Act was amended in 1932 providing that the sentence of death shall not be pronounced or recorded against any person under the age of eighteen years. Only recently there was an example of the horror felt by the people as a whole when in the city of Montreal an outstanding jurist, following conviction by a jury, had to impose mandatory sentence of death upon a fifteen-year old boy. True enough, everybody realized that the sentence would not be carried out, and as a matter of fact, shortly after the trial of a confederate, the sentence was commuted, as has been the case for many years, because no person under the age of eighteen has been executed for murder, the sentence in every case having been commuted.

There is reason why these severe sentences should be removed from the code. As the Minister of Justice has stated, experience has shown that when mandatory sentences are out of line with what public opinion regards as proper in the particular case, justice is defeated; for juries, realizing that there is no other way, in many cases, to avoid the rigours of the law, bring in a verdict of "not guilty" or a verdict for a lesser offence. No matter what may be said in regard to the jury system, one salient fact stands out, namely, that throughout the years juries have been the protectors of the people against unfairness, harshness and the rigidity against change which have too often characterized law makers who are behind advancing public opinion.

I suggest too that provision should be made whereby the right of appeal to the Supreme Court of Canada should be made available in criminal cases from the appeal court in the various provinces. One of these sections has to do with the matter of appeal, but it does not face the problem of the right of appeal on the part of the individual. Too often, as the law stands to-day, the right of appeal to the Supreme Court of Canada, by a person in search of justice, is circumscribed within such narrow limits that many who would otherwise appeal are denied the opportunity to do so.

One of the important things in connection with the administration of the criminal law is that not only should a man receive justice but that he should believe that in fact he is receiving justice, and I believe that in that regard all possible injustice would be removed if the minister would consider the enlargement of these provisions.

I believe that in the administration of the criminal law we should seek not only to punish but to reform. As the law is to-day, any youth of sixteen or over who commits a serious offence is sentenced to a penal institution. We have no institutions similar to those in the United Kingdom. In that regard we are far behind in the administration of our penal system. Many of the outstanding recommendations, most, if not all of what the royal commission on penitentiaries recommended in 1937, remain recommendations that have not been carried into effect.

Mr. POULIOT: And rightly so. They have not been carried into effect and it was right not to carry them out.

Mr. DIEFENBAKER: That is a matter of opinion. I believe that the recommendations that had to do with the improvement of the administration of justice ought to have been carried into effect, and so far as youth is concerned, so far as first offenders are concerned, provision should be made whereby it would not be obligatory as it is to-day to put them among old offenders. A system similar to that in the United Kingdom under the Borstal method should be brought into being in this country.

There is one other suggestion I would bring to the attention of the minister. Only recently in Toronto a prisoner sentenced to the penitentiary was taken to the common gaol, and while there a homicide was committed, allegedly by him. I feel a change should be made in the law whereby, when a man is sentenced to penitentiary, he should be forthwith taken there, where measures of security are much greater than in many gaols. As the law is to-day, unless a prisoner signs a waiver of his right of appeal, he remains in the common gaol for a period of thirty days. That, I submit, should be done away with, and provision should be made whereby those in authority may send prisoners sentenced to penal institutions to the penitentiary pending the period during which the appeal should take place.

Mr. MAYBANK: Will the hon. member permit a question? That which is being suggested to the house would make it somewhat more difficult for the prisoner in case he desired to prosecute an appeal, would it not? I take it it is not the hon. member's intention to make appeals more difficult, but is it not a fact that sending the man to penitentiary would make the institution of appeal more difficult for him? How would the hon. member get around that?

Mr. DIEFENBAKER: The question is a perfectly proper one. I realize the difficulties of counsel communicating with his client in the penitentiary. One has to communicate