for any offence under the Criminal Code and a person who is convicted of an offence under the Criminal Code for which, but for this Act, he would or might be sentenced to death shall be sentenced instead in accordance with the Criminal Code as amended by this Act.

2. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under para-

graph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

3. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

4. Section 202A of the said Act is repealed.

1960-61, c. 44, s. 2.

5. Section 206 of the said Act is repealed and the following substituted therefor:

Punishment for murder.

"206. (1) Every one who commits murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

Minimum punishment.

(2) For the purposes of Part XX, the sentence of imprisonment for life prescribed by this section is a minimum punishment."

6. Paragraph (a) of section 406 of the said Act is repealed and the following substituted therefor:

Where offence punishable with life imprisonment.

"(a) every one who attempts to commit or is an accessory after the fact to the commission of an offence for which, upon conviction, an accused shall be or is liable to be sentenced to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years;"

1960-61, c. 43, s. 16.

7. Paragraph (a) of subsection (1) of section 463 of the said Act is repealed and the following substituted therefor:

By judge or magistrate.

"(a) where an accused is charged with an offence, other than an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and"

1960-61, c. 43, s. 17.

8. Section 464 of the said Act is repealed and the following substituted therefor:

Bail in certain cases.

"464. Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, may admit that accused to bail before or after committal for trial."

1960-61, c. 44, s. 3.

9. Section 492A of the said Act is repealed.

1960-61, c. 44, s. 4.

10. Subsections (1) to (2b) of section 515 of the said Act are repealed and the following substituted therefor:

Pleas permitted.

"515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where an accused refuses to plead or does not answer directly, the court shall order the clerk of the court to enter a plea of not guilty."

1960-61, c. 44, s. 5.

11. Subsection (4) of section 516 of the said Act is repealed and the following substituted therefor:

Pleading over.

"(4) When the pleas referred to in subsection (3) are disposed of against the accused he may plead guilty or not guilty."

1960-61, c. 44, s. 6.

12. Subsection (2a) of section 519 of the said Act is repealed.

13. Subsections (1) and (2) of section 542 of the said Act are repealed and the following substituted therefor:

Peremptory challenges by accused. Twenty in certain cases.

"542. (1) An accused who is charged with an offence for which imprisonment for life is a minimum punishment is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence for which imprisonment for life is a minimum punishment, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily."

14. Subsection (1) of section 556 of the said Act is repealed and the following substituted therefor:

Separation of jurors.

"556. (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is charged with an offence for which imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 7.

15. Subsection (1a) of section 569 of the said Act is repealed.

16. Section 577 of the said Act is repealed.

1960-61, c. 44, s. 8.

17. Section 583A of the said Act is repealed.

1960-61, c. 44, s. 9.

18. Subsections (2) to (5) of section 586 of the said Act are repealed and the following substituted therefor:

Extension of time.

"(2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

Delay in execution of sentence of whipping.

(3) Where, pursuant to a conviction, a sentence of whipping has been imposed,

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of whipping."

1960-61, c. 44, s. 10(1).

19. (1) Paragraph (d) of subsection (2) of section 588 of the said Act is repealed and the following substituted therefor:

"(d) the addresses of the prosecutor and the accused or counsel for the accused by way of summing up, if a ground for the appeal is based upon either of the addresses,"

1960-61, c. 44, s. 10(2).

(2) Subsection (4) of section 588 of the said Act is repealed and the following substituted therefor:

Copies to interested parties.

"(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (2) and (3)."

1960-6. c. 43, s. 27; 1960-61, c. 44, s. 11.

20. Sections 597 and 597A of the said Act are repealed and the following substituted therefor:

Appeal from conviction.

"597.(1) A person who is convicted of an indictable offence and whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents; or

question of law with leave.

(b) on any question of law, if leave to appeal is granted by the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the Supreme Court of Canada or a judge thereof may, for special reasons, allow.

(2) A person

Appeal where acquittal set aside.

(a) who is acquitted of an indictable offence and whose acquittal is set aside by the court of appeal, or

Where joint trial.

(b) who is tried jointly with a person referred to in paragraph (a) and is convicted and whose conviction is sustained by the court of appeal,

may appeal to the Supreme Court of Canada on a question of law."

1960-61, c. 44, s. 12.

21. All that portion of subsection (1) of section 598 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Appeal by Attorney General.

"598. (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under section 583 or dismisses an appeal taken pursuant to paragraph (a) of subsection (1) of section 584, the Attorney General may appeal to the Supreme Court of Canada"

22. The heading preceding section 642 and sections 642 to 653 of the said Act are repealed.

23. Subsections (1) and (2) of section 654 of the said Act are repealed and the following substituted therefor:

Conviction of person holding public office vacates office.

"654. (1) Where a person who is convicted of treason or of an indictable offence for which he is sentenced to imprisonment for a term exceeding five years holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant.

When disability ceases.

(2) A person to whom subsection (1) applies or in respect of whom a sentence of death has been commuted is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage."

24. Section 656 of the said Act is repealed and the following substituted therefor:

Prior approval of release.

"656. Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed

as a minimum punishment shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

25. Forms 40 and 41 in Part XXVI of the said Act are repealed.

Transitional.

26. Where any person has been sentenced to death before the coming into force of this Act, and his sentence has not been carried into execution or commuted,

(a) the provisions of the Criminal Code relating to appeals, as they existed immediately prior to the coming into force of this Act, shall, notwithstanding this Act, continue to apply in the case of such person; and

(b) such person, unless his conviction or sentence is set aside on appeal, shall be dealt with as if there were substituted, for the sentence of death, a sentence of imprisonment for life as a minimum punishment, and a certificate or other instrument signed by the clerk of the appropriate court, setting out the sentence of death, shall be sufficient authority for such imprisonment.

Where verdict not given previously.

27. (1) Where, in a prosecution for capital murder or non-capital murder, whether by way of original proceedings or pursuant to an order for a new trial, commenced before the coming into force of this Act, a verdict has not been given before such coming into force, the proceedings shall be continued as if the indictment charged simply murder and the offence had been committed after the coming into force of this Act.

When verdict of guilty given but accused not sentenced previously.

(2) If, in any prosecution described in subsection (1), a verdict of guilty of capital or non-capital murder has been given but the accused has not been sentenced before the coming into force of this Act, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment.

Where offence committed but prosecution not commenced previously.

(3) Where a prosecution is commenced after the coming into force of this Act, in respect of a murder committed before such coming into force, the offence shall be dealt with, inquired into, tried and determined and any punishment in respect of the offence shall be imposed, as if the offence had been committed after the coming into force of this Act.

When prosecution deemed commenced.

(4) For the purposes of this section, a prosecution shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

28. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

CONFIDENTIAL

October 14, 1966.

BILL

An Act to amend the Criminal Code.

(Version 2)

1953-54, c. 51;
1955, cc.2,45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc.40,41;
1960, cc.37,45;
1960-61, cc.21,
42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc.22,
35, 53;
1966, cc. 23,25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

2. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

3. Subsection (2) of section 202A of the said Act is repealed and the following substituted therefor:

Capital murder defined.

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death."

1960-61, c. 44, s. 13; 1966, c. 25, s. 45.

4. Section 642A of the said Act is repealed.

1960-61, c.44, s. 15.

5. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

Approval by Governor in Council of release after commutation of sentence.

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

Transitional.

6. (1) Where proceedings in respect of an offence that, under the provisions of the Criminal Code as it was before being amended by this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, namely:

(a) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and

(b) where a new trial of a person for the offence has been ordered by the court of appeal or the Supreme Court of Canada and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court before which the accused is to be tried, and

thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act.

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed.

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

7. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

OFFICE OF
THE SOLICITOR GENERAL

Date 24 Jan 67

Forward to D Immediate

Perusal and Return with Draft reply for my Signature

Please see me re this

Attention ✓

Information

Perusal and Return

Perusal and Return with File

Perusal and Return with Recommendation

Perusal and Return with Comments

Let me have material asked for herein

Approval or Revision before Mailing

Please Fill in Blanks and Return

Special Instructions:

E. R. M. GRIFFITHS
Executive Assistant to
Solicitor General

REV. M. A. [illegible]
R. R. [illegible] ONT.
PHONE 742-1015 PETERBOROUGH

Gilmour Memorial Church
Reaboro Baptist Church

January 23,1967

The Right Honorable Lester B.Pearson,
Prime Minister of Canada,
Ottawa,Ontario.

Dear Sir:

I have communicated with you several times previously,and at the same time have been in contact with the Solicitor General with reference to the matter of the consistent policy of your Cabinet to commute the Death Sentence to Life Imprisonment for murder.

Since this policy I have noticed that conditions have become increasingly worse. A man in Ontario recently shot a girl who was a correspondent in a Divorce suit on grounds of adultery. After she had dropped in an open field after the first shot,he went over to her and although lying in a helpless condition he fired the second shot which was fatal. This man received only life in prison which means he can be paroled after a few years.

Another case is of a man in the Hastings district near Peterborough who shot and killed a man who was travelling on the highway in his car. It seems there is more boldness attached to these murders since the commutation began. A person is hardly safe in your own yard or on the road in your car anymore.

Now I have noticed in the newspaper the report of the sentencing of a Mr.Booth,to be hanged on March 28th. Your Cabinet has broken the law in several recent cases,by commuting the death sentence. Anyone else breaking a law of the land would be penalized. Regardless of your own convictions on the matter,you,Sigand the Solicitor General should set the example in obedience to a law which your government has made,until such time as it is changed. Through democratic procedure the government elected to retain the Death Penalty for murder.
I hereby demand therefore that you either carry out this sentence on March 28th since clemency was not recommended by the judge,or that you resign immediately,and also the Solicitor General. I am sending copies of this letter to retentionists in your own party who will see that this request is complied with.

Sincerely Yours,

Milton Lawren

M.A. Lawren

c.c. R. Cowan
L. Pennell
H. Faulkner

Solicitor General

SOLICITOR GENERAL

MEMORANDUM

Capital Punishment

Solicitor General

For information and action, please.

T. D. Lee.

R.E.REYNOLDS/BH

EXTERNAL AFFAIRS AFFAIRES EXTÉRIEURES

TO / À: The Under-Secretary of State for External Affairs, Ottawa.

FROM / De: The Office of the High Commissioner for Canada, Lonon.

REFERENCE / Référence: Our letter 1702 of October 20, 1966.

SUBJECT / Sujet: Murder (Abolition of Death Penalty) Act, 1965 - Proposal for Amendment.

SECURITY / Sécurité: RESTRICTED

DATE: November 25, 1966.

NUMBER / Numéro: 1951

FILE / DOSSIER: OTTAWA

MISSION: 45-10

ENCLOSURES / Annexes

DISTRIBUTION

Department of Justice (T.D.MacDonald) Deputy Solicitor General

On November 23 as predicted, Mr. Duncan Sandys, under the Ten Minute Rule, begged to move:

"That leave be given to bring in a Bill to restore capital punishment for the murder of police or prison officers."

Mr. Sandys repeated the well-known arguments for doing so and was opposed by Sir Geoffrey de Freitas. Sir Geoffrey admitted that since the Act became law there have been four brutal murders. He noted, however, that one of them was by a boy of 14. However, since 1831 Britain has not hanged boys of 14 so that recent changes in the law could not have any effect whatsoever. That leaves the three murders to which Mr. Duncan Sandys drew attention. These, in his view, were not more significant than the figures for the year 1951. In that year three policemen were murdered and that was two or three years after Parliament had refused to abolish the death penalty. Sir Geoffrey did not see any way in which to draw any significant conclusions from any of the figures mentioned and he submitted that there is just enough statistical evidence to show the danger of drawing positive conclusions from groups of figures. Moreover, the Bill would restore the anomalies of the 1957 Act with the distinction between capital murder and non-capital murder.

2. In the time available Sir Geoffrey was the only other speaker. In the ensuing vote there were 170 votes in favour of Mr. Sandys motion and 292 against. This is exactly the same majority by which the present Act passed Committee Stage. Once again the vote was free. The vote appears to demonstrate that opinion in

.... /2

RECEIVED
OFFICE OF THE DEPUTY SOLICITOR GENERAL
DEC. 15 1966

the House has not swung back towards the re-introduction of hanging despite the much-publicized murder of three police-ment this summer.

(SIGNED) G. S. MURRAY

Canada House.

TDM/ROA

Ottawa 4, December 9, 1966

BY HAND.

CONFIDENTIAL

Attention Mr. D. J. Leach

Re: Capital Punishment

Dear Mr. Robertson:

I am enclosing fifty copies of a Memorandum for the Cabinet which the Solicitor General would like to have placed on the Agenda for next Thursday.

Yours truly,

T. D. MacDONALD

T. D. MacDonald,
Deputy Solicitor General

Encls.

Mr. R. G. Robertson,
Clerk of the Privy Council,
Privy Council Office,
East Block,
Ottawa, Ontario

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

Ottawa, December 7, 1966

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

1. The purpose of this Memorandum is to seek authority for the Solicitor General to introduce a bill either to abolish capital punishment under the Criminal Code entirely or restrict it to the murder of a policeman or prison officer.

2. In April 1966 the private member's resolution in favour of abolition of the death penalty was rejected 143 to 112. Three amendments were proposed. The first would have retained the death penalty for a person who committed capital murder while serving a life sentence and it was defeated 199 to 23. The second would have abolished the death penalty for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of a policeman or prison officer and it was defeated 179 to 74.

3. If a bill is brought in, a decision will have to be made as to whether it is to be a straightforward Government measure or subject to another free vote. We have already gone on record that it is a matter of conscience, appropriate to a free vote. On the other hand it will be pointed out that there has already been a free vote this year and argued that the Government cannot simply arrange another free vote but must take some responsibility in the matter.

4. The vote pattern referred to in paragraph 2 indicates that the division between total and partial abolitionists tends to defeat a partial abolition that, failing total abolition, would probably be in the interest of both groups. This raises a question of whether it would be in the abolitionist interest to introduce a bill for partial abolition, which could be amended to bring about total abolition, rather than vice versa.

5. At present there are 15 persons convicted of capital murder whose cases have not come before Cabinet. In two such cases the convictions and sentences have been finally confirmed; the execution dates are January 31, 1967 and they should therefore be dealt with not later than January 20, 1967; in both

SG checked with Marie, feeling who is quite happy with this arrangement
9.12.66

cases there is a recommendation for mercy by the jury and by the judge. The remaining 13 cases are all before the courts of appeal and it is therefore not possible to say whether or when they will come before Cabinet, and if they do, it may not be for several months, having regard to the fact that most capital cases go to the Supreme Court of Canada. In 4 such cases there is no recommendation for mercy by judge or jury (two make up the "separatist" case); in 5 such cases there are recommendations for mercy by the jury; and in 4 such cases the record is not yet complete.

6. If a bill is introduced, arrangements could be sought with the leaders of the opposition parties to limit the debate to a fixed period.

7. The undersigned favours a Government bill for outright abolition of the death penalty under the Criminal Code, with the understanding of a free vote but greater Government participation in the debate. Decisions will have to be taken, during the course of the debate, as to the position the Government will adopt in respect of any amendments that may be proposed, such as to retain the death penalty for the murder of a policeman or prison officer, or to put the measure into effect for a trial period.

8. It is interesting to note that on November 23, 1966 Mr. Duncan Sandys, M.P., as the result of the murder of three policemen in August, moved in the U.K. House of Commons for leave to bring in a bill to restore capital punishment for the murder of police or prison officers but the motion was lost 292 against 170.

9. The undersigned therefore recommends that he be authorized to introduce a bill for the outright abolition of the death penalty under the Criminal Code.

Respectfully submitted,

L. T. Pennell

Solicitor General

THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA

CONFIDENTIAL

Ottawa, December 7, 1966

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

1. The purpose of this Memorandum is to seek authority for the Solicitor General to introduce a bill either to abolish capital punishment under the Criminal Code entirely or restrict it to the murder of a policeman or prison officer.

2. In April 1966 the private member's resolution in favour of abolition of the death penalty was rejected 143 to 112. Three amendments were proposed. The first would have retained the death penalty for a person who committed capital murder while serving a life sentence and it was defeated 199 to 23. The second would have abolished the death penalty for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of a policeman or prison officer and it was defeated 179 to 74.

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4. The vote pattern referred to in paragraph 2 indicates that the division between total and partial abolitionists tends to defeat a partial abolition that, failing total abolition, would probably be in the interest of both groups. This raises a question of whether it would be in the abolitionist interest to introduce a bill for partial abolition, which could be amended to bring about total abolition, rather than vice versa.

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cases there is a recommendation for mercy by the jury and by the judge. The remaining 13 cases are all before the courts of appeal and it is therefore not possible to say whether or when they will come before Cabinet, and if they do, it may not be for several months, having regard to the fact that most capital cases go to the Supreme Court of Canada. In 4 such cases there is no recommendation for mercy by judge or jury (two make up the "separatist" case); in 5 such cases there are recommendations for mercy by the jury; and in 4 such cases the record is not yet complete.

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Respectfully submitted,

L. T. Pennell

Solicitor General

DEPARTMENT OF THE SOLICITOR GENERAL
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

December 6, 1966

Mr. MacDonald:

Mr. O'Grady has checked the count in the second paragraph with the Votes and Proceedings and it appears to be in order.

R.O.A.

CONFIDENTIAL

Ottawa, December 6, 1966

MEMORANDUM FOR THE CABINET:

Re: Capital Punishment

1. The purpose of this Memorandum is to seek authority for the Solicitor General to introduce a bill either to abolish capital punishment under the Criminal Code entirely or restrict it to the murder of a policeman or prison officer.

2. In April 1966 the private members' resolution in favour of abolition of the death penalty was rejected 143 to 112. Three amendments were proposed. The first would have retained the death penalty for a person who committed capital murder while serving a life sentence and it was defeated 199 to 23. The second would have abolished the death penalty for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of a policeman or prison officer and it was defeated 179 to 74.

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appeal and it is therefore not possible to say whether or when they will come before Cabinet, and if they do, it may not be for several months, having regard to the fact that most capital cases go to the Supreme Court of Canada. In 4 such cases there is no recommendation for mercy by judge or jury (two make up the "separatist" case); in 4 such cases there are recommendations for mercy by the jury; and in 5 such cases the record is not yet complete.

6. If a bill is introduced, arrangements could be sought with the leaders of the opposition parties to limit the debate to a period not exceeding 5 days.

7. The undersigned favours a Government bill for outright abolition of the death penalty under the Criminal Code, with the understanding of a free vote but greater Government participation in the debate. Amendments could nevertheless be accepted, if necessary, retaining the death penalty for the murder of a policeman or prison officer or putting the measure into effect for a trial period.

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Respectfully submitted,

Solicitor General

Referred by direction of The Prime Minister
Transmis à la demande du Premier ministre (2)

To The Minister of
Au ~~Ministre~~ (1) Solliciteur général

FOR INFORMATION AND ANY NECESSARY ACTION
POUR EXAMEN ET DÉCISION PERTINENTE

(3) Deputy Minister:

Also referred to:
Également transmis à

Previous correspondence (telegrams) has been referred to you.
GCKer
25.11.66

Ottawa, le 14 novembre 1966.

Le secrétaire,
R-H-B
Robert-H. Bélange

CANADA

COPY
COPIE

OFFICE OF THE PRIME MINISTER · CABINET DU PREMIER MINISTRE

Ottawa (4),
le 14 novembre 1966.

Monsieur Gérard Favreau,
1440, chemin Scarboro,
Montréal (16), Qué.

Cher monsieur Favreau,

Le Premier ministre m'a chargé d'accuser réception de vos deux lettres en date des 9 et 10 novembre, dans lesquelles vous lui faites part de votre point de vue concernant la commutation de la peine de mort en emprisonnement à vie dans certains cas que vous mentionnez.

Monsieur Pearson a pris note de vos commentaires à ce sujet et il a aussi noté que vous aviez transmis copie de votre correspondance au ministre de la Justice. A la demande de monsieur Pearson, je soumets également vos lettres à l'attention de son collègue, l'honorable Lawrence T. Pennell, Solliciteur général.

Veuillez agréer, cher monsieur Favreau, l'assurance de mes sentiments distingués.

Le secrétaire,

ORIGINAL SIGNÉ PAR
R. H. BELANGER

Robert-H. Bélanger.

cc: Solliciteur général ✓
Ministre de la Justice

GÉRARD FAVREAU

Montréal, le 10 novembre 1966

L'honorable L.B. Pearson
Premier Ministre du Canada
Edifice du Parlement
Ottawa, Ont.

Monsieur le Premier Ministre,

Vous référant à ma lettre du 9 novembre 1966, je désire rectifier une erreur de transcription à la fin du 4e paragraphe où il est question de Marcotte.

Ce que j'ai voulu dire à cet endroit, c'est qu'il lieu également de craindre dans le cas de Marcotte, condamné à mort pour le meurtre d'un policier, mais qui a vu sa sentence commuée en emprisonnement à vie et se verra sans doute libéré dans un certain nombre d'années sous la recommandation du "Parole Board".

Votre tout dévoué,

Gérard Favreau

Gérard Favreau

GF/jt

C.c. à l'honorable John Diefenbaker
l'honorable Daniel Johnson
l'honorable Lucien Cardin

GÉRARD FAVREAU

1440, chemin Scarboro
Ville Mont-Royal -
Montréal, le 9 novembre 1966

L'honorable Lester B. Pearson
Premier ministre du Canada
Edifice du Parlement
Ottawa, Ont.

Monsieur le Premier Ministre,

La Gazette du 5 novembre rapporte que le juge Maurice Archambault vient de condamner à vingt ans de pénitencier le dénommé Roland Leblanc déclaré coupable du meurtre de deux jeunes filles, après avoir été reconnu sain d'esprit par les psychiatres. Le criminel n'aurait manifesté aucune émotion, d'ajouter le journal.

Je comprends que le juge Archambault ne pouvait condamner l'individu à la potence, puisque ce dernier s'était reconnu coupable de meurtre non qualifié.

Cette admission de la part de l'inculpé a évidemment été faite sur la recommandation de son avocat. Cette attitude en effet lui valait une diminution de peine, c'est-à-dire qu'il échappait à une condamnation à vie, puisque Ottawa semble avoir décidé de commuer toute sentence à la peine capitale.

L'expérience de ces dernières années nous permet de prévoir qu'avant longtemps, sous le fallacieux prétexte de le réhabiliter, les autorités gouvernementales auront libéré le détenu, lui laissant tout loisir de perpétrer un nouveau crime. Ce fut le cas de Dion remis en liberté surveillée, ce qui ne l'a pas empêché de tuer encore trois enfants à Québec, et celui de Marcotte, condamné à vie, mais doté d'une remise de peine sous la recommandation du "Parole Board", qui n'a pas tardé à tuer un agent de police.

Ce qui me paraît odieux, c'est qu'on semble s'appitoyer davantage sur le sort des criminels que sur le malheur des victimes. Lorsqu'il y a meurtre, les journaux rapportent la "nouvelle" presque comme un fait divers. Le public s'émeut pour

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GÉRARD FAVREAU

L'honorable Lester B. Pearson....

un moment, et l'opinion se calme. Personne n'ose élever la voix. Aucune remontrance ni protestation. Et le gouvernement continue de commuer les sentences, en dépit du vote pour le maintien de la peine de mort qui a été obtenu au parlement. Evidemment je ne parle pas des meurtres douteux ni des criminels irresponsables. Dans ces cas, je conçois parfaitement qu'il y a lieu de faire une différence avec le meurtre qualifié.

Encore ces jours-ci un jugement a été rendu contre les frères Poirier qui ont tué une jeune fille et blessé grièvement son ami. Si le ministère de la Justice s'en tient à sa nouvelle politique, cette sentence sera sans doute commuée pour permettre un nouveau délit criminel.

Je pourrais citer maints autres cas de ce genre, car depuis que le gouvernement commue les sentences de mort, il y a certainement beaucoup plus de meurtres dits non qualifiés qu'auparavant.

J'ai l'intention bien arrêtée de harceler les autorités concernées en cette matière aussi longtemps qu'il sera nécessaire, et je n'hésiterai pas à alerter les clubs sociaux contre cette façon d'agir que je considère pour le moins inconséquente.

Votre tout dévoué,

Gérard Favreau

Gérard Favreau

GF/jt

C. c. à l'honorable John Diefenbaker
l'honorable Lucien Cardin
l'honorable Daniel Johnson.

Ottawa 4, November 16, 1966

Dear Mrs. Reynolds:

Your letter of November 8, 1966, enclosing the resolution of the Unitarian Universalist Association for complete abolition of capital punishment, addressed to the Minister of Justice, has been directed to the Solicitor General who is the Minister charged with preparing capital cases for presentation to the Governor-in-Council on the issue as to whether a sentence of death should be commuted or carried into execution.

The Solicitor General has asked me to acknowledge your letter and the resolution and to let you know that he has very carefully noted the contents, although it would not be appropriate for him to comment upon this matter at the present time.

Yours truly,

T. D. MacDONALD

T. D. MacDonald,
Deputy Solicitor General

Mrs. J. Robert Reynolds,
Secretary,
Unitarian Universalist Association,
25 Beacon Street,
Boston, Massachusetts 02108,
U. S. A.

OFFICE OF
THE SOLICITOR GENERAL

Date 16 March

Forward to T. Drummond

Perusal and Return with Draft reply for my
Signature

Please see me re this

Attention ✓

Information

Perusal and Return

Perusal and Return with File

Perusal and Return with Recommendation

Perusal and Return with Comments

Let me have material asked for herein

Approval or Revision before Mailing

Please Fill in Blanks and Return

Special Instructions:

RECEIVED
OFFICE OF THE DEPUTY
SOLICITOR GENERAL
NOV 16 1966

E. P. M. GRIFFITHS
Executive Assistant to
Solicitor General

000324

OFFICE OF

THE MINISTER OF JUSTICE

Date November 14, 1966.

Forward to Mr. E.R.M. Griffiths,

Perusal and Return with Draft reply for my

Signature .....

Please see me *re* this .....

Attention XXX - not acknowledged.

Information .....

Perusal and Return .....

Perusal and Return with File .....

Perusal and Return with Recommendation .....

Perusal and Return with Comments .....

Let me have material asked for herein .....

Approval or Revision before Mailing .....

Please Fill in Blanks and Return .....

Special Instructions:

J.R.G. Geoffrio1000325
Executive Assista...

UNITARIAN UNIVERSALIST ASSOCIATION

OF CHURCHES AND FELLOWSHIPS IN NORTH AMERICA

25 Beacon Street, Boston, Massachusetts 02108 — Area Code 617 742-2100

MRS. J. ROBERT REYNOLDS
Secretary

November 8, 1966

The Honorable Lucien Cardin
Minister of Justice
House of Commons
Ottawa, Canada

Dear Mr. Minister:

Unitarian Universalists, voting at their recent General Assembly, have adopted a resolution urging the complete abolition of capital punishment in all United States and Canadian jurisdictions.

The resolution, adopted by virtually unanimous vote of 821 delegates from 306 churches and fellowships in 42 states and 5 provinces of Canada, calls on the Unitarian Universalist Association of the United States and Canada to encourage the governors of the states and the Canadian cabinet to pursue a policy of commuting death sentences until such time as capital punishment is abolished.

Because we know of your concern for this issue, we are sending you the full text of the resolution. Your comment is earnestly solicited.

Yours very truly,

Mrs. J. Robert Reynolds.

Mrs. J. Robert Reynolds
Secretary

Enclosure

CAPITAL PUNISHMENT

Resolved: That the Unitarian Universalist Association urges the complete abolition of capital punishment in all United States and Canadian jurisdictions; and

Be It Further Resolved, that the Unitarian Universalist Association seek to encourage the governors of the states and the Canadian cabinet to pursue a policy of commuting death sentences until such time as capital punishment is abolished throughout the United States and Canada.

Be It Further Resolved, that the Unitarian Universalist Association urges its member churches and fellowships to work for the formation of state councils affiliated with the American League to Abolish Capital Punishment, or work with such state councils where they already exist and to support the Canadian Society for the Death Penalty.

OFFICE OF

THE MINISTER OF JUSTICE

Date ...November 14, 1966...

Forward to (1) Mr. E.R.M. Griffiths,

Perusal and Return with Draft reply for my

Signature .....

Please see me *re* this .....

Attention XXX

Information ..... this refers to the letter of

Perusal and Return ..... (2) protest I translated

Perusal and Return with File ..... for you yesterday K.

Perusal and Return with Recommendation .....

Perusal and Return with Comments .....

Let me have material asked for herein (3) Deputy Minister:

Approval or Revision before Mailing ..... Mr. Griffiths referred

Please Fill in Blanks and Return ..... the original letter to you.

Special Instructions:

RECEIVED
OFFICE OF THE DEPUTY
SOLICITOR GENERAL
NOV 16 1966

J.R.G. Geoffrion
Executive Assista...

COPIE

Montréal, le 10 novembre 1966

L'honorable L.B. Pearson
Premier Ministre du Canada
Edifice du Parlement
Ottawa, Ont.

Monsieur le Premier Ministre,

Vous référant à ma lettre du 9 novembre 1966, je désire rectifier une erreur de transcription à la fin du 4e paragraphe où il est question de Marcotte.

Ce que j'ai voulu dire à cet endroit, c'est qu'il lieu également de craindre dans le cas de Marcotte, condamné à mort pour le meurtre d'un policier, mais qui a vu sa sentence commuée en emprisonnement à vie et se verra sans doute libéré dans un certain nombre d'années sous la recommandation du "Parole Board".

TRANSLATION:

I refer to my letter, Nov. 9 and correct para (4) in regard to Marcotte.

What I wanted to say, is that in Marcotte's case, he was condemned to die, but because of the commutation of his sentence, he will be paroled in a number of years.

C.C. Koz

Votre tout dévoué,

Gérard Favreau

Gérard Favreau

GF/jt

C.c. à l'honorable John Diefenbaker
l'honorable Daniel Johnson
l'honorable Lucien Cardin

TDM/JL

Ottawa 4, ce 16 novembre, 1966.

Cher monsieur Favreau,

Votre lettre du 9 novembre, 1966 au Premier Ministre au sujet de la peine capitale m'a été transmise aux fins d'y répondre. Le Solliciteur Général apprécie beaucoup recevoir vos commentaires sur ce sujet controversé.

Votre tout dévoué,

T. D. MacDONALD

T. D. MacDonald,
Solliciteur Général Adjoint

M. Gérard Favreau,
1440, Chemin Scarboro,
Ville Mont-Royal, P.Q.

DEPARTMENT OF THE SOLICITOR GENERAL
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM TDM/JL

Ottawa 4, November 9, 1966.

LETTER TAKEN FROM THE TAPE TO TRANSLATE:

I am instructed by the Solicitor General to acknowledge the copy of your letter of November 9, 1966 to the Prime Minister on the subject of capital punishment and to let you know that the Solicitor General appreciates very much having your views upon this very controversial subject.

Yours very truly,

T. D. MacDonald,
Deputy Solicitor General

Mr. Gérard Favreau, ...

OFFICE OF THE SOLICITOR GENERAL

Date 15 Nov 66

Forward to T Macdonald

Perusal and Return with Draft reply for my Signature

Please see me re this

Attention ✓

Information

Perusal and Return

Perusal and Return with File

Perusal and Return with Recommendation

Perusal and Return with Comments

me have material asked for herein

Approval or Revision before Mailing

Please Fill in Blanks and Return

Special Instructions:

RECEIVED
OFFICE OF THE DEPUTY
SOLICITOR GENERAL
NOV 15 1966

E. R. M. GRIFFITH
Executive Assistant to
Solicitor General

OFFICE OF

THE MINISTER OF JUSTICE

Date November 14, 1966.

Forward to Mr. E.R.M. Griffiths,

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Let me have material asked for herein .....

Approval or Revision before Mailing .....

Please Fill in Blanks and Return .....

Special Instructions:

J.R.G. Geoffrion, 000333
Executive Assistan

COPIE

1440, chem. Scarboro, Ville Mont-Royal -
Montréal, le 9 novembre 1966

L'honorable Lester B. Pearson
Premier ministre du Canada
Edifice du Parlement
Ottawa, Ont.

Monsieur le Premier Ministre,

La Gazette du 5 novembre rapporte que le juge Maurice Archambault vient de condamner à vingt ans de pénitencier le dénommé Roland Leblanc déclaré coupable du meurtre de deux jeunes filles, après avoir été reconnu sain d'esprit par les psychiatres. Le criminel n'aurait manifesté aucune émotion, d'ajouter le journal.

Je comprends que le juge Archambault ne pouvait condamner l'individu à la potence, puisque ce dernier s'était reconnu coupable de meurtre non qualifié.

Cette admission de la part de l'inculpé a évidemment été faite sur la recommandation de son avocat. Cette attitude en effet lui valait une diminution de peine, c'est-à-dire qu'il échappait à une condamnation à vie, puisque Ottawa semble avoir décidé de commuer toute sentence à la peine capitale.

L'expérience de ces dernières années nous permet de prévoir qu'avant longtemps, sous le fallacieux prétexte de le réhabiliter, les autorités gouvernementales auront libéré le détenu, lui laissant tout loisir de perpétrer un nouveau crime. Ce fut le cas de Dion remis en liberté surveillée, ce qui ne l'a pas empêché de tuer encore trois enfants à Québec, et celui de Marcotte, condamné à vie, mais doté d'une remise de peine sous la recommandation du "Parole Board", qui n'a pas tardé à tuer un agent de police.

Ce qui me paraît odieux, c'est qu'on semble s'appitoyer davantage sur le sort des criminels que sur le malheur des victimes. Lorsqu'il y a meurtre, les journaux rapportent la "nouvelle" presque comme un fait divers. Le public s'émeut pour

.....

L'honorable Lester B. Pearson....

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Encore ces jours-ci un jugement a été rendu contre les frères Poirier qui ont tué une jeune fille et blessé grièvement son ami. Si le ministère de la Justice s'en tient à sa nouvelle politique, cette sentence sera sans doute commuée pour permettre un nouveau délit criminel.

Je pourrais citer maints autres cas de ce genre, car depuis que le gouvernement commue les sentences de mort, il y a certainement beaucoup plus de meurtres dits non qualifiés qu'auparavant.

J'ai l'intention bien arrêtée de harceler les autorités concernées en cette matière aussi longtemps qu'il sera nécessaire, et je n'hésiterai pas à alerter les clubs sociaux contre cette façon d'agir que je considère pour le moins inconséquente.

Votre tout dévoué,

Gérard Favreau

GF/jt

Gérard Favreau

C.c. à l'honorable John Diefenbaker
l'honorable Daniel Johnson.

TRANSLATION /C.C.Ko./

Montreal, Quebec,
November 9, 1966.

Dear Prime Minister:

The Gazette dated November 5 reports that Judge Maurice Archambault is going to sentence Roland Leblanc to twenty years in penitentiary, being found guilty of murder of two young girls and after having been declared by the psychiatrist as fully responsible (not insane).

I understand that Judge Archambault could not sentence this man for life as this is the case of a non-capital murder. (Apparently he pleaded guilty to the charge).

This admission by the accused has evidently been made on the recommendation of his counsel. This attitude in effect reduced his sentence, that is, he avoided life sentence because Ottawa seems bent on commuting all sentences of capital punishment.

The experience of the last few years allows us to predict that before long, under the mistaken pretexts of rehabilitation, the Government authorities will have released inmate, facilitating another commitment of crime by him. This was the case of Dion released on parole, and this did not prevent him to kill another three children in Quebec; also that of Marcotte, sentenced to life but granted release on the recommendation of the National Parole Board and he did not loose any time to kill a policeman.

What seems strange to me is that we show more compassion for the criminals rather than to the misfortune of victims. The newspapers report any murder under "news" almost as a normal happening. The public becomes aroused for the moment and the opinion quietens down. Nobody would dare to raise a voice, or protest. And the Government continues to commute death sentences in defiance of the votes in Parliament to maintain capital punishment. Obviously, I am not talking of doubtful cases of murder nor of irresponsible criminals; in such cases, I concede entirely that one has to recognize a difference between capital and non-capital murder.

Once again, a judgement has been given against brothers Poirier who have killed a young girl and gravely injured her friend. If the Minister of Justice sticks to his new policy, this sentence shall, no doubt, be also commuted

...2

and will result in another criminal act committed.

I could quote many other cases of this type as, since the Government commutes sentences of death, there has certainly been many more murders pronounced non-capital than before.

I am determined to harass the authorities concerned as long as it will be necessary and I shall not hesitate to alert the social organizations against this manner of acting that I consider at least inconsequent.

Yours truly,

(Signed) [redacted]

Copy to J. Diefenbaker.
Daniel Johnson.

Ottawa 4, November 7, 1966.

CONFIDENTIAL

MEMORANDUM FOR THE PRIME MINISTER

CAPITAL PUNISHMENT

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Either of these bills may be embarrassing to some of our members in view of the manner in which they voted last April.

You will recall that in April the resolution in favour of abolition of the death penalty was rejected by a majority of 143 to 112. You will also recall that three amendments were proposed. The first would have retained capital punishment in the case of a person committing capital murder while serving a sentence of life imprisonment and it was defeated 199 to 23. The second would have abolished capital punishment for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of police and prison officers and it was defeated 179 to 74.

Abolitionist legislation sometimes retains the death penalty for a second murder. The argument for so doing is that, once convicted and sentenced to life imprisonment, a murderer may commit further murders, of prison officers etc., with impunity except as to prison privileges, unless the death penalty is retained for a second murder. The complete abolitionist usually replies that murderers, as a class, are well conducted prisoners and have an excellent record on parole. The retentionist retorts that this is because the worst have been executed. The issue does not appear capable of solution statictically. I am unaware of any actual case in an abolitionist country where it has been demonstrated that lack of the death penalty lead to the death of a police or prison officer. On the other hand we have one young prisoner in Canada who apparently murdered a prison guard out of sheer irresponsibility and despair over the 12 year term he received for armed robbery and who has indicated that he will murder again (Colpitts).

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entitled to special consideration as a police officer or prison guard for whom murder is a vocational risk. It will also likely be argued that retention of the death penalty for <u>any</u> murder is an admission of its deterrent effect and a reason for retaining it generally. I think there is something in these arguments. While the second bill would lessen the cases to come before Cabinet, I doubt that it would remove the dilemma in which Cabinet finds itself, between persons who expect the Government to let executions go forward, except where there are most clear and compelling reasons to the contrary, and persons whose fundamental approach leads them to seek any reasonable rationalization in order to commute.

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L. T. Pennell

Ottawa 4, November 7, 1966.

CONFIDENTIAL

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Ottawa 4, November 7, 1966.

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L. T. Pennell

DEPARTMENT OF THE SOLICITOR GENERAL
MINISTÈRE DU SOLLICITEUR GÉNÉRAL

MEMORANDUM

November 8, 1966

Note to the Solicitor General

Re: Capital Punishment

Herewith memorandum to the Prime Minister revised as requested.

T.D.M.

Attach

s.23

DEPARTMENT OF JUSTICE

MEMORANDUM

November 4, 1966

[redacted]

J.A.S.

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, October 31, 1966.

MEMORANDUM FOR : SOLICITOR GENERAL

FROM : DEPUTY SOLICITOR GENERAL

Re: Capital Punishment

I am attaching for your consideration a draft memorandum to the Prime Minister.

Encl.

T. D. M.

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Ottawa 4, October 31, 1966.

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D R A F T

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CONFIDENTIAL

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My own feeling is for the first bill.

OTTAWA CITIZEN

PRESS CLIPPING SERVICE, DEPARTMENT OF LABOUR, CANADA

OCT 21 1966

Mr. MacDonald

Death penalty and the law

In the interests of justice, the government should introduce a bill abolishing the death penalty. For the penalty has already been abolished in fact. It has been done by executive action, rather than by law. Because abolition has been accomplished by executive action, the fate of persons sentenced to death becomes subject to changes in the executive — in other words, to political shifts. In justice, their fate should be subject to law.

Since the free vote on abolition was taken several months ago, two death sentences have been commuted — that of Roger Allan Fulton on Aug. 3, and that of Claude Levasseur on Oct. 6. Yet the free vote rejected abolitionist legislation. The abolition which the executive failed to get in Parliament is being obtained through the authority to commute.

The authority to commute can, in principle, be exercised only in special cases. In finding all cases special, the cabinet is merely instituting abolition by executive action.

This might be acceptable to abolitionists on pragmatic grounds, if it were certain that a successor government would continue the commutation practice. But it is by no means sure. A successor government might revive executions. This means that a condemned man's life depends on the kind of government we have at a given moment, rather than on law.

Having gone so far as to commute two death sentences since the free vote was taken, the government has little choice except to go all the way. A government bill would, of course, be certain to pass. Few Liberals opposed to the legislation would vote against it if it were introduced by the government, and risk an election. Sufficient additional support from the opposition parties could be expected (Mr. Diefenbaker, for example, is an abolitionist) to make passage a certainty. If the legislation were introduced, the issue would be resolved once and for all.

MONCTON TRANSCRIPT

PRESS CLIPPING SERVICE, DEPARTMENT OF LABOUR, CANADA

OCT 22 1966

Death Penalty Must be Abolished!

Sixteen years after the execution in London of Timothy Evans for murder, a posthumous pardon has been granted by the Queen. Sixteen years after being tried, found guilty and hanged by the neck until dead, the British government has arrived at the conclusion that Timothy Evans was not guilty of the murder with which he was charged.

The pardon has come 16 years too late. It has come after years of allegations that justice had indeed made a mistake, years during which police and various authorities pooh-poohed the idea that Evans was innocent. It has come after the one horrible ritualistic and irrevocable act had taken place — the legal murder of a human being by the state in the name of society.

There are powerful arguments on both sides of the question of the death penalty. But the two arguments which surely should tip the scales in favor of abolition are (1) that the death penalty is not a deterrent and (2) that the death penalty is final and mistakes can be and have been made.

If the death penalty were a deterrent, those countries which have abolished it —and the number increases steadily— should have witnessed a huge upwards surge in capital crimes. This has not happened.

If the death penalty were a deterrent, totalitarism would be able to hold a conquered people in complete subjugation. Yet this has constantly proved not to be so. All down the centuries men and women have stood against oppression despite torture and death. The Nazis couldn't stem the resistance movements of Occupied Europe, even with the random execution of hostages, the execution of blood relatives, etc.

Lest anyone say that justice can make no mistakes, let us point to the Evans case. It is now accepted that John Reginald Halliday Christie, a multiple killer, committed the murder for which Evans was hanged. Aren't there people in Canada to this day, despite a royal commission, who have doubts of guilt of Wilbert Coffin? And at this very moment the Supreme Court is holding unprecendted examination into the trial of Steven Truscott. He was sentenced to death at the age of 14 years. What would Canada do today if the sentence had not been commuted?

The death penalty is a failure. It doesn't even achieve what its proponents want from it. It is a failure because it is a repulsive manifestation of society's failure. It is the ultimate barbarism in an allegedly civilized society, made all the more horrific by the macabre ritual which surrounds an execution. And it admits of no correction for errors made.

It should be abolished!

D R A F T

Ottawa 4, October 31, 1966.

CONFIDENTIAL

MEMORANDUM FOR THE PRIME MINISTER

CAPITAL PUNISHMENT

Attached are two draft bills. The first bill would abolish capital punishment, under the Criminal Code, entirely, substituting therefor a mandatory sentence of life imprisonment. (In addition to capital murder, the death penalty may now be imposed, under the Criminal Code, in certain instances of treason and piracy). The second bill would retain capital punishment for the murder of a police or prison officer as defined therein. Neither bill affects the National Defence Act, the Treachery Act or the War Crimes Act under which the death penalty may be imposed. These Acts are reverted to later.

Either of these bills may be embarrassing to some of our members in view of the manner in which they voted last April.

You will recall that in April the resolution in favour of abolition of the death penalty was rejected by a majority of 143 to 112. You will also recall that three amendments were proposed. The first would have retained capital punishment in the case of a person committing capital murder while serving a sentence of life imprisonment and it was defeated 199 to 23. The second would have abolished capital punishment for a trial period of five years and it was defeated 138 to 113. The third would have retained the death penalty for the murder of police and prison officers and it was defeated 179 to 74.

Abolitionist legislation sometimes retains the death penalty for a second murder. The argument for so doing is that, once convicted and sentenced to life imprisonment, a murderer may commit further murders, of prison officers etc., with impunity except as to prison privileges, unless the death penalty is retained for a second murder. The complete abolitionist usually replies that murderers, as a class, are well conducted prisoners and have an excellent record on parole. The retentionist retorts that this is because the worst have been executed. The issue does not appear capable of solution statictically. I am unaware of any actual case in an abolitionist country where it has been demonstrated that lack of the death penalty lead to the death of a police or prison officer. On the other hand we have one young prisoner in Canada who apparently murdered a prison guard out of sheer irresponsibility and despair over the 12 year term he received for armed robbery and who has indicated that he will murder again (Colpitts).

It may be argued that it is illogical to apply capital punishment to the murder of police and prison officers alone; that the bank manager who was murdered in the course of the hold up in the most recent case before Cabinet (Levasseur) was quite as much entitled to

special consideration as a police officer or prison guard for whom murder is a vocational risk. It will also likely be argued that retention of the death penalty for <u>any</u> murder is an admission of its deterrent effect and a reason for retaining it generally. I think there is something in these arguments. While the second bill would lessen the cases to come before Cabinet, I doubt that it would remove the dilemma in which Cabinet finds itself, between persons who expect the Government to let executions go forward, except where there are most clear and compelling reasons to the contrary, and persons within the Cabinet whose fundamental approach leads them to seek any reasonable rationalization in order to commute.

A decision will have to be made as to whether whatever bill is brought in is to be a straightforward Government measure or subject to another free vote. I think it must be a free vote, both on grounds of principle and because we have already gone on record that it is a matter of conscience, appropriate to a free vote. On the other hand it will be pointed out that there has already been a free vote this year and argued that the Government cannot simply arrange another free vote but must take some responsibility in the matter. Perhaps this problem could be solved by those of our colleagues, who are in favour of abolition, including yourself and myself, speaking in support of the measure.

In the second bill, the provision for asking the jury whether it wishes to recommend clemency has been repealed. If a policy of retention of the death penalty for the murder of a policeman or prison guard is to be retained, and legislatively reaffirmed, there seems to be no point in continuing to seek the recommendation of the jury which experience has suggested to be unpredictable and uninformed. We may meet opposition here, however, from Mr. Diefenbaker. It is my understanding that he was the strong proponent of this provision against the judgment of Mr. Fulton.

In the event of the <u>first</u> bill being enacted, all sentences of death already passed would be automatically converted, by the bill, to mandatory life imprisonment. There is a clause in each bill that a murderer may not be paroled without the express approval of the Governor-in-Council. In the event of the <u>second</u> bill being enacted, if the trial had not commenced at the coming into force of the bill, the trial would proceed upon the basis of the new law; but if it had commenced it would proceed upon the basis of the old law because it would be impracticable to change over in the middle of a trial. If, in such a case, a conviction were made for capital murder, and the death penalty imposed, Cabinet would have to sort out whether it had or had not been a murder of a policeman or prison guard and take the fact into consideration on the issue of commutation.

If neither of these bills were to pass we would be right back to the problem we start from, except that it will be aggravated: a second reaffirmation by Parliament of the death penalty and a continuing disposition by Cabinet to commute it.

The 1965 United Kingdom Act for the abolition of the death penalty is to remain in effect for five years, whereupon, unless action is taken by Parliament to extend it, the law will revert to what it was before the Act was passed. We might consider the desirability of a similar provision, if it is necessary to secure support for our bill.

Should the decision of the Supreme Court of Canada, in the Truscott case, be in favour of Truscott, this along with the posthumous pardon granted Evans in the United Kingdom, would, of course, give impetus to the movement for abolition of the death penalty.

The National Defence Act imposes a mandatory death penalty for certain offences involving traitorous misconduct and an optional death penalty for certain other offences. Such death penalty may be commuted by various authorities including the Minister and the Governor-in-Council. The Governor-in-Council may make regulations for the carrying out of a sentence of death imposed under the Act. The Treachery Act imposes a mandatory death penalty for treachery thereunder. The Treachery Act is expressed to expire on the issue of a proclamation, under the War Measures Act, terminating the state of war and appears to have expired. The War Crimes Act of 1946 provides for the death penalty in the case of a person found guilty by a military court of a war crime; it remains in force until day fixed by proclamation; and no such proclamation has yet been issued. Neither of the bill deals with any of these three Acts.

My own feeling is for the first bill.

CONFIDENTIAL

October 21, 1966.

BILL

An Act to amend the Criminal Code.

(Version 1)

1953-54, c. 51;
1955, cc. 2, 45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc. 40, 41;
1960, cc. 37, 45;
1960-61, cc. 21, 42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc. 22, 35, 53;
1966, cc. 23, 25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No person shall suffer death for any offence under the Criminal Code and a person who is convicted of an offence under the Criminal Code for which, but for this Act, he would or might be sentenced to death shall be sentenced instead in accordance with the Criminal Code as amended by this Act.

2. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under para-

graph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

3. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

4. Section 202A of the said Act is repealed.

1960-61, c. 44, s. 2.

5. Section 206 of the said Act is repealed and the following substituted therefor:

Punishment for murder.

"206. (1) Every one who commits murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

Minimum punishment.

(2) For the purposes of Part XX, the sentence of imprisonment for life prescribed by this section is a minimum punishment."

6. Paragraph (a) of section 406 of the said Act is repealed and the following substituted therefor:

Where offence punishable with life imprisonment.

"(a) every one who attempts to commit or is an accessory after the fact to the commission of an offence for which, upon conviction, an accused shall be or is liable to be sentenced to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years;"

1960-61, c. 43, s. 16.

7. Paragraph (a) of subsection (1) of section 463 of the said Act is repealed and the following substituted therefor:

By judge or magistrate.

"(a) where an accused is charged with an offence, other than an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and"

1960-61, c. 43, s. 17.

8. Section 464 of the said Act is repealed and the following substituted therefor:

Bail in certain cases.

"464. Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, may admit that accused to bail before or after committal for trial."

1960-61, c. 44, s. 3.

9. Section 492A of the said Act is repealed.

1960-61, c. 44, s. 4.

10. Subsections (1) to (2b) of section 515 of the said Act are repealed and the following substituted therefor:

Pleas permitted.

"515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where an accused refuses to plead or does not answer directly, the court shall order the clerk of the court to enter a plea of not guilty."

1960-61, c. 44, s. 5.

11. Subsection (4) of section 516 of the said Act is repealed and the following substituted therefor:

Pleading over.

"(4) When the pleas referred to in subsection (3) are disposed of against the accused he may plead guilty or not guilty."

1960-61, c. 44, s. 6.

12. Subsection (2a) of section 519 of the said Act is repealed.

13. Subsections (1) and (2) of section 542 of the said Act are repealed and the following substituted therefor:

Peremptory challenges by accused. Twenty in certain cases.

"542. (1) An accused who is charged with an offence for which imprisonment for life is a minimum punishment is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence for which imprisonment for life is a minimum punishment, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily."

14. Subsection (1) of section 556 of the said Act is repealed and the following substituted therefor:

Separation of jurors.

"556. (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is charged with an offence for which imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 7.

15. Subsection (1a) of section 569 of the said Act is repealed.

16. Section 577 of the said Act is repealed.

1960-61, c. 44, s. 8.

17. Section 583A of the said Act is repealed.

1960-61, c. 44, s. 9.

18. Subsections (2) to (5) of section 586 of the said Act are repealed and the following substituted therefor:

Extension of time.

"(2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

Delay in execution of sentence of whipping.

(3) Where, pursuant to a conviction, a sentence of whipping has been imposed,

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of whipping."

1960-61, c. 44, s. 10(1).

19. (1) Paragraph (d) of subsection (2) of section 588 of the said Act is repealed and the following substituted therefor:

"(d) the addresses of the prosecutor and the accused or counsel for the accused by way of summing up, if a ground for the appeal is based upon either of the addresses,"

1960-61, c. 44, s. 10(2).

(2) Subsection (4) of section 588 of the said Act is repealed and the following substituted therefor:

Copies to interested parties.

"(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (2) and (3)."

1960-6. c. 43, s. 27; 1960-61, c. 44, s. 11.

20. Sections 597 and 597A of the said Act are repealed and the following substituted therefor:

Appeal from conviction.

"597.(1) A person who is convicted of an indictable offence and whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents; or

On question of law with leave.

(b) on any question of law, if leave to appeal is granted by the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the Supreme Court of Canada or a judge thereof may, for special reasons, allow.

(2) A person

Appeal where acquittal set aside.

(a) who is acquitted of an indictable offence and whose acquittal is set aside by the court of appeal, or

Where joint trial.

(b) who is tried jointly with a person referred to in paragraph (a) and is convicted and whose conviction is sustained by the court of appeal,

may appeal to the Supreme Court of Canada on a question of law."

1960-61, c. 44, s. 12.

21. All that portion of subsection (1) of section 598 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Appeal by Attorney General.

"598. (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under section 583 or dismisses an appeal taken pursuant to paragraph (a) of subsection (1) of section 584, the Attorney General may appeal to the Supreme Court of Canada"

22. The heading preceding section 642 and sections 642 to 653 of the said Act are repealed.

23. Subsections (1) and (2) of section 654 of the said Act are repealed and the following substituted therefor:

Conviction of person holding public office vacates office.

"654. (1) Where a person who is convicted of treason or of an indictable offence for which he is sentenced to imprisonment for a term exceeding five years holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant.

When disability ceases.

(2) A person to whom subsection (1) applies or in respect of whom a sentence of death has been commuted is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage."

24. Section 656 of the said Act is repealed and the following substituted therefor:

Prior approval of release.

"656. Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed

as a minimum punishment shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

25. Forms 40 and 41 in Part XXVI of the said Act are repealed.

Transitional.

26. Where any person has been sentenced to death before the coming into force of this Act, and his sentence has not been carried into execution or commuted,

(a) the provisions of the Criminal Code relating to appeals, as they existed immediately prior to the coming into force of this Act, shall, notwithstanding this Act, continue to apply in the case of such person; and

(b) such person, unless his conviction or sentence is set aside on appeal, shall be dealt with as if there were substituted, for the sentence of death, a sentence of imprisonment for life as a minimum punishment, and a certificate or other instrument signed by the clerk of the appropriate court, setting out the sentence of death, shall be sufficient authority for such imprisonment.

Where verdict not given previously.

27. (1) Where, in a prosecution for capital murder or non-capital murder, whether by way of original proceedings or pursuant to an order for a new trial, commenced before the coming into force of this Act, a verdict has not been given before such coming into force, the proceedings shall be continued as if the indictment charged simply murder and the offence had been committed after the coming into force of this Act.

When verdict of guilty given but accused not sentenced previously.

(2) If, in any prosecution described in subsection (1), a verdict of guilty of capital or non-capital murder has been given but the accused has not been sentenced before the coming into force of this Act, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment.

Where offence committed but prosecution not commenced previously.

(3) Where a prosecution is commenced after the coming into force of this Act, in respect of a murder committed before such coming into force, the offence shall be dealt with, inquired into, tried and determined and any punishment in respect of the offence shall be imposed, as if the offence had been committed after the coming into force of this Act.

When prosecution deemed commenced.

(4) For the purposes of this section, a prosecution shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

28. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

CONFIDENTIAL

November 4, 1966.

BILL

An Act to amend the Criminal Code.

(Version 1)

1953-54, c. 51;
1955, cc. 2, 45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc. 40, 41;
1960, cc. 37, 45;
1960-61, cc. 21, 42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc. 22, 35, 53;
1966, cc. 23, 25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No person shall suffer death for any offence under the Criminal Code and a person who is convicted of an offence under the Criminal Code for which, but for this Act, he would or might be sentenced to death shall be sentenced instead in accordance with the Criminal Code as amended by this Act.

2. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under para-

graph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

3. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

4. Section 202A of the said Act is repealed.

1960-61, c. 44, s. 2.

5. Section 206 of the said Act is repealed and the following substituted therefor:

Punishment for murder.

"206. (1) Every one who commits murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

Minimum punishment.

(2) For the purposes of Part XX, the sentence of imprisonment for life prescribed by this section is a minimum punishment."

6. Paragraph (a) of section 406 of the said Act is repealed and the following substituted therefor:

Where offence punishable with life imprisonment.

"(a) every one who attempts to commit or is an accessory after the fact to the commission of an offence for which, upon conviction, an accused shall be or is liable to be sentenced to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years;"

1960-61, c. 43, s. 16.

7. Paragraph (a) of subsection (1) of section 463 of the said Act is repealed and the following substituted therefor:

By judge or magistrate.

"(a) where an accused is charged with an offence, other than an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and"

1960-61, c. 43, s. 17.

8. Section 464 of the said Act is repealed and the following substituted therefor:

Bail in certain cases.

"464. Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or under sections 50 to 53, may admit that accused to bail before or after committal for trial."

1960-61, c. 44, s. 3.

9. Section 492A of the said Act is repealed.

1960-61, c. 44, s. 4.

10. Subsections (1) to (2b) of section 515 of the said Act are repealed and the following substituted therefor:

Pleas permitted.

"515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where an accused refuses to plead or does not answer directly, the court shall order the clerk of the court to enter a plea of not guilty."

1960-61, c. 44, s. 5.

11. Subsection (4) of section 516 of the said Act is repealed and the following substituted therefor:

Pleading over.

"(4) When the pleas referred to in subsection (3) are disposed of against the accused he may plead guilty or not guilty."

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"542. (1) An accused who is charged with an offence for which imprisonment for life is a minimum punishment is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence for which imprisonment for life is a minimum punishment, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily."

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Separation of jurors.

"556. (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is charged with an offence for which imprisonment for life is a minimum punishment."

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15. Subsection (1a) of section 569 of the said Act is repealed.

16. Section 577 of the said Act is repealed.

1960-61, c. 44, s. 8.

17. Section 583A of the said Act is repealed.

1960-61, c. 44, s. 9.

18. Subsections (2) to (5) of section 586 of the said Act are repealed and the following substituted therefor:

Extension of time.

"(2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

Delay in execution of sentence of whipping.

(3) Where, pursuant to a conviction, a sentence of whipping has been imposed,

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of whipping."

1960-61, c. 44, s. 10(1).

19. (1) Paragraph (d) of subsection (2) of section 588 of the said Act is repealed and the following substituted therefor:

"(d) the addresses of the prosecutor and the accused or counsel for the accused by way of summing up, if a ground for the appeal is based upon either of the addresses,"

1960-61, c. 44, s. 10(2).

(2) Subsection (4) of section 588 of the said Act is repealed and the following substituted therefor:

Copies to interested parties.

"(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (2) and (3)."

1960-6. c. 43, s. 27; 1960-61, c. 44, s. 11.

20. Sections 597 and 597A of the said Act are repealed and the following substituted therefor:

Appeal from conviction.

"597.(1) A person who is convicted of an indictable offence and whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents; or

On question of law with leave.

(b) on any question of law, if leave to appeal is granted by the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the Supreme Court of Canada or a judge thereof may, for special reasons, allow.

(2) A person

Appeal where acquittal set aside.

(a) who is acquitted of an indictable offence and whose acquittal is set aside by the court of appeal, or

Where joint trial.

(b) who is tried jointly with a person referred to in paragraph (a) and is convicted and whose conviction is sustained by the court of appeal,

may appeal to the Supreme Court of Canada on a question of law."

1960-61, c. 44, s. 12.

21. All that portion of subsection (1) of section 598 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Appeal by Attorney General.

"598. (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under section 583 or dismisses an appeal taken pursuant to paragraph (a) of subsection (1) of section 584, the Attorney General may appeal to the Supreme Court of Canada"

22. The heading preceding section 642 and sections 642 to 653 of the said Act are repealed.

23. Subsections (1) and (2) of section 654 of the said Act are repealed and the following substituted therefor:

Conviction of person holding public office vacates office.

"654. (1) Where a person who is convicted of treason or of an indictable offence for which he is sentenced to imprisonment for a term exceeding five years holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant.

When disability ceases.

(2) A person to whom subsection (1) applies or in respect of whom a sentence of death has been commuted is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage."

24. Section 656 of the said Act is repealed and the following substituted therefor:

Prior approval of release.

"656. Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed

as a minimum punishment shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

25. Forms 40 and 41 in Part XXVI of the said Act are repealed.

Transitional.

26. Where any person has been sentenced to death before the coming into force of this Act, and his sentence has not been carried into execution or commuted,

(a) the provisions of the Criminal Code relating to appeals, as they existed immediately prior to the coming into force of this Act, shall, notwithstanding this Act, continue to apply in the case of such person; and

(b) such person, unless his conviction or sentence is set aside on appeal, shall be dealt with as if there were substituted, for the sentence of death, a sentence of imprisonment for life as a minimum punishment, and a certificate or other instrument signed by the clerk of the appropriate court, setting out the sentence of death, shall be sufficient authority for such imprisonment.

Where verdict not given previously.

27. (1) Where, in a prosecution for capital murder or non-capital murder, whether by way of original proceedings or pursuant to an order for a new trial, commenced before the coming into force of this Act, a verdict has not been given before such coming into force, the proceedings shall be continued as if the indictment charged simply murder and the offence had been committed after the coming into force of this Act.

When verdict of guilty given but accused not sentenced previously.

(2) If, in any prosecution described in subsection (1), a verdict of guilty of capital or non-capital murder has been given but the accused has not been sentenced before the coming into force of this Act, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment.

Where offence committed but prosecution not commenced previously.

(3) Where a prosecution is commenced after the coming into force of this Act, in respect of a murder committed before such coming into force, the offence shall be dealt with, inquired into, tried and determined and any punishment in respect of the offence shall be imposed, as if the offence had been committed after the coming into force of this Act.

When prosecution deemed commenced.

(4) For the purposes of this section, a prosecution shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

28. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

CONFIDENTIAL

October 14, 1966.

BILL

An Act to amend the Criminal Code.

(Version 2)

1953-54, c. 51;
1955, cc.2,45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc.40,41;
1960, cc.37,45;
1960-61, cc.21,
42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc.22,
35, 53;
1966, cc. 23,25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

2. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

3. Subsection (2) of section 202A of the said Act is repealed and the following substituted therefor:

Capital murder defined.

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death."

1960-61, c. 44, s. 13; 1966, c. 25, s. 45.

4. Section 642A of the said Act is repealed.

1960-61, c.44, s. 15.

5. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

Approval by Governor in Council of release after commutation of sentence.

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

Transitional.

6. (1) Where proceedings in respect of an offence that, under the provisions of the Criminal Code as it was before being amended by this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, namely:

(a) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and

(b) where a new trial of a person for the offence has been ordered by the court of appeal or the Supreme Court of Canada and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court before which the accused is to be tried, and

thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act.

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed.

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

7. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

CONFIDENTIAL

October 14, 1966.

BILL

An Act to amend the Criminal Code.

(Version 2)

1953-54, c. 51;
1955, cc.2,45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc.40,41;
1960, cc.37,45;
1960-61, cc.21,
42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc.22,
35, 53;
1966, cc. 23,25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

2. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

3. Subsection (2) of section 202A of the said Act is repealed and the following substituted therefor:

Capital murder defined.

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death."

1960-61, c. 44, s. 13; 1966, c. 25, s. 45.

4. Section 642A of the said Act is repealed.

1960-61, c.44, s. 15.

5. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

Approval by Governor in Council of release after commutation of sentence.

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

Transitional.

6. (1) Where proceedings in respect of an offence that, under the provisions of the Criminal Code as it was before being amended by this Act, was punishable by death were commenced before the coming into force of this Act, the following rules apply, namely:

(a) the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of that offence shall be imposed, as if this Act had not come into force; and

(b) where a new trial of a person for the offence has been ordered by the court of appeal or the Supreme Court of Canada and the new trial is commenced after the coming into force of this Act, the new trial shall be commenced by the preferring of a new indictment before the court before which the accused is to be tried, and

thereafter the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act.

(2) Where proceedings in respect of an offence that would, if it had been committed before the coming into force of this Act, have been punishable by death are commenced after the coming into force of this Act, the offence shall be dealt with, inquired into, tried and determined, and any punishment in respect of the offence shall be imposed, as if it had been committed after the coming into force of this Act irrespective of when it was actually committed.

(3) For the purposes of this section, proceedings in respect of an offence shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

Coming into force.

7. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

DHC/eas

DEPARTMENT OF JUSTICE

October 27, 1966

MEMORANDUM TO THE DEPUTY SOLICITOR GENERAL

FROM D. H. Christie

185300-206-2
Re: Capital Punishment

With respect to introducing a bill to abolish capital punishment, in whole or in part, as a Government measure I am of the opinion this would place Members on the Government side who voted against abolition last April on the free vote in a most invidious position. They would, in effect, be expected to publicly repudiate the stand they took, as a matter of conscience, under the compulsion of Party discipline.

There is a theory held in some circles that in the last analysis Members of Parliament should be governed in their voting by what they personally conscientiously believe to be the proper course of action and not by the direction of the Party Whip. A public demonstration that Party discipline prevails over the dictates of conscience is, I would think, to be avoided if possible.

You may recall this often-referred-to passage in a speech to the electors of Bristol by Edmund Burke:

> "But, his (i.e. an M.P's.) unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion."

D.H.C.

Further draft memo to follow

D R A F T

As to the National Defence Act certain offences involving ~~treacherous~~ traitorous misconduct are punishable with the mandatory death penalty for example sections 64 and 65, dealing with misconduct in the presence of the enemy, section 66 dealing with offences related to security , and section 67 dealing with offences related to prisoners of war. The same offences, if not committed ~~treacherously~~ traitorously, are punishable with death or less punishment and a sentence of death may also be imposed for certain other offences, e.g. section 69, dealing with spying for the enemy and section 70, dealing with mutiny with violence. By section 168A of the Act the Governor-in-Council is authorized to make regulations providing for the carrying out of a sentence of death under the Act.

As to the Treachery Act, S.C. 1940, c. 43, the treachery was punishable with the mandatory death penalty. Section 11 of the Act provided that the Act was to expire on the issue of the second of two proclamations under the War Measures Act, R.S.C. 1952, c. 288. That section of the War Measures Act clearly contemplated the issue of only two proclamations, the first declaring the existence of a state of war and the second declaring the termination of a state of war. In fact, several

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proclamations of war were issued, declaring a state of war with various countries and several proclamations were issued declaring the termination of war. Proclamations were issued terminating the war with Germany, Japan, Italy, Roumania, Hungary, and Finland. Accordingly I consider it probable that a court would hold that the Treachery Act has expired.

As to the War Crimes Act, S.C. 1946, c. 73, a person found guilty by a military court of a war crime may be sentenced to death by hanging or by shooting. The Act provides that the sentence is to be carried out as far as practicable, as if it had been imposed on a member of the military forces by a court martial. The Act remains in force until a day is fixed by proclamation of the Governor-in-Council. No such proclamation has yet been issued. The War Crimes Act is therefore still in force.

TDM/ROA

DEPARTMENT OF THE SOLICITOR GENERAL

Ottawa 4, October 24, 1966

MEMORANDUM FOR: MR. D. H. CHRISTIE
and
MR. J. A. SCOLLIN

FROM: DEPUTY SOLICITOR GENERAL

185300-206-2
Re: Capital Punishment

The attached is for a draft memorandum from the Solicitor General to the Prime Minister. Can you think of any point that has not been, but should be, covered?

J. D. MacDONALD

Attach.

T.D.M.

Draft

Memorandum to the Prime Minister

Capital Punishment

Attached are two draft bills. The first bill would abolish capital punishment, under the Criminal Code, entirely, substituting therefor a mandatory sentence of life imprisonment. (In addition to capital murder, the death penalty may now be imposed, under the Criminal Code, in certain instances of treason and piracy). The second bill would retain capital punishment for the murder of a police or prison officer as defined therein. Neither bill affects the National Defence Act, the Treachery Act or the War Crimes Act under which the death penalty may be imposed. These Acts are reverted to later.

If the second bill is decided upon now, this may be embarrassing to some of our colleagues who, upon the recent vote, were in favour of complete but not partial abolition.

* *

Abolitionist legislation sometimes retains the death penalty for a second murder. The argument for so doing is that, once convicted and sentenced to life imprisonment, a murderer may commit further murders, of prison officers etc., with impunity except as to prison privileges, unless the death penalty is retained for a second murder. The complete abolitionist usually replies that ~~imprisoned~~ murderers, as a class, are well conducted prisoners and have an excellent record on parole. The retentionist retorts that this is because the worst have been executed. The issue does not appear capable of solution statictically. I am unaware of any actual case in an abolitionist country where it has been demonstrated that lack of the death penalty lead to the death of a police or prison officer. On the other hand we have one young prisoner in Canada who apparently murdered a prison guard out of sheer irresponsibility and despair over the 12 year term he received for armed robbery and who has indicated that he will murder again (Colpitts).

[Check with J. McKay as to standing, etc.]

It may be argued that it is illogical to apply capital punishment to the murder of police and prison officers alone; that the ~~71 year old~~ bank manager who was murdered in the course of the hold up in the most recent case before Cabinet (Levasseur) was quite as much entitled to special consideration as a police officer or prison guard for whom murder is a vocational risk. It will also likely be argued that retention of the death penalty for <u>any</u> murder is an admission of its deterrent effect and a reason for retaining it generally. I think there is something in these arguments. While the second bill would lessen the cases to come before Cabinet, I doubt that it would remove the dilemma in which Cabinet finds itself, between persons who expect the Government to let executions go forward, except where there are most clear and compelling reasons to the contrary, and persons within the Cabinet whose fundamental approach leads them to seek any reasonable rationalization in order to commute.

A decison will have to be made as to whether whatever bill is brought in is to be a straightforward Government measure or subject to another free vote. I think it must be a free vote, both on grounds of principle and because we have already gone on record that it is a matter of conscience, appropriate to a free vote. On the other hand it will be pointed out that there has already been a free vote this year and argued that the Government cannot simply arrange another free vote but must take some responsibility in the matter. Perhaps this problem could be solved by those of our colleagues, who are in favour of abolition, including yourself and myself, speaking in support of the measure.

In the second bill, the provision for asking the jury whether it wishes to recommend clemency has been repealed. If a policy of retention of the death penalty for the murder of a policeman or prison guard is to be retained, and legislatively reaffirmed, there seems to be no point in continuing to seek the recommendation of the jury which experience has suggested

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to be unpredictable and uninformed. We may meet opposition here, however, from Mr. Diefenbaker. It is my understanding that he was the strong proponent of this provision against the judgment of Mr. Fulton.

In the event of the first bill being enacted, all sentences of death already passed would be automatically converted, by the bill, to life imprisonment. In the event of the second bill being enacted, if the trial ~~at that date~~ had not commenced ~~it would~~ proceed upon the basis of the new law; but if it had commenced it would proceed upon the basis of the old law because it would be impracticable to change over in the middle of a trial. If, in such a case, a conviction were made for capital murder, and the death penalty imposed, Cabinet would have to sort out whether it had or had not been a murder of a policeman or prison guard and take the fact into consideration on the issue of commutation.

If neither of these bills were to pass we would be right back to the problem we start from, except that it will be aggravated: a second reaffirmation by Parliament of the death penalty and a continuing disposition by Cabinet to commute it.

The 1965 United Kingdom Act for the abolition of the death penalty is to remain in effect for five years, whereupon, unless action is taken by Parliament to extend it, the law will revert to what it was before the Act was passed. We might consider the desirability of a similar provision, if it is necessary to secure support for our bill.

My own feeling is for the first bill.

As to ~~U. D. Act, Treachery Act~~ N. Act or War Crimes Act?

CONFIDENTIAL

October 14, 1966.

BILL

An Act to amend the Criminal Code.

1953-54, c. 51;
1955, cc.2,45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc.40,41;
1960, cc.37,45;
1960-61, cc.21,
22, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc.32,
33, 53;
1966, cc. 22,25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(2) Section 67 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

2. Subsection (3) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(3) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1900-61, c. 44, s. 1.

3. Subsection (2) of section 202A of the said Act is repealed and the following substituted therefor:

Capital murder defined.

"(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, jailer, guard or other officer or permanent employee of a prison acting in the course of his duties,

or counselled or procured another person to do any act causing or assisting in causing the death."

1960-61, c.44, s. 13; 1966, c. 25, s. 45.

4. Section 642A of the said Act is repealed.

1960-61, c.44, s. 15.

5. Subsection (3) of section 656 of the said Act is repealed and the following substituted therefor:

Approval by Governor in Council of release after commutation of sentence.

"(3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

6. (1) Where, in a prosecution for a capital murder coming within paragraph (a) or (b) of subsection (2) of section 202A, whether by way of original proceedings or pursuant to an order for a new trial, commenced before the coming into force of this Act, a verdict has not been given before such coming into force, the proceedings shall be continued as if the indictment charged non-capital murder and the offence had been committed after such coming into force.

(2) If, in such case, a verdict of capital or non-capital murder has been given, but the accused has not been sentenced, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment.

(3) Where a prosecution is commenced after the coming into force of this Act, in respect of a capital murder coming within paragraph (a) or (b) of subsection (2) of section 202A, committed before such coming into force, the offence shall be dealt with, inquired into, tried and determined and any punishment in respect of the offence shall be imposed, as if the offence had been committed after the coming into force of this Act.

(4) For the purposes of this section, a prosecution shall be deemed to have commenced:

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

22A. Subsections (1) and (2) of section 654 of the said Act are repealed and the following substituted therefor:

Conviction of person holding public office vacates office.

"654. (1) Where a person is convicted of treason or of an indictable offence for which he is sentenced to imprisonment for a term exceeding five years and holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant.

When disability ceases.

(2) A person to whom subsection (1) applies or who has been convicted of an offence for which he has been sentenced to death is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage."

CONFIDENTIAL October 13, 1966.

BILL

An Act to amend the Criminal Code.

1953-54, c. 51;
1955, cc. 2, 45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, cc. 40, 41;
1960, cc. 37, 45;
1960-61, cc. 21, 42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc. 22, 55, 63;
1966, cc. 23, 25.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No person shall suffer death for any offence under the Criminal Code and a person who is convicted of an offence under the Criminal Code for which, but for this Act, he would or might be sentenced to death shall be sentenced instead in accordance with the Criminal Code as amended by this Act.

2. (1) Subsection (1) of section 47 of the Criminal Code is repealed and the following substituted therefor:

Punishment.

"47. (1) Every one who commits treason is guilty of an indictable offence and

(a) shall be sentenced to imprisonment for life if he is guilty of an offence under paragraph (a), (b) or (c) of subsection (1) of section 46;

(b) is liable to imprisonment for life if he is guilty of an offence under paragraph (d), (f) or (g) of subsection (1) of section 46;

(c) is liable to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) is liable to imprisonment for fourteen years if he is guilty of an offence under para-

graph (c) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country."

(3) Section 47 of the said Act is further amended by adding thereto the following subsection:

Minimum punishment.

"(3) For the purposes of Part XX, the sentence of imprisonment for life prescribed by paragraph (a) of subsection (1) is a minimum punishment."

3. Subsection (2) of section 75 of the said Act is repealed and the following substituted therefor:

Punishment.

"(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life; and if, while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 1.

4. Section 202A of the said Act is repealed.

1960-61, c. 44, s. 2.

5. Section 206 of the said Act is repealed and the following substituted therefor:

Punishment for murder.

"206. (1) Every one who commits murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

Minimum punishment.

(2) For the purposes of Part XX, the sentence of imprisonment for life prescribed by this section is a minimum punishment."

6. Paragraph (a) of section 406 of the said Act is repealed and the following substituted therefor:

Where offence punishable with life imprisonment.

"(a) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years;"

1960-61, c. 43, s. 16.

7. Paragraph (a) of subsection (1) of section 463 of the said Act is repealed and the following substituted therefor:

By judge or magistrate.

"(a) where an accused is charged with an offence, other than an offence for which imprisonment for life is a minimum punishment or an offence under paragraph (b) or (c) of subsection (1) of section 47 or an offence under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and"

1960-61, c. 43, s. 17.

8. Section 464 of the said Act is repealed and the following substituted therefor:

Bail in certain cases.

"464. Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence for which imprisonment for life is a minimum punishment, or an offence under paragraph (b) or (c) of subsection (1) of section 47 or an offence under sections 50 to 53, may admit that accused to bail before or after committal for trial."

1960-61, c. 44, s. 3.

9. Section 492A of the said Act is repealed.

1960-61, c. 44, s. 4(2).

10. Subsections (1) to (2b) of section 515 of the said Act are repealed and the following substituted therefor:

Pleas permitted.

"515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where an accused refuses to plead or does not answer directly, the court shall order the clerk of the court to enter a plea of not guilty."

1960-61, c. 44, s. 5.

11. Subsection (4) of section 516 of the said Act is repealed and the following substituted therefor:

Pleading later.

"(4) When the pleas referred to in subsection (3) are disposed of against the accused he may plead guilty or not guilty."

1960-61, c. 44, s. 6.

12. Subsection (2a) of section 519 of the said Act is repealed.

13. Subsections (1) and (2) of section 568 of the said Act are repealed and the following substituted therefor:

Peremptory challenges by accused. Twenty in certain cases.

"562. (1) An accused who is charged with an offence for which imprisonment for life is a minimum punishment is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence for which imprisonment for life is a minimum punishment, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily."

14. Subsection (1) of section 556 of the said Act is repealed and the following substituted therefor:

Separation of jurors.

"556. (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is charged with an offence for which imprisonment for life is a minimum punishment."

1960-61, c. 44, s. 7.

15. Subsection (1a) of section 589 of the said Act is repealed.

16. Section 577 of the said Act is repealed.

1960-61, c. 44, s. 8.

17. Section 583A of the said Act is repealed.

1960-61, c. 44, s. 9.

18. Subsections (3) to (5) of section 586 of the said Act are repealed and the following substituted therefor:

Extension of time.

"(3) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

Delay in execution of sentence of whipping.

(3) Where, pursuant to a conviction a sentence of whipping has been imposed,

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of whipping."

1960-61, c. 44, s. 10(1).

10. (1) Paragraph (d) of subsection (8) of section 598 of the said Act is repealed and the following substituted therefor:

"(d) the addresses of the prosecutor and the accused or counsel for the accused by way of summing up, if a ground for the appeal is based upon either of the addresses."

1960-61, c. 44, s. 10(2).

(2) Subsection (4) of section 598 of the said Act is repealed and the following substituted therefor:

Copies to interested parties.

"(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (2) and (3)."

1960-61, c. 44, s. 27; 1960-61, c. 44, s. 11.

30. Sections 597 and 597A of the said Act are repealed and the following substituted therefor:

Appeal from conviction.

"597.(1) A person who is convicted of an indictable offence and whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents; or

Question of law with leave.

(b) on any question of law, if leave to appeal is granted by the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the Supreme Court of Canada or a judge thereof may, for special reasons, allow.

Appeal where acquittal not valid.

(2) A person

(a) who is acquitted of an indictable offence and whose acquittal is not valid by the court of appeal, or

Where joint trial.

(b) who is tried jointly with a person referred to in paragraph (a) and is convicted and whose conviction is sustained by the court of appeal,

may appeal to the Supreme Court of Canada on a question of law."

1960-61, c. 44, s. 12.

31. All that portion of subsection (1) of section 598 of the said Act immediately preceding paragraph (a) thereof is repealed and the following substituted therefor:

Appeal by Attorney General.

"598. (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under section 583 or dismisses an appeal taken pursuant to paragraph (a) of subsection (1) of section 584, the Attorney General may appeal to the Supreme Court of Canada"

32. The heading preceding section 648 and sections 648 to 650 of the said Act are repealed.

33. Section 656 of the said Act is repealed and the following substituted therefor:

"656. Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council."

34. Forms 60 and 61 in Part XXVI of the said Act are repealed.

35. Where any person has been sentenced to death before the coming into force of this Act, and his sentence has not been carried into execution or commuted,

(a) the provisions of the Criminal Code relating to appeals, as they existed immediately prior to the coming into force of this Act shall, notwithstanding this Act, continue to apply in the case of such person; and

(b) such person, unless his conviction or sentence is set aside on appeal, shall be dealt with as if there were substituted, for the sentence of death, a sentence of imprisonment for life as a minimum punishment, and a certificate or other instrument

signed by the clerk of the appropriate court, setting out the sentence of death, shall be sufficient authority for such imprisonment.

28. (1) Where, in a prosecution for capital murder or non-capital murder, whether by way of original proceedings or pursuant to an order for a new trial, commenced before the coming into force of this Act, a verdict has not been given before such coming into force, the proceedings shall be continued as if the indictment charged simply murder and the offence had been committed after such coming into force.

(2) If, in such case, a verdict of guilty of capital or non-capital murder has been given, but the accused has not been sentenced, he shall be sentenced to imprisonment for life and, for the purposes of Part XX, such sentence of imprisonment for life is a minimum punishment.

(3) Where a prosecution is commenced after the coming into force of this Act, in respect of a murder committed before such coming into force, the offence shall be dealt with, inquired into, tried and determined and any punishment in respect of the offence shall be imposed, as if the offence had been committed after the coming into force of this Act.

(4) For the purposes of this section, a prosecution shall be deemed to have commenced

(a) upon the preferring of a bill of indictment before the grand jury of the court, in the case of a court constituted with a grand jury, and

(b) upon the preferring of an indictment before the court, in any other case.

UNIVERSITY OF TORONTO

Toronto 5, Canada

School of Social Work

March 24th, 1966.

Mr. Reid Scott, M.P.,
House of Commons,
Ottawa.

Dear Mr. Scott,

This letter is addressed to you because you are actively interested in the abolition of capital punishment and represent the riding in which I live. I am not emotionally involved in this problem which is arousing so much passion on both sides, but I am deeply interested in bringing about a sensible solution. I have devoted most of my life to research, mainly in the field of criminology and corrections, and represent what one might call a researcher's point of view. It was also as a researcher that some years ago I was asked to appear before the Royal Commission on Capital Punishment in England. My present views are:

(1) The alleged deterrent effect of capital punishment can be neither proved nor denied; but according to statistical evidence it does not exceed the deterrent effect of long-term imprisonment. With the exception noted below, capital punishment has therefore no merit.

(2) The deterrent effect of imprisonment vanishes if the potential murderer is already facing life imprisonment or so many years of incarceration that they virtually amount to life; for this reason mandatory life imprisonment creates special problems. If under such circumstances capital punishment is taken away, all effective legal sanctions are taken away; citizens coming into contact with a violent criminal trying to escape custody, inmates of a penitentiary and, especially, correctional and law enforcement officers are left unprotected. Nobody is as dangerous as the man who has ceased to care; and his guardians react accordingly.

(3) The threat of capital punishment for murder other than that described above has a deep and detrimental effect on the whole machinery of justice. Instead of facing the realistic question of custody and treatment of a killer (who ought to be confined in a mental hospital if his state of mind warrants it, but elsewhere if it does not), the threat of capital punishment makes of paramount importance the question of whether the killer is or is not responsible for his actions. If he is 'insane' he remains in custody; if he is responsible he may hang. It is for this reason that the question of criminal responsibility confuses the juries and discredits the members of the medical profession who are called upon as experts to solve a problem that is neither medical nor scientific.

What I propose may appear to be a compromise but it is nothing of the sort. I present it as an attempt at a rational solution based on available evidence and logical inference:

(a) To abolish capital punishment in general terms and to substitute imprisonment, up to life imprisonment, for murder other than that described below.

(b) To maintain capital punishment for murder committed by a person who is already facing, for another crime, imprisonment approximating his life expectancy.

(c) To make the eventual release of the murderer sentenced to life imprisonment as difficult as but no more difficult than the release of a killer detained in a mental hospital.

I am taking the liberty of sending copies of this letter to several Members of Parliament whom I have met personally in the course of my work.

Yours sincerely,

Tadeusz Grygier
Dip.Pol.Sc., LL.M., Ph.D., F.B.Ps.S.,
Professor.

cc. M. J.-C. Cantin, M.P.
L'hon. Lucien Cardin, Minister of Justice,
L'hon. Guy Favreau, President of the Queen's Privy Council of Canada,
The Hon. E. D. Fulton, P.C.,
Dr. Stanley Haidasz, M. P.,
The Hon. L. T. Pennell, Solicitor General.

DST:dg

s.23

Ottawa, March 17, 1966.

MEMORANDUM FOR: MR. T.D. MACDONALD

FROM: D. S. THORSON

185300-206-2
Re: Capital Punishment Bill.

On the basis of a very hastey run-through of the material you left with me this morning, I have the following observations (I am not sure they could be called criticisms, since there may be little, if any, substance to some of them):

1. [redacted]

agree

2.

3.

4.

[redacted]

D. S. T.

BILL

An Act to amend the Criminal Code.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. No person shall suffer death for any offence under the Criminal Code and a person who is convicted of an offence under the Criminal Code which, but for this Act, would be punishable by death or by death or imprisonment for life shall be sentenced to imprisonment for life.