

Williams, the trial judge in the Hammond case admitted the evidence given by the prisoner and taken before the coroner. That case was reserved for the opinion of the Chancery Division, and the Chancery Division decided that this evidence was inadmissible. We have, therefore, two decisions of courts of equal jurisdiction—which are made courts of appeal under our criminal code—one in direct conflict with the other. I submit, Sir, that that condition of things must be cured. I understand the Solicitor General, or the Minister of Justice, intends during this session to introduce a Bill amending the Evidence Act, so that the evidence given before the coroner will be admissible. That would, of course, remove the difficulty as to this one question, but it does not remove the difficulty as to any other question. The point I make is, that where you constitute each of these divisions a court of appeal for the purpose of disposing of a reserved case, you permit at any time a conflict of authority between these divisions. I suggest that any reserved case should be to a court of appeal or to certain judges made a court of appeal for that purpose, and I think hon. gentlemen will agree with me that this is a very proper amendment for this House to make. There are many other sections that have inconsistencies in them, and that very slight amendments would improve. Let me call the attention of the House to this one case. In the codification of the Criminal law, the gentlemen who did the work apparently omitted to provide any special punishment for the offence of escape. Before the code was adopted, chapter 155 of the Revised Statutes of Canada provided, that whenever a person escaped and was recaptured, or attempted to escape from a penitentiary, his punishment might be, after the term of his present sentence expired, any additional term in the same place of imprisonment. When the code was adopted this Act was repealed, and they omitted to substitute any similar provision in the Criminal Code. I suggest, therefore, that section 955 of the code be amended, and that, as part of subsection 3, the following should be inserted:—

And providing further, that where any one is sentenced for any offence, and is at the date of such sentence serving a term of imprisonment in a penitentiary for any such offence, he may be sentenced for a term shorter than two years' imprisonment in the same penitentiary, such sentence to take effect from the termination of his existing sentence.

I live in the city of Kingston, and I know that there are frequent attempts to escape from the penitentiary there. It was thought to be in the interests of justice that any prisoner attempting to escape, or actually escaping, who is afterwards recaptured, should be tried for that offence. It was considered that the moral effect of trying the prisoner for his attempt would be beneficial. I do not know whether that

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is beneficial or not; I do not know whether it is worth while to exercise anything more than the prison discipline on such persons, but, at all events, the Government thought proper that such persons should be tried. For escape, the ordinary punishment is less than two or three years' imprisonment, and the law, as it now stands, is, that after trial for attempt to escape, the prisoner, if sentenced to less than two years, must serve out his original term in the penitentiary, and then be sent to a jail to serve his term of less than two years. They have to remain in the penitentiary until their original sentence expires. Then they have to be taken from the penitentiary and brought to the county jail, and maintained there at the expense of the province and the county, mainly the county, to serve the sentence for the attempt to escape. That was never the intention of the law. The Act with respect to escapes specially provides that the sentence shall be a further term in the place from which the escape or the attempt to escape was made. Of course, hon. members know that there is a provision in the Penitentiary Act and in the criminal law for the removal of prisoners from one penitentiary to another, and legislation on that point is not required. But legislation is required to prevent an injustice being done to counties where there are prisons, on the line I have indicated, so that when a judge finds a prisoner guilty of an escape or an attempt to escape, he may sentence him for a further term of imprisonment in the place from which the escape or attempted escape was made. These are the amendments which seem to me to be necessary and well worthy of the time and attention of this House on the present occasion. As to how far the Government will think it proper to adopt these amendments, I have not yet obtained any answer. But I present them to the House, so that hon. members can think them over, and I invite suggestions from the Minister who is leading the House, as to whether he wishes me to move that the House resolve itself into committee, and then let the committee rise and report progress, and sit again, or how he wishes to deal with the Bill, because I have no desire to come to a decision this evening. But in order to put myself in the position I desire, I move that the House resolve itself into committee on the Bill.

Mr. CAMERON. Mr. Speaker, I regret very much that my hon. friend has seen fit to move the motion which he has moved to-night, in the absence of the responsible legal adviser of the Crown. I think Bills of this kind to amend the Criminal Code, Bills of the first importance, should be discussed in the presence, under the advice and with the consent of the Solicitor General (Mr. Fitzpatrick). My hon. friend, however, has seen fit, in the absence of almost every member of the Government—all but two—