

Criminal Code

in one case in which I appeared two years ago a suspended sentence was granted in spite of the mandatory direction of the present section.

Mr. DIEFENBAKER: What was the nature of the offence?

Mr. MARTIN: The same kind of case. It was *Rex v. Mallott*. It is reported I think in the Ontario Weekly Notes, but I have not at hand the citation. The point I had particularly in mind was in reference to that part of section 364 to which no amendment is suggested. This reads:

Every one is guilty of an indictable offence and liable to imprisonment for life who steals,
(a) a post letter bag, etc.

As one who has had some experience at the bar I feel it my duty to register strong objection to this kind of provision, even though it may be an omnibus provision. I find it difficult to conceive of any kind of crime under paragraphs (a), (b), (c), or (d) which would justify a life sentence. It might be impossible to find a magistrate who would impose such a sentence, but any one who has practised at the bar knows that there are magistrates and magistrates. One does not know what might happen. There might be the restraining influence of the court of appeal, but I suggest that we should not permit the inclusion in any of these sections of a punishment which is out of keeping with the tempo of modern criminal jurisprudence. There was a time in the history of our law when we punished an individual with death for theft, but in this day and age I do not think we are going to correct crimes of this sort by leaving in the hands of an irresponsible magistrate the power to impose, if not a life sentence, anything like it for such offences. I think we should unhesitatingly remove the discretionary power which this present section provides so far as the maximum sentence is concerned.

Mr. GORDON GRAYDON (Leader of the Opposition): Mr. Speaker, I think the parliamentary assistant to the Minister of Labour (Mr. Martin), who has just spoken, has brought to the attention of the house a matter which deserves consideration and, if I may say so, the unanimous support of the house. I am not always able to support him as strongly as I can on this occasion, but I do not think we should pass this statute in the manner in which it now is and let an accused person who is convicted be liable for imprisonment for committing these crimes. Perhaps I had better read one of them to the house in order to im-

[Mr. Martin.]

press upon hon. members the seriousness of the term which is imposed. The first crime is the theft of a post letter bag.

A post letter bag may not contain anything; it might be only an empty bag, because it does not state that it must contain something. If an employee of the Post Office Department were to pick up a bag and take it home, surely a magistrate should not have such extended jurisdiction as to permit him to impose life imprisonment. It might of course be properly said that a magistrate would not do that, but we have no right to grant that discretion.

This section indicates clearly the ridiculousness of some of these sections in this enlightened period of our national existence, and I support the parliamentary assistant to the Minister of Labour in his plea. It looks to me as though we are back in the old days when they used to hang men for putting their initials on London bridge. Those were supposed to be much darker days than what we are living in right now.

The postal employees generally are not an overpaid group of people, and I think it is bad to impose such a heavy penalty and make them liable to life imprisonment for what at best could be only a relatively small misdemeanour.

Mr. MARTIN: This is the section as it has stood for some time.

Mr. SPEAKER: May I point out that this discussion really belongs to the committee stage of the bill. We are now dealing with the principle of the bill. If you accept the principle, that does not mean that the bill cannot be altered by amendment in committee. If the principle is adopted, then the discussion now taking place could continue in committee.

Mr. LIGUORI LACOMBE (Laval-Two Mountains) (Translation): Mr. Speaker, it is not by extending the term of imprisonment to which delinquents are sentenced that we shall necessarily prevent crime. I have more faith in preventive than in punitive justice. Of what avail is it to the authorities to imprison for life an individual who is guilty of an offence if no appropriate action is taken in penitentiary institutions for the rehabilitation of prisoners? The latter are not always hardened criminals, far from it. If a post office employee steals a letter, a parcel or even a post letter bag, why should he, except in the case of a confirmed criminal, be liable to life imprisonment? I consider the amendments to the criminal code which are proposed in this bill