

sentence should not be imposed while the appeal is pending.

Sir JOHN THOMPSON. That means that the sentence shall not be kept in suspension in pursuance of the sentence.

Mr. MULLOCK. Not at hard labour.

Sir JOHN THOMPSON. Yes, the sentence is not to be suspended. That merely means in contrast to his being let out of gaol. We might stop at the word bail.

Mr. MULLOCK. We might stop at the word "bail."

Sir JOHN THOMPSON. It would be sufficient to give discretion to the court about bail and strike out the words "Minister of Justice."

Section, as amended, agreed to.

[At one o'clock the Committee adjourned, and at three o'clock resumed.]

Sir JOHN THOMPSON moved a section (752a), providing that a court, in cases of extradition, may take such evidence as they may judge best to further the interests of justice.

Mr. MULLOCK. This clause is the result of the statement of a case which I made to the Minister of Justice. Last summer a prisoner named Garbett was arrested, charged with an indictable offence committed in the State of Texas. He was brought before the junior judge of the County of York, and there were a number of people in court who were ready to prove that the prisoner was in the town of Wingham at the time he was said to have committed the offence in the State of Texas, but the judge held that all he had to do was to be satisfied that there was a *prima facie* case, and he accepted the evidence of one person from Texas who identified the accused, and upon that the order for extradition was made, although there was an army of witnesses prepared to testify that the accused was in the Province of Ontario at the time. It was endeavoured to disturb that finding, but the various judges held that they could not interfere with the ruling of the judge, and Mr. Meyer, of Wingham, who was acting for the accused, showed me the injustice of this, and I felt satisfied there was a failure of justice, and that a man has been taken from Canada to a foreign country, without any money in his possession and the witnesses in his behalf being in Canada, and he is extradited on the evidence of a foreigner who is not subject to a prosecution for perjury here, and in fact may never be seen again. At this moment while we are discussing this question a *prima facie* case might be made out against me by a stranger coming from outside this country, and, though every member of this House who is present were to be in court, his evidence that I was here at the time the offence alleged was committed would not be admissible. I think we should not leave the law in that state, and we should see that substantial justice is done.

Sir JOHN THOMPSON. In most of the provinces the commitment would be set aside on the ground that the evidence was not properly taken. According to the view adopted in England and in my province, the justice in a proceeding on an indictable offence, is bound to hear the evidence for the accused, and cannot take the committal simply on a *prima facie* case.

Mr. MULLOCK.

Mr. MILLS (Bothwell). In England there is an express statute authorizing the magistrate to hear the evidence of the party accused, and we have no such provision.

Sir JOHN THOMPSON. There were decisions long before that law was passed.

Mr. MILLS (Bothwell). There is now an express statute. When our criminal law was under discussion, we brought that matter to the attention of the Prime Minister at the time, and he thought there was some danger in putting the power in the hands of a magistrate in this country. This section seems to go so far as to suspend the right of *habeas corpus*.

On section 780,

Mr. FRASER. I would suggest that in place of using letters throughout the Act to designate the forms, numerals be used.

Sir JOHN THOMPSON. The object is not to confuse them with the sections, but we can do so, if it is more convenient. I think, perhaps, numerals would be better.

Mr. MILLS (Bothwell). It would also be a great improvement if we were to designate the statute by the year of Our Lord, instead of by the year of the reign of the Sovereign.

On section 871,

Mr. DICKEY. I have an amendment to this section which I have submitted to the Minister of Justice. It is merely a formal amendment to make the clause clearer than it is. In sub-section 3 it is proposed to provide for cases in which a conviction is made under an Act which does not prescribe any term of imprisonment in default of payment of a fine. I propose that this sub-section be struck out and that the contents of it be interwoven in sub-sections (a) and (b).

Amendment agreed to.

On section 961

Mr. MULLOCK. This has not been the law in Canada, and I think it was introduced in England for local reasons.

Sir JOHN THOMPSON. I think a year is rather short. I make it five years, so as to be equivalent to a felony.

Committee rose and reported progress.

SUPPLY — POST OFFICE SAVINGS BANKS.

Mr. FOSTER moved that the House again resolve itself into Committee of Supply.

Mr. McMULLEN. Before you leave the Chair, Mr. Speaker, I wish to draw the attention of the House to a matter which came up a short time ago in connection with the superannuation of a Dominion Savings Bank official in the Province of New Brunswick. The hon. member for North Brant asked the following question:—

"Mr. SOMERVILLE asked, 1. Whether James Robinson, of the Dominion Savings Bank, St. John, has been superannuated? If so, what allowance is made him? 2. Has H. D. McLeod been appointed to a position in the savings bank at St. John? If so, at what salary? 3. What is Mr. McLeod's age, and has he passed the Civil Service examination as required by law?"

"Mr. FOSTER. James Robinson, of the Dominion Savings Bank, St. John, has been superannuated. His allowance is \$418 a year. Mr. McLeod has been appoint-