

matter was *sub judice* and that the report should therefore not be produced. I ask the minister now, the trials having taken place, whether it would not be proper to produce the report dealing with a judicial investigation by a member of the appellate court of Manitoba, so that any suggestion of unfairness or injustice to the junior officers may be considered in the light of the evidence and of the report made by Mr. Justice Montague. I refer to him as Mr. Justice Montague because General Montague has returned to Canada and is resuming his position on the bench of his province. I have before me a number of individual cases which I shall not bring before the committee, but I make the general representation that where there is any suggestion of injustice the place where the appeal must be made is to the Department of Justice and the person to whom it must be made is the Minister of Justice, the custodian of the king's conscience and of justice in this country.

Mention has been made to-day of the necessity of a revision of the criminal code. I have referred to that on a number of occasions. There is no lawyer in Canada to-day, however eminent he may be, who can with certainty say in certain cases whether jurisdiction rests in one court or in another. The criminal code to-day is a mass of archaic principles which often are not in keeping with present-day developments. In Great Britain measures are being taken to bring their law up to date. I mention only one example, the law respecting insanity. Without regard to developments which have taken place in scientific knowledge over the last thirty years, we are still determining the question of insanity on the basis of a case decided 103 years ago. Then, in regard to punishments and penalties, the general attitude toward them has changed with the years; yet the penalties in the criminal code are in the main as they were in 1892.

Three years ago I raised a question with regard to juries in the province of Saskatchewan—I raised it again last year—that we had a six-man jury there, and there was a disagreement among the lawyers as to whether a six-man jury was better for the crown than it was for the defence, or whether it was more difficult to secure a conviction before a six-man jury than before a twelve-man jury. Whatever the conclusion may be—and there is disagreement among members of the bar—three years ago I raised that question; and last year the minister said that if the province of Saskatchewan would indicate its desire to have twelve-man jury restored, it would be restored. This was done. I should like to know whether at the present session legisla-

tion will be introduced to provide for a twelve-man jury in Saskatchewan as was the case prior to 1932.

With regard to the question of judges' salaries, I realize that some will say that, in supporting the minister in the attitude he took last year that these salaries should be increased, one is doing something for which he should be subjected to criticism. I personally was criticized in a speech which was made over the radio because I had supported an increase of judges' salaries. That has not changed my viewpoint at all. The great difficulty to-day which the Minister of Justice is in is that, judges' salaries being at a level which has not been changed for many years, the best men—outstanding counsel and leaders of the bar—cannot be recruited for the bench. For the moment it is popular to take a stand in opposition to increases.

Mr. MITCHELL: No, it is not.

Mr. DIEFENBAKER: However, take as an example the Supreme Court of Canada. I know the difficulties which the minister has had to secure appointees to that court which above all must be representative of the most outstanding members of the bar, men of good judgment, men of ability; above all, men with the desire and the ideal of justice. Yet it is impossible to get men to accept appointments. Our own judges in western Canada would refuse to be appointed because they would have to change from the surroundings of many years and come to Ottawa, and all they would receive additional to what they are receiving as judges in the western provinces would be approximately \$75 a month.

Mr. MACKENZIE: They cannot afford it.

Mr. DIEFENBAKER: As the minister says, they just cannot afford to do that. It may be argued that the old age pension should be increased. I support that. At the same time I believe that all the material things of life are meaningless unless in the courts of this land men are assured that those who administer justice will so with ability and dispatch and certainty and with honour to this country.

While on the subject of judicial responsibility and improvement of standards of the judiciary, may I repeat what I have said before, when possibly it was not supported, that we should use our judges for judicial purposes and not misuse their services for commission purposes. During the war there was some excuse for doing so. I know what a royal commission is, and I know how it operates when you put judges on a commission to deal with conflicting viewpoints wherein