

Hon. Mr. LOUGHEED—I would ask my hon. friend, purely out of curiosity, why a warden should be 'a corporation sole' as distinguished from other officers of public institutions?

Hon. Mr. POWER—In order to enable him to make contracts without any trouble, I suppose.

Hon. Mr. LOUGHEED—That would apply equally to officers of other public institutions?

Hon. Mr. SCOTT—That is word for word what is contained in the Revised Statutes.

Hon. Mr. LOUGHEED—Yes, but does my hon. friend know what led up to it? It would apparently be unnecessary to obtain a fiat from the government to institute a suit against the Crown in such a case.

Hon. Mr. SCOTT—It is the same as section 34 of the old Act. He would not be allowed to make contracts otherwise.

On clause 45,

45. The warden shall receive into the penitentiary every convict legally certified to him as sentenced to imprisonment therein, unless certified by the surgeon of the penitentiary to be suffering from any dangerously infectious or contagious disease, and shall there detain him, subject to the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise legally discharged.

Hon. Mr. LOUGHEED—What becomes of the convict if this certificate is made by the surgeon?

Hon. Mr. SCOTT—He is not received. If he was sent from a jail he would have to be sent back again, and they would have to take care of him. Where there are 1,000 in a penitentiary, it would be a very serious matter to admit any convict suffering from a contagious disease.

Hon. Mr. LOUGHEED—If he is sent from a jail, the provincial authorities having once delivered him over to the federal officer for transference to the penitentiary, would refuse to receive him back. It seems to me there should be a clause providing that he be returned from whence he came. Otherwise the provincial authorities will say, 'We have issued the necessary warrant transferring him to the federal authorities and we absolutely refuse to accept him.'

Hon. Mr. SULLIVAN—There is no isolated hospital in any of the penitentiaries, although there is a good one for patients suffering from ordinary diseases. If a convict were found to be suffering from a very slight attack of smallpox, he might not be unwell enough to prevent his coming to Kingston, but he could not be admitted to the penitentiary. They would send him back immediately; there would be no other alternative.

Hon. Mr. FERGUSON—But here is a case in which a prisoner, after having been tried and convicted, receives a long term sentence such as entitles the province to send him to the penitentiary. At the door of the penitentiary he is examined by the surgeon, who finds or claims to find that he has some infectious disease. The question is, what is the status of that prisoner? The long term sentence passed upon him qualifies him for the penitentiary and obliges the federal government to accept him. The federal surgeon finds that he has some infectious disease. What is to be done then? Is he to be sent to the provincial jail, which is not a place where he can be properly incarcerated?

Hon. Mr. McMILLAN—You can't send him back, because the railways would not take him.

Hon. Mr. LOUGHEED—Furthermore, he is not a provincial prisoner. He is a prisoner of the federal authorities. Immediately the judge sentences the man to the penitentiary he then is in the custody of the federal authorities.

Hon. Sir MACKENZIE BOWELL—Would the hon. Secretary of State ascertain how prisoners who contract contagious diseases in the penitentiary are treated now? There are contagious diseases such as typhoid fever which are contracted in the penitentiary, and if the penitentiaries have not isolation hospitals they ought to have.

Hon. Mr. SULLIVAN—I may say that the penitentiaries have splendid hospitals.

Hon. Mr. SCOTT—If hon. gentlemen will refer to clause 44, they will see there that it is the duty of the jail surgeon to certify in the first instance and I will read the memorandum that has been sent me: