

with the Department of Justice in order to secure permission to do so. Apart from that, however, I see no difficulty in the way.

Mr. MAYBANK: Distance, as a rule.

Mr. DIEFENBAKER: Yes. But arrangements could be made for appeal directly after the sentence, and in any event, so far as the matter of appeal is concerned, it could all be done through the medium of correspondence as grounds of appeal have to do with legal arguments respecting the charge in general and very seldom with regard to the quantum of evidence.

Mr. SPEAKER: I cannot see the relevancy of the hon. member's remarks with regard to the question of appeal. His remarks are general with reference to the provisions of the criminal code and amendments that may be made thereto, but the house is considering specific amendments, and so far as I have followed the hon. gentleman to the present moment, he has not specifically referred to the matter before the house. Rather, he has suggested that there should be a general revision of the code. That may be in order somewhere else, but not at this moment. If the hon. member wishes to discuss the question of the relevancy of his remarks at this time I shall be glad to hear him.

Mr. DIEFENBAKER: What I had in mind was this. This bill amends the criminal code. Sections 364 and 365 mean that there is going to be an amelioration in the rigour of mandatory sentences. I bring to the attention of the house other sections that should be dealt with with regard to amelioration of sentence to the end that the administration of justice may be as perfect as possible.

The question of an appeal is dealt with by an amendment to paragraph (b) of section 749. This paragraph provides that in the case of summary convictions in Quebec, appeals shall be made to the superior court. The principles laid down with regard to amelioration of the mandatory sentence and the matter of appeals should be applied to the general administration of justice, and provision should be made that in respect of youths under eighteen years of age the death sentence shall not be mandatory. I contend that the amendments contained in the bill cover only a small segment of the problem, and that appeal to the Supreme Court of Canada is necessary in criminal cases to assure of a proper administration of justice.

Mr. SPEAKER: The hon. member's argument is that the bill before the house deals with matters that are the subject of comment

to the Minister of Justice, and that further reference should be made to them because they are now raised by this amendment.

Mr. DIEFENBAKER: I was dealing with the matter of appeals, and the question whether provision should be made to give the right of appeal even while a prisoner is in the penitentiary, and that he should not be kept in the common gaol pending the exercise of his right to appeal. In general these are the submissions I wish to place before the house. One of the amendments contained in this bill is designed to increase the penalty and another to reduce the penalty. Then a further amendment makes provision for the right of appeal in one province. The suggested amendments merely touch the fringe of the subject. Those amendments do not meet the great body of opinion all over this country that is to-day asking for amendments to the criminal code to the end that the attainment of justice will be made easier. Those expressions of opinion come from within the legal profession and outside of it.

In recent years we have gone a long way towards the denial of the elementary principles of the administration of criminal law in a large portion of the legislation that has become law since the beginning of the war. The accused is denied the benefit of reasonable doubt. Presumptions of guilt take its place when a person is charged under various war regulations. The accused is deemed to be guilty unless he proves to the contrary. These things are contrary to the direction which we have a right to ask for in the administration of the criminal law of the country.

In speaking to these suggested amendments I have referred to certain other matters which are much more important, as I see them, than those dealt with. Many others will occur to other hon. members on all sides of the house. If a committee of this parliament were set up to study this matter, in my opinion, it would go a long way towards the advancement of justice in this country and the improvement of our penal law.

Mr. T. L. CHURCH (Broadview): Mr. Speaker, this is the eighty-seventh day of the session. I contend that these amendments to the criminal code should have been brought down earlier in the session. As I said when this bill was being read the first time, and asked the minister a couple of questions which he did not answer, sections 1 and 2 of this bill affect the subject matter of what on the postmaster general's estimates I have had before this house for the last twenty years,