HOUSE OF COMMONS

Tuesday, December 15, 1953

The house met at 2.30 p.m.

HOUSE OF COMMONS

ANNOUNCEMENT OF CHANGES IN COMPENSATION OF STAFF

Mr. Speaker: I have the honour to inform the house that the Clerk has laid on the table a report of the civil service commission which recommends changes in compensation to the staff of the House of Commons. Hon. members will recall that in regard to sessional employees I made an announcement which appears at page 426 of *Hansard* dated November 27, 1953, to the effect that the revision will take place along similar lines, effective December 1.

PRIVILEGE

MR. LOW—REFERENCE TO STATEMENT IN VANCOUVER "SUN"

Mr. Solon E. Low (Peace River): Mr. Speaker, I rise on a question of privilege. My attention has been called to a column on page 4 of the Vancouver *Sun*, dated December 8, written by one Elmore Philpott, and in that column he wrote:

> Hence it would appear that the Social Credit party may be getting ready to make itself the deliberate and vocal champion of McCarthyism in Canada.

My question of privilege is this: The writer of the column from which this sentence was taken tries to make it appear that the Social Credit movement is making ready to champion McCarthyism in Canada. In this, the columnist Elmore Philpott is just as far off base as he has been in many of his wild speculations of late years. I want to make it clear to him and all others in Canada that the Social Credit movement, of which I have the honour to be the spokesman, is not now championing McCarthyism in Canada, and is not getting ready to do so in the future. I thought I had made that abundantly clear when I said in this chamber on November 25: "I should like to make it definitely known that I feel it is irresponsible conduct on the part of any Canadian to try to butt into their (United States') affairs."

Mr. Speaker, we have always urged, and we do now strongly urge, that every effort be made to keep communists and communist sympathizers out of government departments and our vital industries. But when inquiries are instituted for screening or for other security purposes in Canada, we strongly urge that they be conducted under the unabridged rule of law; that great care be taken to ensure that men are not found guilty merely by association; and that the rights and freedoms of individual Canadians be fully respected and the dignity of our courts and legal processes be most carefully safeguarded.

MR. BROOKS—REFERENCE TO REMARKS OF HON. MEMBER FOR TEMISCOUATA

Mr. A. J. Brooks (Royal): Mr. Speaker, on a point of privilege, I am sorry I was not in the house last night when the hon. member for Temiscouata (Mr. Pouliot) was speaking. He referred to me, as will be found at page 899 of *Hansard*, and he said this:

> If the note I took is correct . . .

I can assure him at once that it was not correct. Referring to me he went on:

> . . . he said that owing to that fact it was impossible for the province to look after the conservation of natural resources within its borders. That is a sad thing. He went so far as to suggest—and I have taken it down in writing—that the dominion government—and again it is "the dominion government", not "the government of Canada"—should take control of our forests.

I never said in my speech, Mr. Speaker, that the dominion government should take possession or control of the forests in New Brunswick or any other province. As far as the use of the word "dominion" is concerned, I have read my address very carefully and the word "dominion" was not used. I used the word "federal", and I may say also that I would not have any objection to using the word "dominion" because I was always very sorry it was dropped.

CRIMINAL CODE

MOTION TO PRINT REPORTS OF ROYAL COMMISSION AND SPECIAL COMMITTEE

Hon. Stuart S. Garson (Minister of Justice): Hon. members may recall that when the Prime Minister (Mr. St. Laurent) was speaking on the speech from the throne on November 16 he referred to the bill to revise the Criminal Code which received first reading on that day. At that time the hon. member for Prince Albert (Mr. Diefenbaker) asked

whether it would be possible to have printed and made available to members the findings of the special committee of the last house, and stated further that it would go a long way toward doing away with the necessity of convening another special committee if those recommendations could be made available.

I understand that the queen's printer has available about 40 sets of the minutes and proceedings of the special committee of this house and about 85 sets of the minutes and proceedings of the banking and commerce committee to which the bill was referred last year in the other place. These quantities are obviously not sufficient to enable every hon. member to have a set of the proceedings of both committees. The cost of reprinting these proceedings, which run to over 400 pages, would be about $2,000. I would suggest that it might be sufficient if the available sets were distributed proportionately among the various groups in this house. On the other hand, it would appear to be desirable that every hon. member should have in his hands the report of the royal commission on the Criminal Code and should also have an opportunity to peruse the three reports of the special committee of this house that examined the bill in detail at the last session.

For that reason, sir, I would like to move, seconded by my hon. colleague, the Minister of Labour (Mr. Gregg), that:

One thousand copies in English and 250 copies in French be printed of the report of the royal commission on the revision of the Criminal Code and of the three reports of the special committee of this house appointed to examine the bill and that in connection therewith the operation of standing order 64 be suspended.

Mr. Knowles: May I ask one question. In view of the inference in this motion that it is desirable for us to have this material in our hands, is it the intention of the minister to ask the house to proceed with the debate on second reading of the Criminal Code before we have that material?

Mr. Garson: The answer to my hon. friend's question is yes. I think perhaps I should supplement that answer with a few words of explanation. The bill revising and consolidating the Canadian criminal law, which runs to over 756 sections, deals with a number of matters each one of which has a principle of its own: for example, the principle relating to the law on sedition, or to the law on murder, or to fraud. The suggestion which I propose to make to hon. members on the second reading of the Criminal Code bill is that we should treat as the principle of the second reading just the question as to whether, when a statute has been on the law books of our country for over 60 years, the time has now come that it should be consolidated.

I should then like to suggest to hon. members that we could discuss the principle of the individual clauses or groups of clauses dealing with the various crimes when we have the bill in committee of the whole and when it will be possible to deal with those clauses in a much more orderly manner. Otherwise we would have on second reading of the bill a debate which might embrace the simultaneous discussion of a large number of principles which possess little relationship to one another except that they are all defined as crimes in a single criminal code.

Motion agreed to.

NATIONAL DEFENCE

ANNOUNCEMENT OF AGREEMENT ON STANDARDIZATION OF SMALL ARMS AMMUNITION

Hon. R. O. Campney (Associate Minister of National Defence): Mr. Speaker, I am pleased to inform the house that the Minister of National Defence (Mr. Claxton) has today announced in Paris, on behalf of the North Atlantic council, that agreement has been reached by Belgium, Canada, France, the United Kingdom and the United States on the very important matter of standardization of small arms ammunition.

These five countries have agreed, as the result of extensive tests over a two-year period of close co-operation, to adopt as standard small arms ammunition the new 7·62 millimetre light-weight cartridge.

These tests have shown conclusively that there is no significant difference in the performance of rounds which were tested or examined of the 7 millimetre round, which in the English system is known as ·280 calibre, and the 7·62 millimetre round which in the English system is known as ·30 calibre. Decision to adopt the 7·62 millimetre round was based primarily on the over-all problem of retooling requirements and weapons production facilities of each country concerned. Since adoption of either the 7·62 millimetre or 7 millimetre cartridge would necessitate retooling by Canada and the United Kingdom, and adoption of the 7 millimetre would require retooling by all five countries, it was agreed that the most advanced 7·62 millimetre ammunition will be adopted as standard.

The five nations who co-operated in the solution of this problem jointly invited the other NATO nations to adopt it.

positions and not in market demand. Priority must also be given to grain required for domestic outlets.

With the absolute need for priority shipments, the distribution of cars in accordance with the applications in the car order book cannot be properly carried out. To check every application to ensure that the grain to be shipped has a preference is impossible, and would unnecessarily delay shipments. The continuance of the car order book under these conditions leads to continual complaints and dissatisfaction among the different interests; also the tendency among agents to fail to comply strictly with the statutory and regulatory provisions re car order book procedure.

I suggest to my hon. friend who is presenting this bill that anything he can do under his bill can be done under the car order book. There is no limit to the number of applications for cars that can be put in. Every member of the pool who wishes to deliver to a certain elevator can enter his name on the car order book and, except for extraordinary marketing conditions which I think it is in the interests of everyone to recognize, the car order book can do everything that my hon. friend intends to do under his bill, and can do it without tying up the whole transportation system, as would be the inevitable outcome of this bill.

Mr. W. M. Johnson (Kindersley): Mr. Speaker, as a practical farmer I welcome the opportunity to take part in this debate. I appreciate the subject matter of the bill introduced by the hon. member for Assiniboia (Mr. Argue). I am thankful that the Minister of Trade and Commerce (Mr. Howe) has presented the history of the car order book and has made the statement that it is entirely satisfactory in meeting the requirements of western farmers.

But I recall reading published statements by the president of the Saskatchewan wheat pool to the effect that the car order book as used at the present time is cumbersome and unwieldy. I think the car order book was originally implemented to give farmers the opportunity of marketing their grain in competition with the line elevator companies. That was prior to the era of the Canadian wheat board. At the present time the car order book is, to my knowledge, being used by Canadian farmers as a mechanism to allocate box cars to the elevator of their choice, or is being used to perform the function envisaged by this bill.

Since the car order book is failing to carry out the function for which it is presently being used, and Bill No. 3 gives farmers an opportunity to designate the elevator of their choice, and allows them the privilege of delivering their grain to that elevator it is a vast improvement, and will work in conjunction with the car order book.

On motion of Mr. Johnson (Kindersley) the debate was adjourned.

Mr. Speaker: As it is six o'clock, the house will resume at eight o'clock consideration of the business which was interrupted at five o'clock.

Mr. Fleming: I presume that means we are to continue with Bill No. 29, to amend the Customs Act?

Mr. Howe (Port Arthur): Yes—

Mr. Harris: I take it that someone is inquiring what we are going to do?

Mr. Fleming: I asked if we were going to resume consideration of Bill No. 29 in committee at eight o'clock.

Mr. Harris: No; we are going to start with the Criminal Code at eight o'clock.

At six o'clock the house took recess.

AFTER RECESS

The house resumed at eight o'clock.

CUSTOMS ACT

AMENDMENT PERMITTING MINISTER TO APPRAISE GOODS ON WEIGHTED AVERAGE

The house resumed consideration in committee of Bill No. 29, to amend the Customs Act—Mr. McCann—Mr. Robinson (Simcoe East) in the chair.

The Chairman: Order. When the committee rose at five o'clock we were considering Bill No. 29. Shall I report progress and ask leave to sit again?

Some hon. Members: Agreed.

Progress reported.

CRIMINAL CODE

REVISION AND AMENDMENT OF EXISTING STATUTE

Hon. Stuart S. Garson (Minister of Justice) moved the second reading of Bill No. 7, respecting the criminal law.

He said: In opening the debate on the second reading of Bill No. 7, Mr. Speaker, I should like first to express my appreciation for the co-operation which has been extended by the hon. Leader of the Opposition (Mr. Drew), and his lieutenant in this connection, the hon. member for Kamloops (Mr. Fulton); to the leader of the C.C.F. party and his assistant in this connection, the hon. member

for Vancouver-Kingsway (Mr. MacInnis); to the hon. leader of the Social Credit party and the hon. member for Red Deer (Mr. Shaw), for their co-operation in joining in our recommendation to the members of a method of debating this bill. I feel that this method will save a great deal of time and effort, and produce a far better result than if we were to debate it in the usual way in which bills are debated.

In dealing with a bill to consolidate a code of laws we must realize that such a bill on second reading presents a very different problem from the discussion of the principle of an ordinary bill. Our code is intended to cover the whole ambit of the criminal law in this country. It occupies a field here which, in the United Kingdom, is covered by more than 150 criminal statutes. In doing so the one code has to deal with such diverse crimes as treason, murder, criminal libel, sedition, rape and so forth. Each of these crimes and the sections dealing with it has its own principle which is dealt with in the sections of the code relating to it.

If, as has been correctly said, we debate the principle of a bill on second reading, then it is quite obvious that to discuss all these widely varying principles of the various clauses of a criminal code bill simultaneously would make for great confusion. Let us try to imagine, if it is not too preposterous to do so, what a parallel situation would be in the United Kingdom. A large number of separate bills amending separate acts would simultaneously be brought down, each involving its own principle, and then an endeavour would be made to debate all of the principles of all those amendments simultaneously on the same second reading.

This is the problem which confronts this house in dealing with the second reading of the Criminal Code consolidation, Bill No. 7. I am very happy that, through the co-operation of the hon. members whom I have named, we have reached an understanding upon the strength of which we recommend to the members of the house that on the second reading of this bill we should debate only the one principle which applies to all sections of the bill, namely that a criminal statute which has been on the law books of this country for a period of 60 years needs now to be consolidated and revised.

Our thought is that when we get into committee of the whole we shall follow the example which proved so profitable in the committee on banking and commerce in the other place and in the special select committee of the House of Commons to consider the criminal law at the last session, and go through the sections of the Criminal Code bill one by one in numerical order, setting aside those which any member of the house would like to reserve for further debate or in respect of which he feels he would like information which may not be immediately available.

In that connection, the government would wish to set aside certain clauses of the bill as well, for the reason that although, in accordance with the understanding which we have reached with the members of the other parties, we have brought in Bill No. 7 in virtually the same form it was reported upon by the special committee of the last parliament, since that time we have received from sources which we regard as reliable suggestions which we think are worthy of the attention of hon. members.

Then there are one or two points of substance, in respect of which the government itself is anxious to lay before the members of parliament its suggestions which we think are preferable to the recommendations of the special committee.

That being the case, I think my first task is to place on the record certain representations which I made, and on the strength of which those members of the other parties have been good enough to join with me in recommending this procedure to the house.

I represented first that the bill now in the hands of hon. members is in all respects the same bill as passed by the Senate in December, 1952, as amended and reported by the special Commons committee, except for six small matters involving only eleven sections, namely 336, 375, 467, 469, 473, 687 and clauses 747 to 751. None of these matters and none of these changes that are set out in these sections to which I have referred is particularly important. I shall, of course, be pleased to explain each of them when we reach those sections in committee.

I should like next to refer to one of the main terms in the final report of the special House of Commons committee at the last parliament. It reads as follows, on page 606 of *Votes and Proceedings* for May 4, 1953:

> The clause by clause study of Bill 93 was in itself a tremendous task, because as each clause of the bill, in respect of which objections thereto or representations thereon had been made, was reached, these objections and representations were in all cases placed before the committee for consideration.
>
> At various times during the course of its work, the following matters pertaining to the criminal law were directed to the attention of your committee; namely:
>
> (a) The defence of insanity.
> (b) Capital punishment.
> (c) Corporal punishment.
> (d) Lotteries.
>
> Although these matters are well within the scope of the terms of reference, your committee is of opinion that these questions are of such

paramount importance that they could and should not be dealt with merely as incidentals to the consolidation or revision of the present Criminal Code embodied in Bill 93.

That is to say, Bill No. 7 that we have in this parliament was Bill No. 93 in the last parliament. The report goes on:

The committee, upon the material before it, was not prepared to recommend a change in the present law respecting the defence of insanity, lotteries and the imposition of punishment by whipping and by sentence of death, but unanimously has come to the conclusion, and so recommends, that the governor general in council give consideration to the appointment of a royal commission, or to the submission to parliament of a proposal to set up a joint parliamentary committee of the Senate and the House of Commons, which said royal commission or joint parliamentary committee shall consider further and report upon the substance and principles of these provisions of the law aforesaid, and shall recommend whether any of those provisions should be amended and, if so, shall recommend the nature of the amendments to be made.

Now, sir, at the time the House of Commons committee made this report from which I have quoted the royal commission which had been appointed by the government of the United Kingdom as far back as 1949 to consider the question of capital punishment had not at that time made its report. It did not become available to us here in Ottawa in printed form until about October 1, 1953. But when we got this report it seemed to us in the Department of Justice, upon careful analysis, that the ideas, thoughts, statistics and other material which it had gathered not only in the United Kingdom but also in a number of countries in Europe, as well as in several of the states in the United States of America, and the conclusions which it had reached in relation to capital punishment could, we thought, be collated with comparable ideas, thoughts, statistics and other material available in Canada in relation to capital punishment.

It seemed to us that all of this material could then be supplemented by representations from those who were interested in the subject of capital punishment, either for or against, and that it should be possible that this material of the United Kingdom report and the material gathered in Canada, supplemented by these oral representations, could be made available to a joint committee of parliament. We thought that a joint committee of parliament could consider all of these materials, as well as such further facts and things as it might consider relevant, and upon the basis of the whole reach conclusions which would be as wise and as likely to inspire confidence as those which could be reached by any royal commission.

We therefore are of the view that the proper course for us to recommend to this house is the appointment of a joint committee of both houses of parliament to inquire into and to report upon the question of whether the criminal law of Canada relating to (a) capital punishment; (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent.

After careful consideration, however, we reached the opinion that the defence of insanity to a charge involving criminal responsibility, as laid down by the law and applied by the courts, is a question involving expert legal and psychiatric knowledge in respect of which it seemed to us that it would be at least difficult in the first instance for a committee of laymen to reach a dependable opinion which would inspire confidence.

To us therefore it seemed preferable that the question of the defence of insanity on a charge involving criminal responsibility should be studied by a royal commission made up of recognized experts in the fields of law and psychiatry. Then if it were considered helpful or appropriate the report of such a royal commission could be made available to the parliamentary committee in connection with its consideration of the subject of capital punishment.

Therefore after the passage of the motion now before the house I am prepared, if I may have unanimous approval, to move that a joint committee as aforesaid be appointed—that is to say, to take the first step necessary to set in motion the procedure which will result in a joint committee; because, of course, the other place has to make its contribution in due course to any such committee.

For the record I think I should say, in carrying out the understanding which has been reached with the other parties, that the government has under consideration the early appointment of a royal commission to inquire into and report upon the question of whether the criminal law of Canada relating to the defence of insanity should be amended and, if so, in what manner and to what extent.

Pending the reports of the proposed royal commission and the proposed joint parliamentary committee I recommend to you, Mr. Speaker, and to my fellow members in the House of Commons that we would be wise in following the recommendations of the House of Commons committee which was appointed at the last session of parliament, to examine the criminal code bill in the manner they suggested when they said, as is set out in the report:

The committee, upon the material before it, was not prepared to recommend a change in the present law respecting the defence of insanity, lotteries and the imposition of punishment by

whipping and by sentence of death, but unanimously has come to the conclusion, and so recommends, that the governor general in council give consideration to the appointment of a royal commission,—

As I understand that recommendation, it means that we shall leave the clauses relating to these four subject matters, namely the law respecting the defence of insanity, lotteries, and the imposition of punishment by whipping and by sentence of death, in the form in which they now stand in Bill No. 7; that is in the form in which they have stood for many years; and that parliament should pass these clauses in their present form, upon the government's undertaking that we shall appoint a parliamentary committee, the first step of which I propose to take tonight, if I may have the unanimous consent of the house; and that we would appoint the royal commission which I have already given an undertaking to do. It is hoped that by these instruments we may have placed before us that more complete information which, I am sure, the members of the special committee of last year as well as most other hon. members in this chamber now feel we must have before we assume the grave responsibility of changing the present law in respect of these four subjects.

The Prime Minister (Mr. St. Laurent) has authorized me to say that the government undertakes to give the most serious and conscientious consideration to the reports of these bodies as and when they are received.

I give that undertaking because the other day, in discussion with the hon. member for Kamloops (Mr. Fulton) he said: "Well, it is all very well for you to give an undertaking to appoint this commission and the parliamentary committee; but suppose they make a report and you just pigeonhole it; then where do we stand? Will you give us an undertaking to implement these reports?" It seemed to me that no prudent government with due regard to its responsibility could give an undertaking to carry out a report which then did not exist. So I suggested to him that the government, being a serious responsible government, would either accept these reports when they became available or would present to parliament strong reasons for not doing so, or for doing so only in part.

And if, sir, for such strong reasons the government should not introduce legislation based on these reports, I pointed out to my hon. friend, and I believe he recognized the force of the point, that it would be possible for any of the opposition parties or members, on the basis of the information disclosed by these reports, themselves to bring legislation into the house, to amend existing law. This would not be a money bill. They have as much right to amend the law as the government. He said, "Oh, yes, but what assurance would we have that these bills moved by private members would not be manoeuvred down to the bottom of the order paper and thus fail to become law?" I said: "Well, I will secure from the Prime Minister"—as we had previously done in connection with another bill which I think it is still respectable to mention, namely the Emergency Powers Act—"an undertaking that the government will expedite the prompt consideration by this house of any such legislation introduced by the opposition based upon either of such reports as I have referred to."

Mr. Knowles: What about private members on the government side?

Mr. Fulton: They can be taken care of.

Mr. Garson: They have not raised this point, but I would not have the slightest hesitation in extending the same assurance to them.

Mr. Fulton: Did you discuss that with your whip?

Mr. Garson: In this connection the government believe that in this present bill there are a number of principles which are moral in character. We think it would be in the public interest if the government inform its members that they should vote according to their conscience upon those clauses, and I would hope that the leaders of the opposition parties might perhaps be able to urge their members to do the same. Because I think we all hope that the new Criminal Code which will become law upon the passage of Bill No. 7 in its final form will be the achievement and responsibility of parliament itself rather than merely that of the government.

Now, sir, with these preliminaries out of the way, we have to consider on second reading, I suggest, the principle of this bill, namely whether after 60 years we should consolidate our Criminal Code; whether the provisions of Bill No. 7 have been arrived at by competent lawyers and legislators after adequate research, study and discussion; whether there has been ample opportunity for representations concerning this legislation to be made in a thoroughly democratic manner by interested organizations and individuals, and whether in consequence of all of these steps the provisions of Bill No. 7 now before us are adequate for their high purpose.

To answer these questions I should like to review—and I shall do it as briefly as I can—the development of the criminal law in Canada and the steps through which this present legislation has passed prior to its appearance on the order paper tonight.

Like other very large countries with widely and unevenly dispersed population, such as the United States of America, Australia and the U.S.S.R., Canada has found it advantageous to have a federal system of government under which governmental powers of responsibility have been divided between the government of Canada on the one hand and the government of its ten provinces on the other. Under this division the enactment of the criminal law is the responsibility of the national government and the parliament of Canada; but—and I do not think this point can be emphasized too strongly—once Canadian criminal law has been enacted its enforcement, with some minor exceptions, is the responsibility of the provincial authorities which are constitutionally charged with the administration of justice. It is therefore very important that we enact here laws which the provincial authorities will wish to enforce without reluctance.

In the past Canada's large-scale efforts at criminal law-making, such as this Bill No. 7 now before us, have been wise, few and far between. In 1869 the parliament of Canada passed five principal acts relating to the criminal law based on or adapted largely from the provisions of the similar consolidated acts passed in the United Kingdom in 1861.

In 1878 a body of commissioners was established in England to prepare for that country a draft code of criminal law, and Sir James Stephen, who was the outstanding expert in that field in the United Kingdom, and had prepared the year before his well-known "Digest of Criminal Law", was a member of that royal commission. In due course, after considerable time, the United Kingdom commissioners reported, but to this day the parliament of the United Kingdom has not seen fit to enact a code of criminal law and procedure. Instead, as I indicated earlier in my remarks, it has on its statute books upwards of 150 separate criminal statutes.

It was not until 1892 that Sir John Thompson, the then minister of justice, introduced in the parliament of Canada a criminal code, which he was able to persuade the parliament of that day to pass in the same year, unlike the one we are now considering, Mr. Speaker, which has been under preparation and consideration for nearly five years. This 1892 Canadian criminal code adapted the provisions, so far as they were applicable to Canada, of the English draft code which the English themselves had not enacted. The 1892 Canadian criminal code also attempted to assimilate and make uniform the criminal laws of the Canadian provinces which they had inherited as colonies of Great Britain as these provincial criminal laws stood at the time the provinces entered the Canadian confederation.

It is this code, introduced by Sir John Thompson, in 1892, and as amended from time to time since, that Bill No. 7, now before the house, is designed after 60 years to consolidate and in some respects to revise.

In the 1892 code there were 950 sections. Since that time there has been scarcely a session of parliament at which amendments have not been made to that code. As it stood in the Revised Statutes of Canada of 1927 it had grown to 1,152 sections. Of course one of the important reasons for this large number of clauses has been a main principle of our code, that Canadians should not be punished for conduct unless parliament had expressly declared that conduct to be unlawful.

In this present Bill No. 7 we have retained this principle, and indeed we have applied it more closely and more fully to our criminal law. If, therefore, our code is to be comprehensive of all of these things which parliament declares to be crimes, it must necessarily contain many sections. But I think, Mr. Speaker, it is noteworthy and it reflects a good deal of credit upon the draftsmen and others who have taken part in the preparation of Bill No. 7 that as now before you it has 400 fewer sections than the code which is chapter 36 of the Revised Statutes of Canada of 1927; and it has 200 fewer sections than even the original code introduced by Sir John Thompson in 1892.

By the year 1948, as one would expect, the Criminal Code required a thorough overhaul. As a result of many amendments that have been made during the course of some 56 years there was a lack of uniformity of language and many provisions were ambiguous and unclear. It contained inconsistencies and anomalies. It was sometimes difficult to find the law in connection with the particular matter because separate provisions relating to that matter had been placed in different parts of the code at different times during these years. What was even a graver offence was that as a result of these extensive amendments made over a long period of time there was a substantial amount of overlapping and repetition. This state of the criminal law constituted a very serious inconvenience to practising lawyers and to the administration of justice.

Provisions relating to matters of procedure which were quite appropriate in 1892 were not at all suitable in the light of the substantial increase in the work of the criminal

courts resulting, among other reasons, from the very substantial increase in the population of Canada between 1892 and 1948. Accordingly the examination and study of the Criminal Code was authorized by order in council P.C. 527 on February 3, 1949, during my term of office; but the original recommendation for the adoption of this course had been made by my distinguished predecessor, Right Hon. J. L. Ilsley, as the then minister of justice early in 1948, almost, I would point out, six years ago.

The task of preparing the new consolidated code was assigned to a commission consisting of Hon. W. M. Martin, chief justice of Saskatchewan, chairman; Mr. Justice Fauteux and Mr. F. P. Varcoe, Q.C., deputy minister of justice.

In relation to the charge that is sometimes made that too many prosecutors have been engaged in the drafting of this code, I would like to point out that the counsel for this commission was a very able criminal defence lawyer of long experience, Mr. Arthur Slaght, Q.C., of Toronto.

The commission was to have the assistance of a committee comprising Mr. Robert Forsyth, Q.C., now Judge Forsyth, Toronto; Mr. Fernand Choquette, Q.C., now Mr. Justice Choquette, Quebec; H. J. Wilson, Q.C., deputy attorney general of Alberta, and again two outstanding defence lawyers, Mr. J. J. Robinette, Q.C., Toronto, and Mr. Joseph Sedgwick, Q.C., Toronto. The personnel of the committee was subsequently increased and Mr. W. C. Dunlop, Q.C., Halifax, Mr. H. P. Carter, Q.C., St. John's, Newfoundland, and Mr. T. D. MacDonald, Q.C., Ottawa, became members of the committee.

Then, as some members of the commission and the committee found that their judicial duties or their law practices made it impossible for them to devote the very large amount of time that was necessary to get their commission work completed, the committee was reorganized by an order in council on September 26, 1950. Again on May 10, 1951, by order in council a second commission consisting of Hon. W. M. Martin, chief justice of Saskatchewan, chairman; Hon. Mr. Justice Fernand Choquette, Quebec, His Honour Judge Robert Forsyth, Toronto, Mr. H. J. Wilson, Q.C., Edmonton, Mr. Joseph Sedgwick, Q.C., Toronto, and Mr. A. A. Moffat, Q.C., Ottawa, was set up and they proceeded with the work and largely finished it.

The terms of reference are, I think, important because they indicate the objectives which the commission had in front of them in their work of consolidating the code. They were these:

(a) To revise ambiguous and unclear provisions.

(b) To adopt uniform language throughout.

(c) To eliminate inconsistencies, legal anomalies or difficulties.

(d) To rearrange provisions and parts.

(e) To seek to simplify by omitting and combining provisions.

(f) With the approval of the statute revision commission, to omit provisions which should be transferred to other statutes.

(g) To endeavour to make the code exhaustive of the criminal law, and

(h) To effect such procedural amendments as are deemed necessary for the speedy and fair enforcement of the criminal law.

The commissioners applied themselves to this task with the assistance of Mr. J. C. Martin, for many years a provincial magistrate at Weyburn and a well-known student of the criminal law in Canada, who acted as counsel to the commission. In the actual drafting of the bill the commission received assistance from Mr. A. J. MacLeod, who is the senior advisory counsel to the Department of Justice itself. I have named all of these gentlemen to show that we have drawn on legal talent of very varied experience from all parts of Canada to assist us in this matter.

The commission submitted its final report, together with a draft criminal code consolidation bill, to the government on January 22, 1952.

The government spent a few months giving consideration to the draft and then it was introduced into the other place as Senate Bill No. H-8 on May 2, 1952. It was referred to the Senate banking and commerce committee which appointed a subcommittee under the chairmanship of Senator Hayden to examine the bill clause by clause and to report upon it. Amongst the other senators from the other place who served prominently on that committee were Senators Farris, Roebuck and Haig. I would ask the house to note that these are not prosecuting lawyers. They are all widely known, experienced and successful criminal defence lawyers.

The bill was considered by that subcommittee until the end of the session early in 1952 and although that subcommittee met four or five times each week, time did not permit the subcommittee to make a final report to the main committee before parliament adjourned.

The bill was revised again by the Department of Justice in the summer of 1952 in the light of the discussions in the other place

and in its committee, and in the light of representations which we received from individuals and organizations. It was again introduced in November, 1952, as Bill O in the other place where it was again referred to the banking and commerce committee.

The banking and commerce committee set up the same subcommittee which after considering the bill clause by clause, reported it on December 16, 1952 with no less than 116 amendments. Some of these were slight and technical. Some, on the other hand, indicated differences of opinion on matters of substance and demonstrated that the other place was not accepting automatically the recommendations of those men, including members of the royal commission, who had previously worked on the legislation, however eminent and able they might be.

The high sense of legislative responsibility with which the other place and its committee examined the bill is indicated by its recommendations of changes of substances in clauses concerning amongst others the following matters: Appeals from convictions for contempt of court, treason, duelling, explosives, corroboration in sexual offences, failure of persons to provide necessities of life for persons dependent upon them, presumptions arising out of evidence of recent possession, custody and disposal of things seized under a search warrant, backing warrants, election of mode of trial by an accused, procedure on forfeiture of a recognizance and appeals in summary conviction cases. These were the chief matters in respect of which amendments in substance were made.

After being passed by the Senate on December 17, 1952, the bill was sent to this house substantially improved. The bill was introduced in the House of Commons in January, 1953, as Bill No. 93 and after second reading was referred to the special committee of 17 members, mostly lawyers, for examination and report. That committee was under the chairmanship of the hon. member for Essex West (Mr. Brown).

If it is not unbecoming of me as a lawyer myself to say so, that committee did such a conscientious and outstanding job of considering and revising the bill that I think I should certainly identify its membership on *Hansard*. They were, as of May 1, 1953, the following: Messrs. Browne (St. John's West), Cameron, Cardin, Churchill, Crestohl, Gauthier (Lake St. John), Garson, Henderson, Huffman, MacInnis, MacNaught, Macnaughton, Montgomery, Noseworthy, Robichaud, Shaw and, of course, the chairman, the hon. member for Essex West.

Mr. Macdonnell: All lawyers.

Mr. Garson: Along with the members of the royal commission and the others who have taken part in the preparation of this bill, I think they are entitled to a substantial share of the credit for the piece of legislation we now have before us. I must say, Mr. Speaker, that the members of this committee certainly held and presented strong views, with great force and zeal; and sometimes their controversies became a bit heated. But they were always objective and, best of all, they were non-political. This committee held 37 meetings. A subcommittee held 12 sittings to settle such matters as questions of procedure and to deal with the task of summarizing the great volume of representations made to the committee.

The committee heard oral representations by delegations appearing on behalf of the following national organizations. I make this point, Mr. Speaker, because there has been throughout the country a tendency upon the part of editors and others to say that we in parliament have rather supinely accepted a draft bill prepared by a royal commission and that we have not, in relation to that bill, properly discharged our legislative functions. Such charges are completely without foundation. I do not think there has ever been brought before this house, during the time that I have been here, a bill which has received more careful, detailed and systematic consideration than has this one, nor in respect of which there has been greater opportunity for democratic representation.

Here are just some of the national organizations which were heard by the House of Commons committee: The Canadian Congress of Labour; the Trades and Labour Congress; the Canadian Jewish Congress; the Premium Advertising Association of America Incorporated; the League for Democratic Rights; the United Electrical, Radio and Machine Workers of America; the Congress of Canadian Women; the Association of Civil Liberties; the Canadian Welfare Council; the Canadian Mental Health Association; the International Union of Mine, Mill and Smelter Workers (Canadian section); the Canadian Restaurant Association. Is there any indication here that we have barred any segment of public opinion, however radical it might be, from a hearing?

Then in addition to hearing those organizations who sent delegations to appear before the committee, we gave detailed consideration to briefs and resolutions addressed to the committee by over 80 organizations, of whom the Canadian and Catholic Confederation of Labour, the National Council of Women, the Manitoba Bar Association, the civil liberties committee of the Canadian Bar

Association, the bar of the province of Quebec, the International Association of Machinists and the committee on criminal procedure of the Canadian Bar Association are only a typical few. There is not a clause of the bill now before hon. members that was not examined in detail by the committee.

Among matters in respect of which the special committee recommended amendments, which have been accepted and are now incorporated in this bill, were the following: appeals in contempt of court cases, treason, sabotage, witness giving contradictory evidence, corroboration in sexual offences, trespassing by night, homicide, administering drugs, failing to stop at the scene of an accident, criminal breach of contract, mischief, offences that must be tried by jury, arrest, election of mode of trial, compensation for loss of property resulting from the commission of offences, whipping, tariff of fees in summary conviction matters, and transitional provisions.

The report of the special committee, recommending amendments in respect of these matters that I have just mentioned and other consequential amendments, was tabled in this house in May, 1953. However, as the members of the present house who were members of the preceding house will recall, the remaining time before the prorogation of parliament was not sufficient to enable the bill to be proceeded with and it died on the order paper. With the exceptions which I mentioned at the beginning of my remarks, this Bill No. 7 with 753 clauses which is now before the house—

Mr. Fulton: No; 744 clauses.

Mr. Garson: No. If you go on a little bit further you will find the others. This bill is the same bill as that which was passed by the other place in December, 1952, with the amendments thereto recommended by the special committee of the last parliament in May, 1953.

I should now like to point out a few matters in respect of which changes are effected by this bill in the present law of Canada. In the first place, common law offences are abolished. Hon. members will recall that in their terms of reference the commissioners were directed to endeavour to make the code exhaustive of the criminal law. The commissioners concluded that the code should be exhaustive in so far as the definition of criminal offences is concerned, but that the criminal common law of England, as presently in force in Canada, should be continued in respect of other matters in so far as that law had not already been codified in this country. Those were matters relating to procedure, matters of defence, including justification and excuse, and rules of evidence.

The result, therefore, under this bill is that the common law that is now in force in Canada in respect of criminal law and procedure remains in force except that the bill precludes the institution of criminal proceedings for common law offences.

Does that mean that common law offences have been abolished by this bill? Yes; they have been abolished as common law offences, but most of them have been replaced by offences codified in this bill. What has happened is that the royal commission consulted with the provincial law enforcement officers and found that resort had been had to common law offences, over the past 60 years, in only a very limited number of cases. These cases have now been incorporated in this bill, in codified form, as Criminal Code offences. In this way we have reached the position which we think is desirable, namely that no Canadian can be charged in Canada with an offence unless the conduct which constitutes that offence has been proscribed by the Criminal Code.

The second point which I think is worthy of notice is that the royal commission recommended the abolition of minimum punishments; that is, it gave the court complete discretion to go as low in the punishment as it wished to go. It also recommended the abolition of increased maximum punishments for second and subsequent offences. Under the present law minimum punishments are provided for the offences of driving while intoxicated, driving while ability is impaired, theft of certain matter from the mail, theft of a motor car and robbery of the mail. The government did not feel that it could, at this time, accept the recommendation of the royal commission in respect of the abolition of minimum punishments for all of these offences; and in the result minimum punishments are retained for the offences of driving while intoxicated and while ability is impaired, and in respect of thefts from the mail. The view of the government in this regard has been accepted by the other place and by the special committee of the House of Commons at the last session of parliament.

With regard to the question of punishment generally, the royal commissioners noted that the sentences provided in the present code follow no apparent pattern or principle, and in the view of the commission these punishments were frequently not consonant with the gravity of the offences to which they related. The commissioners were of opinion that there should be a few general divisions of punishment by imprisonment, and that each offence

should then be assigned to one of these divisions. Accordingly, apart from those cases where the sentence of death may be imposed, maximum sentences of imprisonment for all offences under this bill fall into one of five classes, namely, life, fourteen years, ten years, five years or two years. For all summary conviction offences under the bill one maximum punishment is provided, namely, a fine of $500 or six months imprisonment or both.

I have referred to these matters particularly for the purpose of indicating to the house some of the typical sections of the bill as drafted by the Department of Justice upon the basis of the royal commission's reports, which the Senate and the House of Commons committee thought worthy of special attention and amendment. This list of such examples is not exhaustive of course, but it is typical.

My main purpose, however, has been to satisfy members of this house first, that our Criminal Code requires consolidation; second, that this present legislation, Bill No. 7, was prepared after long study and research by a royal commission of eminent lawyers, including some of the leading criminal defence lawyers in Canada; third, that it received the most thorough and detailed consideration, clause by clause, by the other place, by its committees, and in particular by the special House of Commons committee; fourth, that anyone or any organization who wished to make representations concerning this legislation was given ample opportunity to do so in person or in writing, and that a substantial number of amendments indeed were made in the legislation in its evolution from the original draft received from the royal commission to the form in which it now appears before hon. members, as a result of such representations; fifth, that the consideration which this legislation has received to date has been long, patient, careful and thoroughly democratic, and that scores, if not hundreds, of Canadians have taken an honourable part in that consideration.

Mr. E. D. Fulton (Kamloops): Mr. Speaker, if I can remember it correctly I think I should like to begin somewhere near where the minister left off. That was a little while ago, at the stage when he was paying tribute to the committee of the house which reviewed the legislation now before us, now known as Bill No. 7 and known last year as Bill No. 93.

I was very glad indeed to hear the minister pay that tribute to the committee, because as I recall it, in the early stages of the last session of the last parliament we were not apt to hear quite so much tribute paid in advance to the work that a parliamentary committee might do. Indeed, I recall that it was suggested that the bill had been thoroughly reviewed in various other places, including the royal commission and the other house of this parliament and that in fact it might be expected to go through this chamber without really very much discussion.

Perhaps I may be entitled to say for the members of the official opposition that we take some credit for this, that had it not been for the attitude expressed by this party, joined on that occasion by the other parties in opposition, I think quite possibly the bill would have proceeded through this chamber with only a cursory examination. That appeared to be the desire of the minister at that time. But we were successful in having it referred to a parliamentary committee, not in fact to a joint parliamentary committee but to a committee of this house which, as the minister has said, consisted of 17 members who gave it the detailed examination to which he has referred.

I mention these facts not merely to remind the minister and the house of what happened, but to draw attention to the fact that there is probably no more important legislation confronting the house, no legislation of greater interest and concern to the people of Canada, than the bill to revise the Criminal Code.

What happened last year when the bill was referred to a special committee of the house? In that committee the bill received over 70 amendments and, as the minister pointed out, it is the bill as amended by the special committee of this house which is now before us. In that committee alone it received over 70 amendments. That, as the minister has said, was after the bill had been considered by a royal commission, by a special committee and by a committee of the other place on two separate occasions. It had received four separate considerations before it ever came before a committee of this house.

In the committee of the other place on the first occasion it received, as I read the debates of that place, over 63 amendments, and on the second occasion 117 amendments, making a total of 180 amendments written into the legislation by the banking and commerce committee of the other place before it ever came before the House of Commons. Then, as I say, it received a further 70 amendments by the special committee of this house, and those 250 odd amendments are now incorporated in Bill No. 7 which is before the house at this session.

Therefore it seems to me that is a measure, if any such measure were required, of the importance of the legislation now before us and of the requirement of careful consideration and scrutiny which it is incumbent upon

this house to give the legislation. That being the case, it seems to me that one should refer for a moment to the history of the criminal law as outlined by the minister.

I am quite certain that the house and the country as a whole will be grateful to the minister for the very careful and exhaustive review he has given us of that subject. I think he told us that the first time a criminal code was enacted in Canada was at a time when Sir John Thompson was minister of justice, and that at that time the first codification of the criminal law was embodied in a statute of some 960 sections. It has not been revised, as he said, for some 60 years until the present time when it is now to be embodied, if the bill goes through with the present number of clauses, in a bill of 753 sections.

I could not help but be struck by the possibility of comparison. When it was first enacted in Sir John Thompson's time it was a statute of 960 sections, and not a bad code, Mr. Speaker, I think you will admit. It stood up to the test of time, with considerable modification and amendment. But if it was enacted in 960 sections in one year and has stood the test of time, and if the reduction to 753 sections under the aegis of the present Minister of Justice has taken five years, then God save America if we ever try to reduce it to 100 sections. I wonder if it means that Canadians are becoming somewhat more criminal in tendency? I do not quite understand why it should take us five years to reduce to 753 sections what we were able to codify in 960 sections in one year back in the 1890's. I do not think we are very much more criminally inclined now than we were then.

Perhaps our theories about punishment and penal reform are responsible; I do not know. But it does seem to me, and I suggest this to the minister and to hon. members in this house, that our approach to the question of the Criminal Code could be summarized and perhaps simplified if we embodied it in a section which I have already suggested as a title, and that is, an act for the prevention and punishment of crime. That is what we are concerned with in this mass of legislation before us.

I suggest, and I hope the minister will agree with me, that extraneous subjects such as penal reform and things of that kind should not be part of the Criminal Code of Canada. I agree with the minister to that extent, that the only principle before us here is the question of whether or not the Criminal Code is now due for revision and codification. I say without reservation that we in the official opposition agree with

him wholeheartedly that it is due for revision and codification. It will not be necessary, therefore, for us to long delay the debate at this stage, because we are in agreement with the principle of the legislation.

I have referred already to the careful consideration which this measure has received in the various committees of parliament, and that the fact indicates the importance of this measure to the people of Canada. I should like to lay before you, sir, some statistics indicating the importance of this legislation to the people of Canada. According to figures originally produced in the debate in the Senate on this subject, in the year 1948 the total number of convictions under criminal or quasi-criminal processes in Canadian courts amounted to 918,277, as revealed in the Canada Year Book of that year. By reference to the bureau of statistics I am informed that the latest figures for 1952, four years later, show the total number of convictions in Canadian courts to be 1,355,399, or an increase of over 400,000 in the four years.

It must be admitted immediately that these figures are influenced by the admission to confederation of Newfoundland. I would certainly be the last to suggest that the newest province and oldest colony of the British Empire is entirely responsible for the increase in the figures. I would decry any such suggestion. It is significant when you stop to think that out of a population of about 14 million you should have 1,355,399 convictions in courts in one year. If I am not mistaken that is approximately 10 per cent.

Of course, Mr. Speaker, figures can be quite misleading. I do not want to suggest that all those are convictions under the Criminal Code because obviously, as the minister and most members of the house will appreciate, a substantial proportion of those convictions will be for traffic offences which are not under the code at all. The main feature, it seems to me, is that the procedure, by and large, under which all these offences are tried and which resulted in these convictions is generally laid down and prescribed by the Criminal Code of Canada. This is true even although the offences may have been under provincial statutes.

All these statistics, combined with the number of amendments made already to this particular legislation, indicate the tremendous importance of this legislation to the people of Canada. It is hardly necessary to try to emphasize the fact that the Criminal Code of the country is that body of law by which the rights and liberties of the citizens are determined. The embodiment in that criminal law of the principle of British justice that a man is innocent until he is proven

guilty, from which I am glad to say that with certain minor exceptions there is no detraction in the legislation now before us, is one of the most important things to the people of Canada because upon it depends the fundamental tradition of the freedom of the subject.

I mention these things, Mr. Speaker, not because I want to prolong this debate, although one could if he wished become quite emotional concerning these principles. I do not think it is possible to stress too greatly the importance of the task upon which this house is about to embark, and that is the clause by clause consideration of this bill to codify the Criminal Code of Canada.

There remain only a few things I wish to mention. Since the minister has laid special emphasis upon the work of the special committee of this house, I feel I, too, should pay tribute to that committee. It was composed of 17 members of the house, and it gave exhaustive and careful consideration to the legislation before us. Without seeking in any way to single out one member of that committee above any of the others for special mention, after consultation with all the members of the committee drawn from all parts of the house I think it is fair to say that there was no member who made a greater contribution than the former member for Gloucester, Mr. Albany Robichaud. Mr. Robichaud is no longer the member for Gloucester, although the sitting member bears the same name. I am certain that he will do his best, as the former member did, to represent that constituency. Mr. Albany Robichaud, a lawyer learned in the criminal law, gave of his best to the work of that committee and made a tremendous contribution. Another member I should like to mention, whose advice we in this party particularly like to have, is the hon. member for Victoria-Carleton (Mr. Montgomery), who is the sitting member for that constituency and was a member of the committee during the last session.

Mr. Speaker, having said that, the only other thing to be gone into at this point is the question of the procedure to be followed in dealing with this legislation. I must say at the outset that, according to my understanding, the minister has scrupulously followed the general understanding we arrived at on the basis of private discussions. The procedure as suggested is that, after second reading, we should proceed clause by clause with the consideration of the bill in committee of the whole. While it is hoped that those clauses which were considered in detail by the special committee last year—and this, of course, comprises the majority of clauses in the bill—will not require much discussion, nevertheless if or when any clause arises upon which a member desires to have some discussion, there will be no attempt to curtail debate. If it appears that the debate upon that clause or the principle embodied in it will be somewhat lengthy, the suggestion will be made that consideration of the clause in question be postponed to a later time and that, particularly with respect to these four special subjects of capital punishment, corporal punishment, insanity and gambling laws, as the clauses are reached they will automatically be stood over for further consideration.

So it might be hoped that we would pass in committee, without extended debate, the great bulk of the clauses of the bill; and then all those clauses in respect of which it is indicated by any member that there is a desire for extended debate will be returned to and discussed clause by clause.

I take it from the minister's attitude at the moment that he agrees that I have correctly interpreted our previous discussion. On this basis I think it is proper to anticipate that the bill could be passed into law at this session of parliament without any great difficulty. But I think it only proper to make to the house on this occasion the reservation which I stated previously to the minister. I know there are a number of members—and I am not indicating that I share their views, because as a matter of fact I do not—who have a reservation with respect to the question of capital punishment.

What they are being asked to do, what the house is being asked to do and what the committee will be asked to do, is to enact into law and continue in force capital punishment—and I am just singling this out as one particular subject in respect of which they may have grave disagreement. Therefore it is only to be expected that when those clauses dealing with capital punishment are reached there will be most protracted and strenuous debate on the part of those members.

I wish to make that perfectly clear. I wish to make it clear that I have in no sense indicated to the minister that we would curtail debate on controversial clauses merely because of the assurance that special committees will be appointed to deal with those controversial subjects. I wish to make it perfectly clear that I think the minister, if I may say so, has suggested a very methodical and common-sense method of procedure. I agree with that method of procedure; but, speaking, as I have the honour to do on this occasion, on behalf of the official opposition, I do not want to be taken as indicating that we are seeking to restrict the right of any

member to debate any of those controversial subjects even though they may be referred to a special committee.

I think the only other point necessary to mention is that we appreciate the minister's assurance that when these subjects have been referred as indicated, three of them to special committees and one to a royal commission, the government will introduce legislation based upon the recommendations of those bodies. But, as is quite possible, the government may find itself in disagreement with those recommendations. Therefore we would not expect it to consider itself bound by any undertaking it might now attempt to give by way of introducing legislation based upon recommendations with which it disagreed.

Therefore the government, in accordance with the undertaking given tonight by the minister, will facilitate the consideration of private members' legislation, or legislation introduced or placed upon the order paper by private members, based upon the recommendations of those committees, even though the government itself does not propose to introduce legislation on that basis.

I think it fair and proper to say that this is as complete an assurance as one might expect from any government that this subject will be dealt with impartially and in a spirit which will enable the House of Commons to consider the matter as a deliberative and not as a political body. We appreciate the length to which the minister has gone in giving us assurances in that regard.

In conclusion I should like to make a few general observations. Notwithstanding the previous very careful and full consideration given to this matter by the various committees, commissions and bodies the minister has mentioned, we do not abrogate in any respect our right or obligation to give the fullest scrutiny to the details of this legislation. Let me repeat what I said on the previous occasion when this bill was introduced for second reading, in the last parliament—and may I say that I am not going to indulge in the temptation which is quite frequently indulged in by members who take the liberty of reading what they themselves have said on previous occasions. I shall say simply that I adhere to the principles I enunciated at that time, as they are set forth at pages 1276 and following of *Hansard* for January 23, 1953.

An hon. Member: It is worth repeating.

Mr. Fulton: Well, if the hon. member thinks it is worth putting on *Hansard* again I will leave to him the opportunity of doing so. But I have never thought my own remarks were worth repeating.

Mr. Knowles: Don't be so modest.

Mr. Adamson: Oh, Davie!

Mr. Zaplitny: Can we quote you on that?

Mr. Fulton: Well, I have always felt that my remarks have registered so well in the first instance that it has been unnecessary to repeat them.

While wishing to facilitate and assist in the process of the codification and revision of the criminal law of Canada, by and large those of us in the official opposition feel that the most important essential is to preserve in no way unimpaired the principles of British criminal justice which have been the hallmark of this and other members of the commonwealth nations since their inception.

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, we appreciate the fact that this legislation comes before us at the present time after a great deal of study by a great many people. I do not need to take time to rehearse the history of that study, which has been so well and so fully placed before us by the Minister of Justice (Mr. Garson), including of course the very thorough study and examination of Bill No. 93 which was made by a committee of the House of Commons in the last session of the last parliament.

However, I think it should be said, in line with the remarks of the hon. member for Kamloops (Mr. Fulton) toward the end of his speech, that if Bill No. 7 which is now before us is to be passed by this parliament, the responsibility for it rests finally upon the members of this present parliament. Therefore we must take that responsibility seriously; we must not at any point slide over sections of the bill when we are in committee, because someone says these sections have been studied thoroughly by commissions and committees over the past five or six years. I am sure the Minister of Justice, even though he may be anxious that this bill get through at this session instead of dying on the order paper as it has on two occasions, will agree with me that the responsibility for the act as it is finally passed rests upon the members of the parliament in which it is passed.

A good deal has been said tonight as to the procedure that has been agreed upon between the Minister of Justice on the one hand and representatives of the various opposition parties on the other. It is fair to say that the procedure as outlined by him is the procedure that we in our group understood from the report made to us by our colleague, the hon. member for Vancouver-Kingsway (Mr. MacInnis).

However, in connection with the procedure there are one or two comments that I should like to make. There can be no quarrel with the minister's statement that it is difficult on the second reading of a bill, with 753 sections and a great many principles, to try and discuss the principle of that bill. There is a good deal to be said not only from the government's point of view but from the point of view of hon. members generally for the proposal that we have our general discussion divided into a number of general discussions, and that those discussions take place in the committee of the whole on the bill. That being so, it puts a little different complexion on the motion for the second reading of this bill than is usually the case. Usually when a bill has had second reading it means that the house has approved of the principle of that bill. Usually that principle is one principle, and stands out rather clearly.

In this instance we want it clearly understood that so far as we are concerned, when second reading of this bill has been agreed to by this house, all that we shall have agreed to is that the code should be revised and that the house should go into committee of the whole to consider not only the various sections as they come along but the various parts of the code with the different principles that underlie these various parts. In other words, Mr. Speaker, I wish to make it clear that there may be certain sections of the bill which, when we come to them in committee, we shall find ourselves in this group unable to accept. We do not want it said at that time that we agreed to those sections when we agreed to let the bill be read a second time.

I think the smile on the minister's face indicates that he agrees with these reservations, and I am sure he understands our position in that connection. As a matter of fact I imagine the minister is in something of that position himself, because he has indicated tonight that when we get into committee of the whole there will be some more amendments from the government to be made to the bill. In other words he himself, in approving second reading of the bill, does not wish to be tied to the suggestion that he has at this point agreed to everything in the bill as it now sands. Furthermore, Mr. Speaker, it should be clear that there are these four subjects which the minister referred to, which are going to be discussed at some point in this procedure.

The hon. member for Kamloops (Mr. Fulton) took a slightly different approach to this problem from that which the Minister of Justice took. The Minister of Justice was assuming that the house would let these sections in the bill that deal with insanity, capital punishment, corporal punishment and lotteries go through on the ground that that was simply carrying forward the law as it now stands, with the understanding that it may be changed later on as a result of the report of a committee of parliament and of a royal commission.

When the Minister of Justice was proposing that these sections be dealt with in that way I certainly had a question in my own mind, and one of my colleagues came and spoke to me about it, as to whether that was not asking us to do too much. The point made by the hon. member for Kamloops is well taken, that even though when we get to these sections it might be argued that it is just a case of carrying forward the law as it now is, in point of fact this parliament will be re-enacting these provisions, and I suggest no attempt should be made to curtail discussion on the part of hon. members who are interested in those clauses when we come to them.

In addition, since it is the government's desire to deal in committee of the whole with all of the clauses of the bill except the clauses relating to these four subjects, it does occur to me that maybe there is room for discussing some of these subjects right now when we are on second reading of the bill. If the minister does not favour that procedure, then I suggest that at least there is room for discussing them—very clearly there is room for so doing—on the minister's motion that a special committee be set up. The minister said tonight that when we finish second reading of the bill, he would, if he had the consent of the house to do so without the required notice, move the motion that such a committee be set up. He said he would make his motion bearing in mind that other steps would have to be taken. That of course is a debatable motion and certainly any comments with respect to the subjects included in the minister's motion would be relevant in that debate.

Mr. Garson: If I may be permitted, Mr. Speaker, upon a point of pseudo-privilege—

Mr. Knowles: That is quite an admission on the minister's part.

Mr. Garson: —to make this suggestion. All that we have sought by the arrangements I attempted to outline tonight is to achieve an orderly method of debate that will give all hon. members the best possible facilities and opportunity for a proper discussion of the bill, and to debate it, and to vote on it intelligently. In my humble view that will be achieved by the course that I have already advocated for consideration of the bill in the manner in which I have indicated.

If when we reach these clauses dealing with capital punishment and the other three subjects in the committee of the whole hon. members would wish to debate them or make speeches in relation to them, I am sure that no informal understanding that had been reached between the parties could have the effect of curtailing the right of a member to speak on that section if he wished to do so. But having regard to the fact that any discussion which does take place must take place in the light of the government's undertaking to have these very things examined by a parliamentary committee and a royal commission, to the end that we shall all be in a better position more intelligently to discuss and legislate, I should have thought that most hon. members would think their contributions to such a debate might be deferred until such time as they had the benefit of the knowledge which these investigations would bring out. And that especially is this so where the government has undertaken either to implement the reports of those bodies if they conscientiously thought it was appropriate to do so, or that if the government could not do so the government would expedite consideration of any legislation which opposition members might wish to introduce.

If we debate these subjects such as capital punishment when the bill is in committee of the whole we are debating them in the light of these facts, and the man who debates them in the light of these facts is really taking the position: "I am going to insist upon the right to make a speech upon this subject even despite the fact that the chances are ten to one that when I get the report of the royal commission and the parliamentary committee I will be able to make a better and more intelligent speech than I can make now. I am going to express my own ego and my own views regardless of the fact that I may be able to make a better speech later."

Mr. Knowles: The exchanges we have just had help to clear the air in part and do the other thing as well. At any rate I think this should be said. We have been discussing, the minister and I just now, two questions. One is the right of members to discuss these questions of capital punishment and so on at various stages in the procedure that has been outlined. The other is the minister's judgment or pseudo-judgment, to use his own prefix, as to whether or not it is a good idea. I wanted to have that clear—I did not ask for that *obiter dictum*—namely that members have the right if they wish to do so to discuss these questions at one or other of the stages I have indicated.

I do not propose to do so myself. That is not because of the opinion just expressed by the minister, but because I have several other things I wish to say and I prefer to leave these matters to some of my colleagues. It is not perhaps unusual that the hon. member for Kamloops (Mr. Fulton) and I have taken this time to discuss these procedural arrangements, for we wish to know where we stand both in the house and in committee in regard to this important bill.

We agree that after 60 years it is time for the criminal law of this country to be revised, codified and consolidated. But when that process is being carried out surely certain things should be considered. I listened with considerable interest to the remarks of the hon. member for Kamloops when he said he felt there should be nothing in the criminal law dealing with such subjects as penal reform. I remember, as a matter of fact, that he made an interjection which carried that implication at a certain point in a speech I made on the subject last January.

Despite the position he takes, and no doubt he takes it because he is a lawyer, it seems to me there is room in the Criminal Code—perhaps it should have a better name—for some indication that society has moved on and made progress in its thinking with regard to the philosophy of dealing with crime and its prevention. Yet, Mr. Speaker, despite the fact that Bill No. 7 includes many amendments and changes from Bill No. 93 and from Bill H of the year before, and the drafts that we have had down the line, I see in it as it is now before us nothing to suggest an appreciation of the advances that have been made in the thinking on this important question.

It seems to me there was merit in the suggestion in the brief submitted by the Canadian Welfare Council that there might well have been included in the Criminal Code a preamble outlining its purpose. I will not take up the time of the house to repeat the quotation I made from that brief last year, or repeat the other submissions made along this line.

Mr. Fulton: What do you think of the title I suggested at that time?

Mr. Knowles: My quarrel with that title suggested by the member for Kamloops is that it seems to narrow the bill within the confines that I am now objecting to, whereas it does seem to me we should treat crime as something not only to be punished but to be prevented.

Mr. Fulton: That is what I suggested.

Mr. Knowles: If I have misunderstood my hon. friend I will certainly—

Mr. Fulton: Perhaps I may just quote a passage from page 1288 of *Hansard* dated January 23, 1953:

I suggest that the title should be "An act for the prevention and punishment of crime." That is what it is concerned with.

I wonder if you would care to comment on that?

Mr. Knowles: My comment on that title—and we are getting off the problem a bit, Mr. Speaker—was made a moment ago in relation to the point the hon. member for Kamloops made that he did not think matters relating to penal reform should be in the Criminal Code. I do not see how you are going to have an act which is concerned in part with prevention of crime if it does not contain some reference to penal reform. However, perhaps we are just differing on terminology.

My main quarrel is not with the hon. member for Kamloops. My main quarrel is with the Criminal Code itself or with the government that has brought it in for failing to infuse into the criminal law the results of the advanced thinking by psychologists and philosophers who have studied this whole problem.

Without getting into any of the details or sections of the bill which it is not in order to discuss on second reading, it does seem to me something of that approach should be included in the revision or codification of the Criminal Code after all these years. Then too, Mr. Speaker, it seems to me that when we are revising the Criminal Code we should bear in mind that it may be another 60 years before it is done again, and we should consider as a result of that situation whether the purpose of the Criminal Code is to secure convictions or to prevent crime.

I am glad to know that our comments or representations on this point last year both in the house and in committee have been noted by the minister. He apparently was conscious of them, for he went out of his way several times tonight to draw to our attention the fact that the men who served on the commission and the people connected with the rewriting of the code over the past few years included a number of defence lawyers as well as criminal lawyers. I always smile when I hear the term "criminal lawyer" but I only take those words out of the minister's mouth.

Mr. Garson: Mr. Speaker, on a point of privilege, my term was "criminal defence lawyers".

Mr. Fulton: You are having the best of both worlds.

Mr. Knowles: In any case the minister has tried to make the point that there were defence lawyers interested in this codification as well as lawyers for the prosecution, but it seems to me that the code as a whole has not yet got away from that earlier view that its purpose is to secure convictions.

Another comment is this. Here again, Mr. Speaker, it is a criticism that we made last year. I have not taken the time to check through all the sections in order to see whether changes were made, but certainly in some cases that I pointed out last year we still have rather heavy increases in the punishments to be meted out. I think in particular of one that I mentioned last year where there was an increase in the amendment made in 1951 and now there is a heavy increase again in the new code.

Perhaps this is just another phase of what I have been speaking about up to this point, and it is just this. When we are revising the code I think we should be concerned with the whole philosophy of the treatment of criminals and crime. My view is that merely to stiffen the penalties is not to reveal the fact that a great deal of studying and thinking has been done in this field. From my point of view, it is that sort of approach that should be involved in a 60-year revision rather than just a concern to end up with a code that has a few hundred sections less than was the case before.

That may or may not be a good thing. Maybe it would be a better code if it had 2,000 sections instead of being reduced to 753 sections. My point is that the important aspect of this whole problem is to make sure that our modern knowledge and modern understanding of crime, its treatment and its prevention, and our modern ideas as to what to do to make sure that we are not making worse criminals out of people who break the law—all of that—should find its expression in the criminal law of this country.

There are just one or two other things I want to say. We feel also that at a time when the Criminal Code is being revised we should be extremely careful. I go along with the hon. member for Kamloops (Mr. Fulton); perhaps I go a little bit further, but I certainly go all the way with him in his insistence that there be no departure or no detraction from the basic principles of justice that have been enshrined in Canadian criminal law and in British criminal law down across the years.

I am glad to hear the statement of the hon. member for Kamloops, as a lawyer, that he knows of few if any instances where there

has been, in the code, a departure from the basic principle that a person is innocent until he is proved guilty. But I suggest that there is even more than just that principle which comes into play only when people come before the courts. I have in mind the whole basic question of freedom which is so terribly important to the future of our society.

I am sure that all of us who read the statement attributed to Mr. Adlai Stevenson the other day realized that he was saying something that had to be said; but it hurt when we noted that he said that people today—and he was speaking, of course, mainly of his own country—are living not under four freedoms but under four fears. I will not repeat them all, but the one that hit me most squarely between the eyes was his suggestion that there was now a very real fear of freedom.

Mr. Speaker, I am delighted that our situation in this country seems to me much better than the situation in that great country to the south of us in this respect, at least at the present time. I certainly hope that what they are going through down there at this time is just a phase that will pass. At any rate our concern is with our own atmosphere. If I may once again paraphrase the words that Sir Winston Churchill used a year and a half ago in this connection, may I say that we must not lose confidence in democracy's capacity to tolerate free speech. I know the minister will say that he agrees with me in that regard, that he could not agree more, and that there is nothing in the code that interferes in any way with that basic principle.

I just want to say at this time that one of the reservations I was making a few moments ago, when I said on behalf of this group that agreeing to second reading of the bill does not mean agreeing to all of the principles involved in the bill, was that we are not so sure but that in some of the sections dealing with sedition and treason the code borders fairly closely on an attempt to legislate as to people's thinking and as to people's utterances.

I suggest that we must be extremely careful in this field. Let us lean over backwards. Freedom is one of the great traditions that we have inherited from the British side of our history. It is one of the great traditions of this country. Like the hon. member for Kamloops, I do not want to indulge in anything emotional; but this is certainly a field where feelings are deep and where we are dealing with something extremely sacred. I merely suggest that when the Criminal Code is being revised it is a time to be on guard to protect those freedoms rather than a time when any of those freedoms or civil liberties should be interfered with or cut down in any way.

Mr. Fulton: Hear, hear.

Mr. Knowles: I am glad to hear my friend the hon. member for Kamloops say "hear, hear" at that point. I remember something he said along those lines a year ago. I may not quote him exactly, but if I do not paraphrase him correctly he will set me right. He said that we should take a stand such as the one I am now indicating without being deterred from it because some people who have ideas that we do not agree with take the same position. Let us not let the law of association that is applied in some localities deter us from doing what we believe to be right and what we believe to be part and parcel of our traditions and our destiny in this important aspect.

Mr. Fulton: Let us not be afraid because other people may have already muddied the water.

Mr. Knowles: The hon. member has looked up his speech and is now quoting himself.

Mr. Fulton: No; the hon. member is quoting me.

Mr. Knowles: I shall be glad to do so if he will give me the reference to the page.

Mr. Fulton: No, never mind.

Mr. Knowles: As reported at page 1278 of *Hansard* of January 23, 1953, he said:

> I take the view that notwithstanding the fact that the communists may have muddied the water, we should not refrain from expressing our own considered opinions . . .

Those are the words of the hon. member for Kamloops. I am glad he yielded to the temptation to quote himself.

Mr. Speaker, there is just one other reference I wish to make. We feel that when the Criminal Code is being revised is no time to bring what belongs in the field of labour legislation into the Criminal Code. Since I believe in obeying the rules of the house I cannot refer to the sections of the bill; I will not even look at it, though it is here on my desk. The minister knows what I have in mind. The members of the committee, of course, know the hours that were spent in that committee on this question during the last session of parliament. The fact of the matter is that we have labour laws in this country. As a matter of fact we have eleven of them. We have our own federal labour code, and each of the provinces has its labour legislation.

We feel that the handling of labour matters should be left to those labour laws. When you import into the Criminal Code

sections or regulations that affect the rights of labour, the rights of trade unionists, and particularly when you make reference to what is provided by law—bearing in mind the fact that that law can be eleven different laws—you run the risk of putting in the hands of some people a club against labour and against the rights of trade unionists in this country. We are opposed to any move in that direction.

I do not want to infringe upon the rule which says we are not to discuss the sections of a bill when we are on second reading, but I do want to make it very clear that one of the numbered sections to which the minister referred in his summary a while ago is a section concerning which, when we get to it, we shall have something to say and, indeed, in its present form we would find it impossible to accept. We take that position because we feel very strongly that the rights that have been won by labour in this country are part and parcel of our great democratic tradition, part and parcel of the traditions of freedom that mean so much to the life of this country and that should not be lost in any way.

Therefore, Mr. Speaker, as I have already indicated, we are prepared to agree to the procedure that has been suggested, accepting it solely as procedure, namely that the bill be given second reading so we can get into committee, and it is understood that that does not carry with it approval in principle of the sections of the bill. As the minister suggested, we will deal with the sections when we come to them in the committee, and our principal interest when we come to these sections will be to make sure that nothing is done in this revision of the Criminal Code to interfere with the established rights of labour or the great traditions of freedom that mean so much to our Canadian democracy.

Mr. Solon E. Low (Peace River): Mr. Speaker, we regret that the hon. member for Red Deer (Mr. Shaw), who was our member on the committee, is not able to be here tonight because it was his intention to speak for the Social Credit group in this debate. So it devolves upon me to fill in for him.

I should like to assure the Minister of Justice that we are in full agreement with the procedure which has been agreed upon by negotiation with the party representatives in connection with this bill, although at the same time we will be concerned about every opportunity for full and free discussion by hon. members of every phase of law that is to be found in the bill. I hope it will be possible for us to preserve the vast amount of work that has already been done. I hope that we will not need to have any substantial repetition of that work during the coming year.

I think the special committee did most excellent work last session. In my judgment they heard representations from a great many individuals and groups of people and organizations, and gave them every opportunity to present their views with respect to the revisions that ought to be made in the Criminal Code after 60 years of experience with it. So I say I hope we will be able to preserve all the good work that has been done and make the wisest use of it.

The hon. member for Winnipeg North Centre (Mr. Knowles) said that after 60 years the criminal law should be revised and brought up to date. He felt that it should be, and I thoroughly agree with him. We have made progress. Human beings in their social affairs and social contacts have made great progress over the years, and I suppose we will now look at some things somewhat differently from the way people did 60 years ago. But I remind the hon. member that what is in this Criminal Code is pretty much what was laid down in fundamental law as far back as the time Moses received the tablets of law on Mount Sinai, and that was a good many years ago.

Mr. Knowles: There were only ten clauses in that law.

Mr. Low: That is quite true, but those are the fundamentals of law and they have not changed one particle since that time. I do not expect that I would be favourably inclined to changing any one of them now in the way they are applied in our Criminal Code. The rights of man are bound up in these ten commandments, and they are so important that we should make certain none of them is changed.

Although I certainly will go along with those who say that we should now be giving considerable thought to the question of the philosophy of the treatment of crime and criminals, as stated by the hon. member for Winnipeg North Centre, nevertheless I disagree with him when he says that sort of thing should be written into the Criminal Code. You cannot write that sort of thing into law. The philosophy of the treatment of crime and criminals is a social matter that has its roots in the home, the school and the church.

Mr. Fulton: And may be reflected in the law.

Mr. Low: As the hon. member for Kamloops says, it may be reflected in the law; but these are matters about which you simply cannot

lay down any expression in law. It seems to me that we should be urging a widespread study of these social problems that have their roots in the home, the school and the church. I think they involve the matter of fundamental respect for law, and I should like to say at this point that it is my conviction that the social emphasis we place on the Criminal Code should centre around three factors which I believe are essential if we are going to have rule of law in our country.

The first is good, fundamental law. That is what we are trying to write into the Criminal Code. But that would be useless if we did not have the other two factors. The second is well organized courts composed of righteous and just men and women. These first two would be worth very little if we did not have amongst the Canadian people widespread support for the courts, people who are prepared to uphold the courts and their dignity and responsibility so there can be enforcement. These, it seems to me, are matters that involve the social aspect.

I should like to hear a good, broad discussion on the social aspects of law, particularly those that revolve around the treatment of crime and criminals, but I hope we will not get into that kind of discussion when we are considering this fundamental law, the Criminal Code, because I do not believe this is the place for it.

I see that it is ten o'clock, Mr. Speaker, and it is not my intention to go on too long, but let me just say that while we agree with the procedure that has been announced by the minister we feel as members of the House of Commons that it is our responsibility to give all of the clauses of the bill, and more particularly those that have been singled out as being so important to the Canadian peop'^ the fullest discussion and consideration. In addition it is our responsibility to preserve completely unimpaired, as was so well stated by the hon. member for Kamloops, the fundamental principles of British justice which will of course involve the freedoms of individual citizens of this country.

Mr. Speaker: Is it the pleasure of the house to adopt the motion?

Mr. Winch: I would ask leave to move the adjournment of the debate until tomorrow's sitting of the house.

Mr. Harris: Before you put the motion, Mr. Speaker, may I say that I had hoped we could have completed this debate tonight. I was under the impression, sir, that the debate, while not limited—because we do not do that here—was nevertheless going to be participated in by representatives of the parties concerned. While I appreciate the hon. member's desire to take part in the debate, I wonder if it would be possible for him to make his remarks now, with the consent of the house, so we could get second reading tonight.

Mr. Speaker: Do I understand that the hon. member does not propose to speak on second reading?

Mr. Drew: Let us examine this situation reasonably. Certainly there can be no suggestion that anyone in this house can deny any other member the right to speak on any subject. However, the discussion proceeded and continued after an extended exchange of opinions concerning the appropriate procedure, with the thought that we would then be able to pass from this stage and be able to examine the measure along the lines that have been suggested. I repeat that I am the last to suggest that any member should be denied the right to speak, but I do not know what purpose will be served in extending the debate now unless we know what the understanding is. We might be sitting here until tomorrow morning.

I do not know that this is the last change in the understanding that existed between us. It was only an understanding, and it could be no more, but it is one of those understandings which does, on certain occasions, permit orderly procedure in this or any other similar legislative body. I certainly have no desire to insist upon the rules, but I do think before we extend this debate now we should be sure where it is going. I must say that I do not think anything is going to be gained by permitting the debate to proceed at this time, especially if it is going to be extended to subject matters that are going to be referred to a commission.

Mr. Winch: I can assure the hon. member that I have no desire to delay the procedure of the house. I should like you, sir, and hon. members to know that I had no knowledge there was a commitment that there should be only—

Mr. Knowles: There was no such commitment.

Mr. Drew: May I interject at this point. I was not suggesting, and I thought I had made it clear, that there could be any commitment which could bind members. There has been discussion ever since we arrived in the middle of November concerning the best method of dealing with this bill. Questions were asked on the very first day, and we discussed the business in relation to procedure.

Now, the hon. member who has taken the floor has a right to do so. I would point out, however, that he is not in a position to tell us whether there are other members who are

going to speak. Unless there is some understanding along those lines, then I would suggest, Mr. Speaker, the wisest course is to call it ten o'clock and be done with it.

Mr. Winch: I still want to facilitate the procedure of the house if I can. My main reason in rising and asking for the adjournment is confusion which was brought about in the discussion concerning the position of a member in discussing this most important bill. A question was asked by the hon. member for Winnipeg North Centre, and in reply the Minister of Justice stated that he had no objection during the debate on second reading to a discussion of the principle of the bill. Speaking from memory I believe the minister added that if an hon. member did so he would be expressing egoism—I think that was the word—in speaking without the report of the royal commission or the committee.

This disturbed me greatly, sir, because in his original statement the minister made it very clear—I think these are his words—that this bill should be considered as a bill of the house and not a bill of the government. We would have, therefore, to be voting on the principle of the bill as it is before us, and one or two sections of the bill contain principles to which I am unalterably opposed, even though the minister has said these matters are going to be referred to a joint committee of this house and the other place or a royal commission. I could not see myself, Mr. Speaker, in the position of being asked to vote upon and pass in principle something to which I am unalterably opposed.

The only opportunity I could see for speaking on this principle, therefore, was on the second reading of the bill. I hope, sir, you understand the position in which I find myself. If there is any way of clarifying it in order to speed up the procedure I would be only too happy to abide by it. At the same time I want to preserve my right to speak on principles to which I am unalterably opposed, because I am not going to vote for them.

Mr. Garson: The hon. member for Vancouver East, who has just taken his seat, Mr. Speaker, has referred to some language of mine which I am anxious to explain to his satisfaction as not being susceptible of the interpretation which, from his standpoint, he has perhaps properly placed upon it. I thought I had made it clear, not once but several times, that it was the view of many that the most orderly manner of proceeding to debate the Criminal Code, which embraces so many principles, would be to treat the principle of the bill on second reading as being merely the question of whether a statute which had been on the books for 60 years should be now consolidated. This arrangement expressly contemplated that when we got into committee of the whole the fullest possible opportunity would be given to all members, including the hon. member for Vancouver East, to express to his heart's content the views that he has with respect to, shall I say, the question of capital punishment—

Mr. Winch: That is the one I have in mind.

Mr. Garson: —notwithstanding the fact that subject would have been, in the meanwhile, sent to a joint committee of parliament for consideration.

Mr. Winch: May I ask a question, Mr. Speaker? If it is sent to a joint committee is the matter not sub judice and out of order for discussion in the house?

Mr. Garson: I think that can be cleared up. There is certainly no intention that either the hon. member or any other member of the house would be deprived of an opportunity to discuss it.

Mr. Fulton: That is perfectly understood.

Mr. Garson: That is, if he wished to do so without the report. I am sure the hon. member for Vancouver East will not object to my having the feeling that I would prefer to get the report of the joint parliamentary committee or the royal commission before I discussed it, but I would be the last man in the house to deny his right to discuss it, with or without a report of the royal commission or a joint committee. I do not think there was any thought that the hon. member would be deprived of the fullest opportunity of discussing that particular clause when the bill is before the committee of the whole.

Mr. Winch: I could not ask for more. I give way.

Mr. Speaker: Is it the pleasure of the house to adopt the motion?

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Robinson (Simcoe East) in the chair.

On section 1—*Short title.*

Mr. Fulton: Ten o'clock.

Mr. Knowles: Stand.

Section stands.

Progress reported.