

## SECOND READING.

Bill (No. 47) to amend the Railway Act.—(Mr. Pope.)

## THIRD READINGS.

Bill (No. 16) respecting the Banff National Park.—(Mr. White, Cardwell.)

Bill (No 20) respecting Public Stores.—(Mr. Thompson.)

## SALARIES OF PENITENTIARY OFFICERS.

Resolutions reported from Committee of the Whole (May 4) respecting the salaries to be paid to officers of penitentiaries (Mr. Thompson) were read the first and the second time, and concurred in.

Mr. THOMPSON moved for leave to introduce Bill (No. 65) to amend the Penitentiary Act.

Mr. BLAKE. The hon. gentleman promised to lay on the Table a detailed statement of the savings. I do not ask him to do it this moment, but before the second reading of the Bill.

Mr. THOMPSON. I have it and will send it to the hon. gentleman.

Motion agreed to, and Bill read the first time.

## SENATORIAL REPRESENTATION FOR THE N.-W. T.

House again resolved itself into Committee on Bill (No. 17) respecting the representation of the North-West Territories in the Senate of Canada.—(Sir John A. Macdonald)

(In the Committee.)

Mr. MILLS. I invite the attention of the First Minister and the Minister of Justice to the wording of the clause that constitutes the Bill. It provides that the North-West Territories shall be represented in the Senate by two members, and that the provisions of the British North America Act shall apply to them. I have looked at the provisions of the British North America Act empowering the Parliament of Canada to give representation to the North-West Territories, and I find that there is nothing in that Act beyond an enabling clause authorising Parliament to grant such representation. Under the terms of the British North America Act of 1867, the moment representation is given, the whole provisions of the Act apply to any representatives of the Territories, either in the House of Commons or in the Senate. It is quite impossible by any legislation of this House to restrain the operations of the British North America Act. Its provisions operate absolutely. In 1868, when we were invited to determine upon what terms and conditions those Territories should be admitted to Canada, I called the attention of the First Minister and the House to the meaning of the words in the 146th section of the British North America Act. I pointed out that it was necessary to state in those terms and conditions upon what terms those Territories were to be erected into Provinces and to have representation in the Senate and the House of Commons, and that when the terms were set forth, and were by Order in Council made part of the British North America Act, then all the machinery necessary to give representation to those Territories in either House would be provided in those resolutions. That opportunity was allowed to go by. The Territories were embraced in the territorial limits of Canada without any such provision for their representation either in this House or in the Senate. When the hon. gentleman proposed to give representation to Manitoba, I think I called the attention of himself and of Parliament to the fact that the legislation we adopted did not constitutionally admit Manitoba to representation in the Parliament

of Canada—that it did not establish a Federal relation, and that any law of ours admitting Manitoba to representation in this House, no matter what terms we might set forth, would only make Manitoba a municipality. We could give the Province representation here, but not a constitution that could not be altered or amended. The hon. gentleman admitted the soundness of that contention. The British North America Act of 1871 was passed on a Bill prepared by Parliament. I think the hon. gentleman was at Washington at the time that measure was prepared. I know his colleague, Sir George Cartier, consulted me with regard to its terms. That measure was passed, and Manitoba was granted a Federal constitution. The hon. gentleman last year took another step, I think in a somewhat irregular way—I think it was unfortunate that he did so—and the Imperial Parliament was invited to legislate without being informed by this Parliament what were the precise terms required; and so we have a third British North America Act supplementary to the Act of 1867 and the Act of 1871. In that Act we have a provision made for representation in the House of Commons. Apart from the fact that we had legislated in advance, whether we could give to the Territories representation other than representation based upon population, I need not here discuss. They have a larger representation than their population would warrant, and that representation has been confirmed. I apprehend that the provisions of the British North America Act regarding that representation are in operation, and it would not be in the power of this Parliament to increase or alter that representation in any way. But so far as the Senate is concerned, there are no limitations on the power of appointment; there is no general rule to guide this House that would operate in the way of restraint as to the number of senators to be appointed, other than there would be for the representation in the Commons. But the provisions of the Imperial Act, empowering us to legislate, do not alter or interfere with the general powers and restrictions imposed by the British North America Act of 1867. Therefore, it does not enable us to make operative certain sections of that Act, and to leave others without their due influence or their necessary operation. The fact that these particular sections apply to the Senate does not depend upon any declaration by this House or Parliament; it does not depend upon the sections being set forth in this particular provision of the Act. They depend altogether upon the necessary and paramount operation of the British North America Act itself. We may say that there are to be two senators, we are authorised to say that; we might say there should be more when we make that provision, and the Crown may make the appointment, but what shall be the qualification of those senators we cannot say. The British North America Act says what it shall be. We cannot elude or confirm that by any declaration we may make; what may be the power of those senators does not depend on anything we say. If the provisions of the British North America Act here referred to depended upon this declaration for their operative effect, it is quite clear that, beyond making those men members of the Senate, nothing would be done. If it is necessary to refer to these particular sections to make them operative in the matter, these men would be created members of the Senate after they were appointed, without having any power at all. They would not have the power to vote, they would not have the power to perform any of the functions of members of the Senate, because those powers are not given them. That would, of course, be an absurd contention, but its absurdity depends upon the fact that the clauses of the British North America Act operate absolutely, and require no act upon our part to bring them into operation. So the hon. gentleman will see it is not necessary to refer to any particular sections; if it were necessary to refer to