

*Criminal Code*

punishment is to remain one of the punishments provided by our law, to have it mandatory, and not leave it the responsibility of the presiding justice in certain cases to feel bound to impose capital punishment and in other cases to have the privilege of not doing so. I think that for the cases in which parliament decides that capital punishment is the right penalty the provision of the code should be mandatory as it is at the present time. With respect to the limited removal recommended by the hon. member for Lake Centre I think that is a matter which would receive serious consideration from the kind of committee that the hon. member recommended be set up to consider the whole matter of the criminal code and to take the evidence of jurists, scientists and penologists on such improvements as it may be proper to bring about. Were the times not such as they are—I am not at all sure that I would be here then, but if I were I would be very much inclined to recommend, as the hon. member has done, the setting up of a committee and its operation in an active way. On the whole I think it is preferable to leave that over until the times are more propitious than they are just now, and in view of the news we have been receiving from the theatres of war let us hope that such times will not be too far distant.

The second recommendation of the hon. member would have to do with the enlarging of the possibilities of appeal in criminal cases to the Supreme Court of Canada. I think that would also be a matter upon which it would be of value to parliament to have the recommendations of the kind of committee suggested by the hon. member. As hon. members know, there is now the possibility of appealing to the supreme court whenever there is a conflict of decisions between the appeal courts of two or more of the Canadian provinces. That has served a very useful purpose in bringing into harmony the application of the code throughout the whole of Canada. It is possible that in perhaps not all criminal cases, but in a certain range there should be, without the necessity of obtaining leave and showing special circumstances, the right to take the opinion of the Supreme Court of Canada. Where the line would properly be drawn is a matter that has to be carefully considered. At the present time the line is drawn between decisions which conflict with those of the appeal court of another province and those that do not. If the line is to be moved I think it should be carefully considered as to where it would be set up again. It would be useful for parliament to have report of a

[Mr. St. Laurent.]

committee that would have taken the evidence of jurists and others qualified to offer opinions of value upon such matters.

The next suggestion has to do with something about which I am sure every hon. member of this house and most of the Canadian people, though they are not in this house, are in agreement; that is, the desire to see our penal system developed in such a way as will make not merely for punishment but for reform. It has been stated on more than one occasion since the beginning of the war that the recommendations of the Archambault commission could not be fully implemented without the provision of large capital expenditures for the establishment of new institutions. However, I believe we can join the hon. member in saying that in the recommendations of that commission there is much, even though it requires considerable capital expenditure, which should be undertaken as soon as circumstances permit.

Another suggestion had to do with the controversial question of whether or not a man convicted and sentenced to a term which would have to be served in a penitentiary should be removed to that institution before the expiration of the time during which an appeal could be entered. The matter was brought to a head by incidents which occurred in the Toronto gaol within recent weeks. Only this week the officers of the Department of Justice had conferences with the mayor of Toronto in reference to the situation which exists in that city. That suggestion would entail serious inconveniences. Just as an indication of these, supposing a man convicted in Kenora and brought to Kingston desired to appeal. His counsel in Kenora would find himself seriously handicapped by the fact that his client had been moved to Kingston.

There is also this further point. Up to the present time the penitentiaries have been organized for the purpose of carrying out sentences which involve hard labour. I submit with respect, Mr. Speaker, that it is not proper to impose any punishment upon a person until he definitely has been found guilty and subject to such punishment. During the time his case is before the courts for consideration it is proper, for the protection of society, that he be confined; but I think it would be improper to impose any other part of the punishment until the case is finally disposed of. If the suggestion were adopted we would require to have two departments in our penitentiaries, one in which there would be merely confinement, and the other, which exists at the