

*Criminal Code*

penalty will be three years' imprisonment." But parliament had provided that a magistrate could suspend sentence if counsel for the crown agreed to its being suspended. Those are the terms of section 1081. It is stated that if a maximum punishment is less than two years, the magistrate may suspend sentence without consent. If the offence is one which involves a possible punishment of more than two years' imprisonment, the magistrate could suspend sentence only with the consent of counsel representing the crown.

Mr. HANSON (York-Sunbury): That is correct.

Mr. ST. LAURENT: I think the reasons I have given will probably satisfy the hon. member for York-Sunbury.

Mr. HANSON (York-Sunbury): I am not controverting it.

Mr. ST. LAURENT: It is not a general reversal of the policy that the mails ought to be regarded as sacred.

Mr. HANSON (York-Sunbury): That still stands.

Mr. ST. LAURENT: Yes. That still stands; and we know that great precautions are taken to ensure the delivery of the mails. The necessity of taking on so many temporary employees, frequently minors, and the possibility of their committing small offences in respect of the mails, made it desirable to have machinery whereby some punishment could be imposed. That is so, because in most cases one would not get any punishment at all, with the statute as it stood. A jury would almost invariably say, "This person has not done the thing for which parliament provided a minimum punishment of three years. What he has done is not something of that kind. Therefore we will not find him guilty, when he is being accused of something for which parliament has provided such a severe penalty."

Then, in the administration of the department, there was very great reluctance to institute proceedings when a matter did not appear to be of a degree of importance sufficient to imprison a man for three years in a penitentiary. And, having a class of persons quite different from the class of permanent civil employees who usually handle the mails, it was necessary to have a more flexible type of machinery to deal with this new class.

If the house accepts the amendment, the new procedure will be in operation, and experience will show whether this step has been wise or otherwise. When the service gets back to the place where it will no longer have any-

[Mr. St. Laurent.]

thing but its regular permanent staff, there may be reason for establishing some rule other than the one now suggested.

As to the details of the bill, and without giving any undertaking to accept amendments, I think it would be preferable if the discussion of such amendments were had in the committee stage.

Mr. HANSON (York-Sunbury): That is agreeable to us.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Bradette in the chair.

On section 1—Punishment of theft.

Mr. HANSON (York-Sunbury): I think we ought to have an explanation of the point raised by the hon. member for Essex East. It was one which I intended to raise, but about which I had forgotten for the moment.

Mr. ST. LAURENT: Mr. Chairman, first of all I would point out that, as has been suggested, this is merely the maximum penalty which can be imposed, and that section 1054 provides:

Every one who is liable to imprisonment for life or for any term of years, or other term, may be sentenced to imprisonment for any shorter term.

So that even under this, the punishment imposed by a magistrate might be one day or thirty days or thirty years or life. The discretion is entirely in the hands of the magistrate. The suggestion has been made that it is quite improper to have in this kind of section the suggestion that there might be something sufficiently grave falling under the section to warrant life imprisonment. I submit that that is not so, in fact. Those of us in the house who are older than most members will recall the sensations mail robberies used to create. I remember not so many years ago an armed mail robbery of a mail car on the Ocean Limited, perpetrated some miles below Quebec city. That offence resulted in charges of murder, because homicide did occur in carrying out the project of stealing from the mails. I am not suggesting that there could not be framed an indictment under some other section of the code that would apply. But here—

Mr. HANSON (York-Sunbury): Probably would apply.

Mr. ST. LAURENT: Robbery might be made to apply. But one can conceive of thefts of mail bags and mailed matter under conditions of gravity sufficient to call for the most severe kind of penalty, short of the death sentence. This comes down from the very first drafting of the code, about fifty-odd years