

New Brunswick, there is a federal penitentiary which I understand serves the Maritime provinces, and I should like to know whether a Newfoundlander convicted of an offence, for which the judge felt he should be sent to penitentiary, could be sentenced to serve his term at Dorchester.

Hon. Mr. Hayden: Would my honourable friend leave that question until we come to section 7, which deals with penitentiaries?

Hon. Mr. Kinley: Very well.

Section 3 was agreed to.

On section 4—summary trial in certain cases:

Hon. Mr. Roebuck: Am I right in understanding that once this bill is given third reading the Criminal Code will be amended in the nine provinces where it is now in force, but that it will not apply to Newfoundland until it is so proclaimed?

Hon. Mr. Hayden: That is right.

Hon. Mr. Roebuck: Why should we not make the amendment of the Code simultaneous with proclamation of the Code for Newfoundland? All the amendments are designed for application to Newfoundland, and it seems to me that at least we should have some assurance as to when it is intended to proclaim the law there.

Hon. Mr. Hayden: It will be necessary to hold certain meetings in Newfoundland for the instruction and briefing of magistrates and other judicial officers there upon the Criminal Code as a whole. I am advised that it is intended to do this early in October, and that shortly afterwards the Code will be proclaimed in the new province, as provided for in chapter 1 of the statutes passed last session. My information is that the proclamation will be made before the autumn is over.

Hon. Mr. Roebuck: What is the criminal law in Newfoundland at present? Is it the criminal law of England, as modified by the local legislature?

Hon. Mr. Hayden: I would prefer to have that question answered by a senator from Newfoundland.

Hon. Mr. Baird: The Newfoundland law is, I think, undoubtedly based upon the English law.

Hon. Mr. Roebuck: Is there a Criminal Code in force in Newfoundland?

Hon. Mr. Baird: I am not sure of that. The Newfoundland Minister of Justice is in the gallery, and with permission of the house I will consult him. I should be able to have an answer to the question within a few minutes.

Hon. Mr. Roebuck: I do not want to make a nuisance of myself; I just asked the question for general information.

Hon. Mr. Baird: I should like to have the privilege of answering the question.

Section 4 stands.

Sections 5 and 6 were agreed to.

On section 7—penitentiary.

Hon. Mr. Hayden: Now I come to the question asked a moment ago by the senator from Queens-Lunenburg (Hon. Mr. Kinley). The best answer I can give to the question is this: a person sentenced to a term, which in the ordinary sense is a penitentiary term, must go to a penitentiary in the province in which he is sentenced, but the Penitentiary Act provides that, for various reasons, prisoners may be transferred from one penitentiary to another, not necessarily within the province.

Hon. Mr. Haig: I think I can assist the promoter of this bill by telling him of conditions in Manitoba. There we have a penitentiary, and of course as we are a law-abiding people there are many empty cells. Our trouble is the frequent transfer of prisoners from Ontario to the penitentiary in our province.

Hon. Mr. Aseltine: I am told that when they get there you have trouble keeping them.

Hon. Mr. Haig: Yes, they try to get back to Ontario.

Hon. Mr. Paterson: I should like to ask the senator from Toronto (Hon. Mr. Hayden) a question. Is it not the intention of this section of the bill to legalize what is now the practice in the province of Newfoundland?

Hon. Mr. Hayden: Yes.

Hon. Mr. Paterson: I understand that this provision is necessary because what is now being done is illegal.

Hon. Mr. Roebuck: Mr. Chairman, we have had a timely protest from the senator from Vancouver South (Hon. Mr. Farris). I think we should have some assurance that this potential mixing of offenders will not be continued. While at the present moment we are prepared to amend the law sufficiently to cover what has been going on, we have some responsibility, and should be assured by the authorities that if non-segregation of prisoners in Newfoundland, is to be permitted, it must be only as a temporary expedient. I think it would be well to call this to the attention of the authorities.

Hon. Mr. Howden: I am only a medical doctor, but like my friend from Thunder Bay