

Mr. SMITH (Calgary West): Three years certain?

Mr. ILSLEY: No; three years maximum.

Mr. KNOWLES: I do not wish to prolong what the Minister of Justice has referred to as a high-school debate, but I think there is more interest by Canadians in this question of the possible abolition of capital punishment than the minister realizes. In that connection I should like to support the suggestion made by the hon. member for Lake Centre that an investigation, statistical and otherwise, might well be made by the department. I realize that there are arguments on both sides as to what is the most effective deterrent, along with arguments as to whether or not the present practice is civilized. I think the suggestion that the matter should be studied further is a good one, and I hope the minister will follow it up.

Mr. SMITH (Calgary West): With a Gallup poll?

Mr. CHURCH: Is this the only amendment proposed in connection with murder and manslaughter? The other day I referred to peace officers or policemen who might see a man fleeing on the street after committing probably a minor offence. Such an officer might shoot first over his head, but after that he fires and hits the man. Has the minister considered an amendment which would set out how far a peace officer can go when he kills a man who is fleeing after committing what may be only a minor offence and the police are thus the judge and jury all combined?

I know that some of these officers, many of whom are returned soldiers, are doing fine work. They have to face desperadoes at all times. Some of the police have been sued in the civil courts, and all phases of this matter should be considered and clarified. That is why there should be an amendment made to the code to clear up any misunderstanding. Judges cannot tell what the law is, and some of them differ also about "voluntary statements" in connection with murder and manslaughter. There was the recent case in Hamilton where this point came up. The court of appeal in Ontario has doubts about this matter, as have other judges throughout the country.

Mr. ILSLEY: The law with respect to murder is not being changed by this bill except as it applies to infanticide. I am not sure that I understand clearly the suggestion the hon. member is making with regard to peace officers.

[Mr. Ilsley.]

Mr. CHURCH: Is this the only amendment that it is proposed to bring down this session in connection with murder and manslaughter?

Mr. ILSLEY: Yes.

Mr. CHURCH: A peace officer can kill someone who is fleeing; he automatically shoots, no matter what offence the man has committed. First he fires his gun in the air and then he fires at the man and may kill him, although he may be running away after committing just a minor offence. This amendment to add "or infanticide" may or may not be all right, but there seems to be no effort to clear up the other matter I have raised. The court of appeal of Ontario is wondering what is a voluntary statement made by a prisoner charged with murder or manslaughter, and law courts all over the country differ as well. I think that ought to be cleared up.

Mr. SMITH (Calgary West): If the department is looking into the matter of punishment for the crime of murder, it might well consider the suggestion that a judge be permitted to impose an alternative sentence; I mean that the sentence should be life imprisonment, and nothing less. We know that some murderers are extremely vicious, while others may be closer to the line. I am not suggesting an amendment; but in their deliberations I think they might take that into account.

Mr. ILSLEY: I shall take note of what the hon. gentleman says. Sir James Stephen, in his commentaries on the criminal law, advocates vesting discretion in judges, but it has not been done in Great Britain or here. It places a frightful responsibility on the judge.

Mr. SMITH (Calgary West): I know they do not want it.

Mr. ILSLEY: They do not require that. At the present time the responsibility is assumed by the governor in council.

Mr. SMITH (Calgary West): The Minister of Justice.

Mr. FULTON: After what the minister said about changing the law with respect to infanticide, I hesitate to say anything, but I wonder if he would not give consideration to the suggestion that what is actually being done is to change the law in order to permit convictions being made. From what the minister said I take it the feeling is that the present penalty is such that juries do not convict and that, therefore, the crime is being made subject to a little less severe penalty in the hope that juries will convict. I wonder