

burden the present jail accommodation provided by the municipalities, because it must be remembered that the federal government does not enforce its own law. That is left to the provinces; and the provinces in turn charge it up to the municipalities. It seems to me that we are going very far afield when we take this action in respect of a person who is in custody and who is subject to a suspended sentence under section 1081. Such a person might not have the necessary deposit money with him, or it might not be in the hands of his family.

In England they have what is known as the summary offenders act, where time is given to pay a fine. As a result, half the prisons there have been closed. I can find no reference to that in this or any other section of this bill. I must repeat, however, that the minister is going far afield in this instance.

Section agreed to.

On section 32—Judgment on appeal final.

Mr. DIEFENBAKER. What is the object of the addition of the words underlined in this section? Has not a court at all times been in the position of being the absolute judge of the facts?

Mr. ILSLEY: It means the final judge. The law in the past has been that the court appealed to was the final judge of the facts and law. Last year we provided for an appeal on a question of law from a county or district court judge to the court of appeal for a province. However we forgot to amend this section. We had an appeal on a question of law to the appeal court, and we left in the provision that the court of appeal was the absolute judge of the law.

Section agreed to.

Sections 33, 34 and 35 agreed to.

On section 36—Part XVI.

Mr. DIEFENBAKER: Section 36 covers amendments in sections 771 to 784 inclusive. Over the years there have been large numbers of cases dealing with technical objections to the various sections existing in the code. It was just like adding annexes to the law; the point was finally reached where those sections had no uniformity and no certainty, and indeed they were an incongruous mess.

Was a complete study made of those authorities before these sections were evolved in their present form? It would be quite impossible to deal with these sections and to know whether or not some uniformity had been brought out of the practice which prevailed regarding these

sections in the several provinces. Does this restore a degree of uniformity based upon decisions throughout the country?

Mr. ILSLEY: I do not know what decisions the hon. member has reference to. This is, of course, an important procedural change. It adds immensely to the responsibilities of magistrates. This section should not be brought into force unless the magistracy is of a pretty high order in the various provinces of Canada.

In the event that the provincial governments wish to improve their magistrates, they are being given time to do so, because this does not come into force until October, 1949. At the present time offenders may be tried for many offences, whether they consent or not. That includes several indictable offences; and they may be tried by magistrates without their consent. The principle of this amendment is that those offenders must consent. I believe it is true to say that these magistrates may hereafter try the same offences that can be tried by superior, county and district court judges under the speedy trials provisions.

Of course there will be a certain number of important cases which can be tried only by juries. However, there will be some offences here now which may be tried in three ways—that is, by magistrate; by a county, district or superior judge under the speedy trials provisions, or by a judge and jury. So that this streamlines the section. It certainly changes this part of the criminal code in a very important way.

Mr. DIEFENBAKER: What are those important changes?

Mr. ILSLEY: Those are the important changes. In part XVI, at the present time magistrates in towns of over 2,500 population have jurisdiction that magistrates in towns under 2,500 do not have. Then, there are some provisions for cities of 25,000. At the present time the provisions are very complicated indeed. Continual complaints are made about the necessity to ascertain population of a town or city, and complaints about magistrates having jurisdiction in certain municipalities. The important change is that under part XVI at the present time there are indictable offences for which an accused person may be tried by a magistrate, whether he consents or not. He does not have the option of trial by jury. If this amendment is passed, then he could not be tried by a magistrate without his consent. That is an important change.

Then again, these offences, instead of being listed as they are in the present part XVI, are all offences except those which must be tried by a jury. Therefore these magistrates will have jurisdiction comparable with that possessed by