

courts might look at the old clause and the new one and ask what was the meaning of the change.

Mr. FAIRBANK. Before disposing of this sub-section 2, I wish to say that, before the remarks of the hon. member for West Durham in relation to these words "undue and unreasonable," I thought we could see reason to use them two lines below, where they would apply to the description of freight. There is a reason for discriminating in kinds of freight, some being perishable and others not so; but why there should be any qualifying phrase in relation to persons I cannot see. If these words "undue and unreasonable" had occurred before the words "description of freight," I think they would have been reasonable.

Sir CHARLES TUPPER. They are taken from the English Act, and after careful consideration.

Mr. FAIRBANK. There is another matter which has caused great complaint, namely, the delay to local freight, and I believe it does no good to railway companies. Railway companies ought to be relieved from the bad feeling which it creates against them, particularly on the through lines. I could show the hon. Minister letters which give instances of great cause of complaint in relation to local freight having to wait for through freight. Now, it has been suggested heretofore that matters of freight should be interfered with so as to control the companies' tolls in relation to their through freight. I do not see how that can be done. I do not see how, if a railway company choose to carry freight from the western States at a losing rate, we have a right to prevent it; but I think it is unjust to the Canadian producer that our railways should virtually place a farmer in Illinois nearer the market than the farmer in Ontario. The value of products depend on their distance from market, and it is the price of transit that fixes the distance, and it frequently occurs now that the farmer in Illinois, by getting lower freight to the sea-board, is actually given the advantage over the Ontario farmers. Perhaps that is an evil that cannot be cured, but it does seem to me that the Canadian farmer or shipper, having to wait for foreign freight to be accommodated first, is not treated fairly. I think that these roads, protected by our laws, frequently subsidized by our money, Federal, Provincial, and municipal, should not have the power of holding local freight to a time to suit their convenience. They go to the western markets, where there is competition, and get freight, and make local freight wait. I think that is a matter that we ought to look to. I have letters showing instances, on these lines, where grain has had to wait for a period of two months, while empty trains were passing daily to the western States after freight and bringing it back through Canada. Of course I will not suggest the language of the clause which would cover this evil, but it is capable of being covered, and should be covered. One shipper writes me that last season, to facilitate the getting away of produce, he sold it to go over different roads, to New York, Portland, and Boston, but he did not succeed in shipping it until one month after the sales were made. A banker informs me that great disadvantage has been occasioned to his customers, owing to these delays. I do not believe it is in the interest of the railway companies themselves to cause these delays, and that Parliament should express itself on that point by Act. A clause has been introduced to prohibit discrimination in favor of persons or companies, and we should have another clause inserted to prevent discrimination against Canadian freight, and in favor of foreign freight; so far as the time of shipment is concerned, we cannot, perhaps, regulate the relative rate at which it shall be shipped.

On section 12,

Mr. BLAKE. Are there any instances where such a state of things as is here referred to have occurred?

Sir CHARLES TUPPER. Difficulties have arisen in consequence of an individual becoming the purchaser of a railway company, for there are no means provided by law for the operation of a railway under those circumstances. This clause is to prevent the railway being closed.

Mr. BLAKE. Under the general provisions of the charters such as we are conversant with, there is no power to sell the railway out-and-out under mortgage. In cases where this has been done special Acts have been obtained.

Bill reported.

#### PENITENTIARIES LAWS CONSOLIDATION BILL.

Sir JOHN A. MACDONALD moved that the House resolve itself into Committee on Bill (No. 111) to amend and consolidate the laws relating to Penitentiaries.

Motion agreed to; and the House resolved itself into Committee.

(In the Committee.)

On section 1,

Sir JOHN A. MACDONALD. This Bill is in substance a consolidation of six different Acts connected with penitentiaries.

On section 4,

Mr. BLAKE. I do not understand why in a consolidation Bill it is requisite that there should be a special provision with regard to Dorchester Penitentiary any more than as to other penitentiaries. There is no provision regarding other penitentiaries as to what convicts shall be confined in them. Why should there be such a provision as to the Dorchester Penitentiary?

Sir JOHN A. MACDONALD. This clause is retained because the word "penitentiary" has always had a different legal signification in the Lower Provinces to what it has in Old Canada. It there has the same signification as in England, where it means a reformatory prison rather than a prison for long-term imprisonments.

Mr. BLAKE. But we are one Dominion, and the interpretation of the law should be the same in all the Provinces.

Sir JOHN A. MACDONALD. It stands thus: the word "penitentiary" is a portion of an Imperial Act, the British North America Act. This word has a very vague meaning, as mentioned in England; this clause is to be found in 43 Vic., chap. 6, and it is thought as well to leave it in the Bill until all questions between the different Provinces and the Dominion are finally settled. We have had experience of a change both in New Brunswick and Prince Edward Island, with respect to penitentiaries, and we thought it safer to leave it in.

Mr. BLAKE. I observe that as it stands it would render it impossible for the Government very speedily to remove any persons from the Dorchester to any other penitentiary. It is mentioned not merely as a penitentiary, but as the penitentiary for the confinement and reformation of prisoners in any of the Provinces. We have occasionally removed prisoners from St. Vincent de Paul to Kingston and back again, as the hon. gentleman knows.

Sir JOHN A. MACDONALD. I will look into that.

On section 53,

Mr. BLAKE. This is a very important clause, and I would like to have some explanations from the hon. Minister upon it.

Sir JOHN A. MACDONALD. This clause provides for the remission of a portion of the time for which a convict is sentenced, as a reward for good conduct. It was strongly