

*Criminal Code*

**Mr. Knowles:** Free of income tax, too.

**Mr. Pouliot:** Presumably so; I do not know because I have never earned anything that way. But I suggest that the matter should be considered from every angle by the special committee. If it is a bad thing to sell the tickets I do not see how those who are fortunate enough to win can keep the money. It is beyond me. If it is legal to take money from a lottery it should also be legal to sell tickets. I have no personal views about the usefulness of lotteries or whether or not they are very much apropos. They may be. I am not discussing that, but I think our Criminal Code should be fair and should be in accordance with the regulations of the Post Office Department.

This shows that with regard to the Criminal Code, as with regard to any matter, one must exercise a little common sense, and I am sure those who will be members of the committee that is about to study these matters will be endowed with a great deal of it.

**Mr. Claude Ellis (Regina City):** Mr. Speaker, I want to make a few comments at this time, and I am not going to apologize for not being learned in law because I feel that at times lawyers are very adept at throwing out convenient smokescreens.

I wish to refer to the comments regarding juries. I cannot quite appreciate the view expressed, because my understanding of the law is that the jury finds the accused either guilty or not guilty. It is not for the jury to decide the method of punishment. The jury finds the accused guilty or not guilty, and it is for the judge to impose sentence. Thus I fail to understand the comments by the last speaker about the jury system. I do not think the question of the jury system has anything to do with capital punishment at all. After all, capital punishment is the punishment for a crime.

**Mr. Pouliot:** If my hon. friend will permit, the role of the jury is to decide whether a man is guilty or not guilty. If it finds him guilty then there has been a murder, and hanging follows. If the jury in all its wisdom says not guilty, it is finished—no murder, no hanging.

**Mr. Ellis:** Then am I to gather that a jury might feel constrained to find a man not guilty if the jurors were not anxious to see him hanged? That would be the only way the jury could possibly spare a man from the gallows.

**Mr. Fulton:** Frequently they do.

**Mr. Ellis:** But my understanding of the law is that if the jury brings in a verdict of guilty the judge has no other recourse than to  
[Mr. Pouliot.]

impose the death sentence. Therefore I quite fail to understand the arguments as to our jury system. What we are concerned with here is the question of punishment, and irrespective of whether or not capital punishment is abolished the same procedures in connection with the apprehension of criminals, their trial and conviction or acquittal will continue. The jury will find the accused either guilty or not guilty. There will be no change whatsoever up to the point where the judge imposes sentence.

When it comes to that stage, I want to suggest in all humility that there are other experts in the country besides lawyers. I suggest that some of our criminologists, penologists, psychologists and psychiatrists—

**Mr. Pouliot:** Not psychologists; they are no good.

**Mr. Ellis:**—have much to offer in connection with the important matter of the punishment of those who are found guilty in courts of law. I was rather at a loss to understand all this discussion regarding the jury system. What we are concerned with is the question of punishment, and it seems that there are two basic points of view. There are those who, because of moral or religious reasons, are opposed to capital punishment as a matter of principle. Then there are those who, like the hon. member who just spoke, not only support capital punishment but would extend it. They would turn back the clock, so to speak. We have two very divergent points of view, but I am sure there are many Canadians, and a good many members of the house, who are perhaps unable to come to one or other of these two conclusions.

This afternoon the hon. member for Saskatoon (Mr. Knight) related the long process he went through in formulating his present stand in support of the abolition of capital punishment on balance, I believe he said. I believe there are many Canadians who are wrestling with this question in their consciences, but I feel that the attitude many take is that unless it can be proven conclusively that capital punishment is totally ineffective, the law should remain as it is.

I have done a little reading on this subject and have searched around as much as possible to find evidence one way or the other, and I must say that the preponderance of the evidence I have seen would seem to indicate that capital punishment is not effective. Even if one were not to go that far, but say there is reasonable doubt as to the effectiveness of capital punishment, then I say we ought to err on the side of being humane and civilized in this matter. In other words, the only