

Mr. ILSLEY: Yes; the matter of revision is a parliamentary responsibility. It has been suggested to me that parliament should take in hand quite a number of acts before this consolidation is completed, with a view to revision. It is suggested that these acts contain provisions which ought to be changed. But that is a different suggestion altogether from the one made by Doctor Ollivier in his article. He was suggesting a parliamentary consolidation preliminary to consolidation by the commissioners. I do not think there is much against it, but I do not think it is a particularly important suggestion.

Mr. KNOWLES: In view of the proper distinction the minister has made between the words "revision" and "consolidation", and in view of the fact that he stated it is his intention that this commission is to do a consolidating job, I should like to know the significance of the word "revision" in the second line of the resolution.

Mr. ILSLEY: They have always been called the revised statutes of Canada. In some jurisdictions they are called the consolidated statutes, but in Canada they have always been called the revised statutes. "Revision" apparently was used in a sense different from that in which I am using it.

Mr. KNOWLES: The terms of the bill will be such as to make it clear that the powers of the commission are only to do what the minister means by consolidating?

Mr. ILSLEY: The wording of the bill I am going to submit will not be exactly the same as that of the bill introduced in 1927. I believe the wording of that bill was exactly the same as the bill of 1906. A little change is being made which we cannot advantageously discuss here but which will be discussed when we come to that particular section.

Of course the criminal code ought to be revised, and it may be that if this is to be undertaken by a section of the commission that is to be set up, special powers or special responsibilities in respect to the criminal code will have to be given them. I must say that I have not been able to give any clear idea as to how the criminal code is to be revised. If the task of revision, if the changing of the code, if the changing of the penalties, if the changing of the principles of punishment and so on are to be delegated to commissioners—they would be a sort of royal commission to advise the government on what the law ought to be—then the government and parliament will have to take the responsibility for the changes in the criminal

[Mr. Diefenbaker.]

code in a sense in which they would not have to take it with regard to most of the laws on the statute books of Canada.

Mr. DIEFENBAKER: The distinction which the minister makes renders rather unimportant the work of revision by this commission. As a matter of fact if the revision of the statutes is to mean simply a rearranging of the sections, a recommending of the removal of the occasional preamble, then it is more or less a perfunctory act that is to be performed by these men. If that is so, the question of their eminence or ability or knowledge of the law would be of very little importance.

I suggest to the minister that in addition to discharging the more or less perfunctory responsibility which is necessary he ought to give consideration to widening the meaning of the word "revision" so that the commission to be set up under the bill to be based on this resolution will be discharging an essential function, namely, recommending to parliament or to the Department of Justice the necessity of changes in various sections of the statutes in order to bring them up to date.

I have not said anything on the matter up to the present, but after listening to the minister I feel that if all we are doing is setting up a commission for the purpose of running through the statutes and saying, "Well, this statute of 1932 has been amended four times and we will put in the amendments in the respective sections," then revision is of little importance in respect to the final findings.

Mr. ILSLEY: That is what it is for.

Mr. KNOWLES: It would be just a collection of office consolidations.

Mr. DIEFENBAKER: As the hon. member for Winnipeg North Centre says, it would simply be a collection of office consolidations of which there is one for practically every important statute. When you come to the revision of the criminal code, to which the minister has made reference, that is quite another thing. That will require unusual experience and knowledge of criminal law and practice, and also of the changes that have taken place in sociology and psychology and medicine and preventive jurisprudence since 1892.

For instance, there is the question of the responsibility for criminal acts. The law today is that a child under seven years of age has no capacity to perform a criminal act; between the ages of seven and fourteen years the capacity is not presumed but must be established affirmatively by the crown. When those rules were made a hundred and fifty or two hundred years ago, physical age and mental