

*Criminal Code*

of us a little measure of intelligence, he did so with an uneven hand. I am going to ask you, is a man who is 20 *ipso facto* more emotional or unstable than another man of 22? It is evident, at least to me, that in these reprieves we fit the punishment to the criminal and not to the crime. I think that might be true in those instances. Certainly there is a lack of uniformity, and discrimination may leave room for injustice.

Then I would advance the argument of cruelty in many executions where death has been prolonged. We have had gruesome instances of this sort. I shall not go into them today, but I mean where something goes wrong with the killing machinery, if I might term it that, and we have these horrible cases, demoralizing even to those who read of them.

I want to say another word or two about the Gowers commission, as I think it is sometimes known. It is significant, first of all, that that commission recommended giving the jury the power to declare whether or not there were extenuating circumstances. In other words, as I interpret it the jury was given the discretion of substituting a lesser sentence than the death sentence. Does that not show that in the minds of the people who set up the commission there was some doubt as to the adequacy of this method of capital punishment? The discretion is handed over to the jury, an awful discretion, a weighty responsibility. It is even a heavy responsibility for a judge, who is a man trained in law and who has studied crime all his life, but for an ordinary man called from his labour to know that he has in his own hands the responsibility of whether his neighbour shall live or die is surely a horrible thing.

The member for Kamloops (Mr. Fulton) has talked about the efficiency of the system of capital punishment in Britain. His figures do not jibe with those submitted by the hon. member for Vancouver East (Mr. Winch). The argument of the hon. member for Kamloops is that capital punishment acts as the best possible deterrent against murder. I want to point out to the hon. member that in Britain it is estimated that of all convicted murderers only half do, in fact, go to the gallows; that for every twelve murders reported, only one killer is executed. The hon. member for Kamloops has pointed out that killings are becoming more frequent in Canada and the United States. Since capital punishment is in existence in Canada and the United States, how can he assert that fact as a logical argument for its continuance?

The infallibility of the jury has been much stressed by the hon. member.

**Mr. Fulton:** I did not use the word "infallibility".

**Mr. Knight:** The hon. member is a man of words; perhaps he can suggest a better one.

**Mr. Fulton:** You suggest it. You are the one who is trying to improve on my speech.

**Mr. Knight:** By the way, I have never been in a law court in my life, and perhaps that is evident from what I have said already. I would point out that probably the average jurymen, like myself, has never been in a court previously. He has to decide whether or not there are extenuating circumstances. He has to decide even upon the issue of sanity, and that must be rather difficult for the average man who has no training whatever in mental disturbances or, for that matter, in psychology. A jurymen has to give judgment on matters of character and matters of mentality which might puzzle even judges who have had experience, who have been studying law and crime all their lives.

Even with this inexperience or lack of ability in the jury, I would be prepared to accept their judgment in most things because I am a believer in collective good sense. I am not so sure of the good sense of the individual, but when you get twelve men, good and true or otherwise, I think they nearly always do come to a logical conclusion. The trouble is that this verdict of guilty in murder cases is the sort of thing on which you cannot take a chance. I would be prepared to trust jurymen in spite of their inexperience and their inability in some cases, but here is a case where you have a life at stake, and surely that is the ultimate in importance.

Since the only justification for capital punishment is the protection of society, and since we cannot justify it on the grounds of social revenge, then I maintain that society can be protected equally well by other methods, the most obvious of which is life imprisonment.

**Mr. W. B. Nesbitt (Oxford):** With reference to the special committee to be set up to study capital punishment and lotteries, Mr. Speaker, I have only a very few brief remarks to make, which I hope may help the committee.

First of all I should like to say that I agree with the hon. member for Kamloops (Mr. Fulton) in the thoughts which he so adequately expressed. In addition, I should like to say that I hope the committee will consider, if capital punishment is to be retained, different methods of carrying out the execution. At the moment we have the usual method of hanging for carrying out capital punishment. I hope the committee will seriously consider, if capital punishment is to be retained,