

*Criminal Code*

Centre in respect to the thirty day interim period now provided by law. I imagine his suggestion was prompted by the fact that in some of the county gaols there has not been proper custody of these men, and an agitation has grown up to have them shipped off to the penitentiary at once. That argument, I think, does not carry very much weight, because I believe it would be a great inconvenience for counsel pending appeal if they did not have the opportunity of frequent consultation with their clients. Having said that, I am content.

I am interested in the proposal to amend sections 364 and 365 of the code, and I will tell the house why. It is a long time since I have had anything to do with the administration of criminal law, but twenty years ago I defended a young man who was charged with the theft of money from a post office. I found myself confronted with a problem, as to whether I should advise him to plead guilty or fight the case out. If I fought it out and he was found not guilty, of course he would be cleared; if he was proved guilty, however, he had to go to the penitentiary for three years, willy-nilly; nothing less, because there was no discretion.

Mr. MARTIN: Or a suspended sentence.

Mr. HANSON (York-Sunbury): I do not think so.

Mr. MARTIN: There is a judgment to that effect.

Mr. HANSON (York-Sunbury): I do not believe there is the right to suspend sentence; the Minister of Justice (Mr. St. Laurent) will correct me if I am wrong. I remember discussing that case with the Postmaster General of the day, the late Hon. Charles Murphy, who was a good postmaster general, I should like to say in passing; who was himself an eminent lawyer, and who had a large experience in the practice of the criminal law of this country. I was unsuccessful in my defence of the case, with the result that the young lad, who had come from a good family, was sent to the penitentiary. Nothing could save him. After a time a remission was granted. I had something to do with getting the consent of the postmaster general of that day, as well as that of the then minister of justice, for the leniency shown by the crown in that connection.

At that time I discussed with Mr. Murphy the reasons for the apparent severity of the provisions of the criminal code against employees of the Post Office Department for stealing. In that instance it was a case of stealing money from a non-registered letter, then in the custody of the Post Office Department. While he paid great tribute to the

[Mr. R. B. Hanson.]

honour and integrity of the postal service—and I join in paying the same tribute to that service, which handles millions of letters every year containing money, valuable securities, cash and specie—he pointed out that if there was the millionth case in which theft had been committed the penalty would be justified. He told me at that time that an expert sorting clerk could tell in a minute, simply from the feel of an envelope, whether it contained bank notes, and pointed out that the experience of the department had shown that opportunities for theft there presented themselves, as they did not present themselves to most people. Those clerks operate in a fiduciary capacity, and their records and conduct must be above suspicion. If undue leniency were shown, or if suspended sentences were permitted, they might place a premium on delinquency. I had to be content with that, although the minister at that time was very helpful in dealing with this first offender. I am glad to say that he was released from custody, and is now an honoured minister of the gospel in the United States. He did not become a confirmed criminal.

Mr. GRAYDON: He had a good lawyer.

Mr. HANSON (York-Sunbury): I am afraid I did not teach him that. So that the question I put to the Minister of Justice to-day is this. Having regard to what I learned first-hand from a postmaster general of twenty years ago, what change of policy has come over that department—because I assume this amendment emanates from the Post Office Department, and not from the Department of Justice—whereby they are recommending this leniency?

May I say in passing that the operation of this amendment will depend entirely upon the judicial officers who are administering the law. It will depend, for instance, on the type of police magistrate before whom many of these offenders will come. Or if the offence is under indictment, it will depend upon the type of judge who will have charge of the case.

In his introductory remarks the Minister of Justice confined himself entirely to the subject matter of the amendments, without giving us the reasons therefor. I should like to learn from him if there has been any change in the policy of the Post Office Department, and if it is now considered that the minimum sentence which must be exacted under the provisions of the statute as they now exist is too harsh. Generally speaking, would he tell the house what has occurred in the last twenty years which would direct the attitude of the Post Office Department toward the degree of leniency indicated in this bill? I am bound to