

age were synonymous. We realize today that a person with a physical age of eighteen years may have a mental age of only eight years; but regardless of that fact the presumption still prevails that because of his physical age he in fact has the mental age to understand and appreciate the nature and quality of his acts. These are things in respect to which the criminal code should be brought up to date.

As the minister said yesterday, the insanity rules date back to 1842, I think it is—over a hundred years, in any event—to the Macnaughton case. There has been no change since. Many have felt from time to time that changes should be made in the law of insanity with a view to bringing it in accordance with modern scientific knowledge. It is of interest in that connection to note that in England a committee of parliament was set up which took evidence from judges, eminent counsel trained in the law and medical authorities. After hearing all that evidence, and with the experience of a hundred years behind them, the decision made in England was that the law as set out in the Macnaughton case with regard to insanity, should not be altered and is in keeping with the present day. That is an example of the matters that should be considered in a revision of the criminal code.

The minister mentioned the question of punishment. Today we ameliorate or increase punishment more or less in a haphazard and uncertain way. From year to year we follow a system of selective uncertainty. When this commission is set up, and if it is actually to discharge any serious responsibility, I should like to have it make recommendations for the revision of the criminal code so that it will become an instrument for justice rather than, so far as certain sections are concerned, being conducive to unfairness by reason of changing conditions and changing knowledge, scientific and otherwise.

Will the minister give consideration to widening—I do not know whether he can answer now—the scope of the commission to be set up? The commission cannot legislate, because that is the responsibility of parliament. Surely the commission, if it is to be composed of seven outstanding members of the bench and bar of the dominion, should have a responsibility greater than a clerical one. It should be a responsibility which would utilize their knowledge and experience, which would help parliament by making recommendations to the Department of Justice, and in general revise these statutes and bring them up to date.

There are statutes which have no place at all in our present system. They have been obsolete for a number of years, but still

appear in the revised statutes. I think a recommendation might well be made for their removal.

Mr. HACKETT: When I was in the Department of Justice there was a large file which not infrequently occupied the attention of the then deputy minister, Mr. Newcombe. He had a man in the department who, while I will not say he worked constantly, certainly worked frequently on revision. This was a work which grew over the years. I believe the important part of revision was done in and about the office of the Minister of Justice and the office of the supreme court. There was a Mr. E. R. Cameron, an indefatigable worker, and according to the article in the *Canadian Bar Review* I believe he succeeded Mr. Newcombe as one of the commissioners, when Mr. Newcombe became a judge of the supreme court.

Does the minister know whether the deputy minister has been able to devote some time to an anticipated revision, and whether in fact the actual back-breaking work of the revision must not be done by his department and his officials? The minister will recall that Mr. O'Connor did a good deal of work in anticipation of the last revision, and I believe his work was turned to account. To the minister's knowledge has some work been done in the department?

Mr. ILSLEY: I am unable to say, but I would doubt it. I shall find out however, and give the information tomorrow. The Department of Justice has been so very busy, drafting new statutes of every kind, sort and description, especially throughout the war years, in an effort to see that they did not get everyone into trouble—

Mr. KNOWLES: Including the government.

Mr. ILSLEY: Yes, including the government—that possibly they have not made any collection of ideas for future amendments. I suggest to the hon. member for Lake Centre that it would be pretty difficult to get a commission to revise in any effective and competent way a large number of miscellaneous statutes.

For example, if we are convinced that the Immigration Act ought to be amended in certain respects, what competency would a revising commission have to give us new ideas upon which that act should be based? They must emanate from the Department of Mines and Resources, go to the cabinet, be considered there, and come out from there. Then someone will ask why I take a different view with regard to the criminal code. Well, the criminal code is just too great, that is all. It is too