Hon. Mr. Hayden: I move that they be concurred in now.

Hon. Mr. Reid: What is the hurry?

Hon. Mr. Hayden: Honourable senators, these amendments are formal in one sense. The first one simply means that under the new Bank Act the banks would have the option of establishing whatever method they preferred for the transfer of their shares. Heretofore the shares could only be transferred on the books of the company, but this amendment would incorporate in the Bank Act the provisions in the Companies Act of Canada dealing with methods of transfer. The second amendment simply strikes out one line in the form in Schedule L. This change does not impair the security of the bank at all, and it relieves the borrower from possible additional expense and possible additional paper work in connection with loans on oil in or upon the ground or otherwise.

The motion was agreed to and the amendments were concurred in.

The Hon. the Speaker: When shall this bill, as amended, be read the third time?

Hon. Mr. Hayden: Now.

Hon. Mr. Reid: Next sitting.

BANK OF CANADA BILL

REPORT OF COMMITTEE

Hon. Mr. Hayden, Chairman of the Standing Committee on Banking and Commerce, presented the report of the commiittee on Bill 297.

The report was read by the Clerk Assistant as follows:

The Standing Committee on Banking and Commerce, to whom was referred the Bill (297 from the House of Commons) intituled: "An Act to amend the Bank of Canada Act", have in obedience to the order of reference of June 8, 1954, examined the said bill and now beg leave to report the same without any amendment.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Mr. Hayden: I move the third reading now.

The motion was agreed to, and the bill was read the third time, and passed.

QUEBEC SAVINGS BANK BILL

REPORT OF COMMITTEE

Hon. Mr. Hayden, Chairman of the Standing Committee on Banking and Commerce, presented the report of the committee on Bill 419.

The report was read by the Clerk Assistant as follows:

The Standing Committee on Banking and Commerce, to whom was referred the Bill (419 from the House of Commons) intituled: "An Act respecting savings banks in the province of Quebec", have in obedience to the order of reference of June 9, 1954, examined the said bill and now beg leave to report the same without any amendment.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Mr. Hayden: I move the third reading now.

The motion was agreed to, and the bill was read the third time, and passed.

CRIMINAL CODE BILL

REPORT OF COMMITTEE—AMENDMENTS CONCURRED IN

Hon. Mr. Hayden, Chairman of the Standing Committee on Banking and Commerce, presented the report of the committee on Bill 7, An Act respecting the criminal law.

Hon. Mr. Macdonald: Honourable senators, as there are quite a number of amendments to this bill it might be well to have the reading by the Clerk Assistant dispensed with, and to ask the Chairman of the committee if he will be good enough to explain them.

For text of the committee's report, see appendix to today's Report of Debates, p. 604.

Hon. Salter A. Hayden moved concurrence in the amendments.

He said: Honourable senators, the first of the amendments contained in the report has to do with the question of appeals in the case of contempt in criminal proceedings. It will be recalled that, in the bill which we sent to the Commons on two occasions, we provided for the first time a right of appeal in respect of a contempt committed in the face of the court. That right was limited to appeal from a sentence, because we felt that in those circumstances, in order to maintain the dignity of the court, there should be no right of appeal from the judge's decision that contempt had been committed. The second thing we did was to provide a right of appeal from conviction and sentence in any cases where contempt had taken place other than in the face of the court. Honourable senators will have read during the last year or so reports of newspaper editors having been hauled to court to answer citations for contempt. It is that type of offence I refer to when I speak of contempt other than in the face of a court.

On the form that the bill was returned here the last time, the House of Commons had changed the provisions governing appeals and had provided for an appeal both from conviction and sentence, whether the contempt was committed in the face of the court or otherwise; but this right was expressed not to be absolute, but only with leave of the court of appeal or a judge of the court of appeal. We debated this change in this chamber and considered it again in committee; we heard representations from the Minister of Justice; and the report of your committee is that the position which we originally took is the sound one. We have therefore restored the appeal provision with respect to contempt which we originally incorporated in the bill.

The second item is an amendment of section 25 of the bill. This amendment was inserted at the request of the Department of Justice. The law as it is contains a provision, which has been in the Code for a very long time, whereunder a police officer may use such force as is necessary in the apprehension or to prevent the escape of a person who is suspected of having committed an offence for which he may be arrested without warrant, the only restriction being that he must not employ more violence than is necessary to accomplish the arrest or prevent the escape. For some reason or other this was omitted in the draft bill of the Criminal Code Revision Commission, and in subsequent redrafts by parliament. The Senate committee, which was asked to insert it, discussed the matter at length, and at the request of one of our members the item even stood over for a number of days. Finally the Minister of Justice made his representations on it, and the committee decided to incorporate it in section 25.

The third amendment has to do with section 68, dealing with the reading of proclamations in connection with riots. In the way in which the section was drafted it appeared that if a justice, mayor or sheriff or the lawful deputy of a mayor or sheriff received notice of a riot, the section was mandatory: the mayor or official in question was required to proceed to the place where the unlawful assembly was supposed to be taking place and read the riot act. It appeared to many senators that, notwithstanding other provisions in the act, there was no discretionary power, and that a situation might occur where the mayor or official, after receiving notice of an unlawful assembly, might get to the place and find a very peaceful gathering. Our amendment provides that when the justice, mayor or sheriff or the lawful deputy of a mayor or sheriff proceeds to the place where persons are supposed to be unlawfully and riotously assembled, he is to satisfy himself that a riot is in fact in progress before he proceeds to read the riot act.

The fourth amendment made by the committee is in connection with the seizure of telephone equipment in a betting house. Section 171 contains an exception which prevents police officers from seizing and destroying telephone equipment in a betting house. But in the complementary section, section 431, persons executing a warrant may seize and detain materials and equipment suspected to be used in the commission of an offence. The exception provided for in section 171 apparently had not been carried through to section 431, and in order to make the law abundantly clear we have amended the bill so as to ensure that the exception against this seizure of telephone equipment applies to both sections 171 and 431.

At the request of the department the committee made an amendment to section 178, dealing with pari-mutuel betting.

Several amendments were proposed by the department in connection with section 400, dealing with the printing of circulars, *et cetera,* in likeness of notes. The amendments have to do with the kind of offences that would be involved, and they have been incorporated in section 400.

Another amendment has to do with the question of *habeas corpus.* In sections 690 and 691 of the bill as it came before our committee there was provision for a hearing, in connection with *habeas corpus* proceedings on the merits, and then a right of appeal. Under the present law a person may apply for a writ of *habeas corpus* on the ground that there is no legal basis for his detention in custody. As the law now stands, if I were instructed on behalf of some person who thought he was so illegally detained I could apply to any judge of the Supreme Court of Ontario and ask him for a writ of *habeas corpus.* If he granted it the writ would be delivered to the jailer, and the jailer would be instructed, under that writ, to deliver up the body of the man detained at a certain day, in order that the question of whether the man was or was not being held legally in custody might be determined. If the judge refused to grant me the writ, I could go to other judges who might be available until I might find one who felt there was some merit in the application, or that there was an issue which should be inquired into; and my rights of appeal in that sense would fail only when I had exhausted the number of judges who were available.

The committee gave serious consideration to the amendments in the bill, and the opinion of the majority of the members—it was almost a unanimous opinion—was that the present procedure should be continued, and that the proposed new procedure should not be adopted, particularly that providing for an appeal after the first refusal by a judge. Under the appeal provision, even if a judge granted the writ of *habeas corpus*, the crown would have a right of appeal, in which case there would be a delay of seven days, for that would be the earliest time at which the appeal could be heard. On the appeal, if it was decided that the man was illegally detained he would have spent that much longer time in illegal detention. We finally concluded that if any judge of the Supreme Court decided there was something to inquire into, the inquiry should go ahead and should not be interfered with by giving the crown a right of appeal at that stage, when all that a judge has to determine is: "On the facts presented to me, is there anything on which there should be some inquiry to determine whether or not the man has been illegally detained?" The judge makes that decision.

The other amendments relate to the French translation of the bill. Apparently some question arose as to the use in certain sections of the proper French word to describe the particular offence, and in some instances members of the committee who are very familiar with the French terminology felt that in some sections the translator had not used the precise word to describe in French the particular offence dealt with in the English text. A number of amendments were passed to correct that situation.

In substance, those are all the amendments I need to deal with now. I wish to add that it is a source of satisfaction that we have the Code in its present form possibly on the last leg of its journey, so to speak, toward enactment. This result has been achieved after the bill has been in committee on three different occasions and considerable time has been spent in reviewing and studying its provisions, and changing them where we thought it necessary.

Although this bill may be passed and become law, I am not too hopeful that no further amendments to the Code will be required from year to year. We may think that certain sections are perfect, but in actual practice, when one runs up against a particular case and it is necessary to apply the law, defects or weaknesses in drafting are often revealed, and it is found that a provision has not been sufficiently expended or narrowed.

Before I take my seat, I want to express my gratitude to the members of the subcommittee and of the main committee that worked on this bill and helped to expedite the bringing of it to the present stage.

Hon. Senators: Hear, hear.

The motion was agreed to, and the amendments were concurred in.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill as amended be read the third time?

Hon. W. Ross Macdonald: Honourable senators, we have heard the honourable senator from Toronto (Hon. Mr. Hayden) explain the amendments very fully. The bill has received very careful consideration both from the committee to which the bill was referred and from this house. It now becomes necessary for the House of Commons to consider our amendments. If honourable senators are agreeable I will move that the bill be read the third time now, so that it may be returned to the House of Commons today.

Hon. John T. Haig: Honourable senators, I concur in what the Leader of the Government (Hon. Mr. Macdonald) has said. This is the most important piece of legislation that the Senate has had to deal with in recent years. A considerable amount of work was devoted to the revision of the Code in two previous sessions, as well as in this one, and when the bill becomes law a very real advance in Canadian criminal jurisprudence will have been made. I think that through its work on this bill the Senate has done itself great credit. In saying so, I am not speaking of myself, but rather in particular of those four or five members who did so much work on the original bill. I wish to pay a special tribute to the chairman of the committee to which this bill was referred (Hon. Mr. Hayden). He rendered great service.

Hon. Senators: Hear, hear.

Hon. Mr. Haig: I pay this tribute to him not only because of his outstanding legal ability but because of the courteous way in which he treated every one of us, even though we did not agree with all his proposals. I appreciate what he said about the possibility of future amendments to the Code. We cannot expect any legislation to be perfect, and from time to time after this law has been tested in the courts some amendments will no doubt be found necessary. While I am a lawyer I have not had a great deal of experience in criminal practice and am not an authority on the subject. However, I can

assure the house that in the consideration of this bill in committee every attempt was made to give the benefit of any doubt to an accused person and to ensure that an innocent person would not be deprived of his freedom.

Historically speaking, this has been an interesting piece of legislation. The original bill that came to us was drafted by the Criminal Code Revision Commission, and while I do not direct any criticism at the members of the commission it can be said they were people who had been engaged more or less on the crown's side of the law. When that early bill came before the subcommittee of our Committee on Banking and Commerce it was considered by men who for the most part had been on the side of the defence. Obviously, after years of experience along a certain line, one forms his own ideas of things.

Speaking for the members of the committee which passed upon the bill now before us, I can say that the bill is the embodiment of British justice. I feel sure that it represents a great advance in criminal law, and that in the years to come senators will stand up in this house and pay tribute to the men and women of the Senate of 1951-54 for the service they rendered in helping the Parliament of Canada to enact a reasonably sound criminal code.

Hon. Senators: Hear, hear.

The motion was agreed to, and the bill as amended was read the third time, and passed.

CANADIAN NATIONAL RAILWAYS BILL

CONSTRUCTION OF LINES IN QUEBEC AND ONTARIO—REPORT OF COMMITTEE

Hon. A. K. Hugessen, Chairman of the Standing Committee on Transport and Communications, presented the report of the committee on Bill 442.

The report was read by the Clerk Assistant as follows:

The Standing Committee on Transport and Communications, to whom was referred the Bill (442 from the House of Commons) intituled: "An Act respecting the construction of lines of railway by Canadian National Railway Company from St. Felicien to Chibougamau and from Chibougamau to Beattyville, all in the province of Quebec, and from Hillsport on the main line of the Canadian National Railways to Manitouwadge Lake, both in the province of Ontario", have in obedience to the order of reference of June 3, 1954, examined the said bill, and now beg leave to report the same without any amendment.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Mr. Aseltine: Next sitting.

ADJOURNMENT

Hon. Mr. Macdonald: Honourable senators, I move that when this house rises today it stand adjourned until Tuesday next at 3 p.m.

I would remind honourable senators that, in accordance with the notice read by His Honour the Speaker, Royal Assent will take place at 5.45 this afternoon, and the whips are anxious to have as many senators in attendance as possible.

FEMALE EMPLOYEES IN CIVIL SERVICE

INQUIRY AND ANSWER

Hon. Muriel McQ. Fergusson inquired of the government:—

1. What was the number of permanent and temporary female employees in the Federal Civil Service, as of October 31, 1953?
2. How many of these employed women are single?

Hon. Mr. Macdonald: The answer to the first question asked by the honourable senator is as follows:

1. As of October 31, 1953, there were in the government service of Canada 30,389 women of whom 23,149 were temporary and 7,240 permanent employees.

The second question asked by the honourable senator is not as easily answered. I regret to say that I have been unable to obtain the information requested.

Hon. Mr. Howard: We want to know.

Hon. Mrs. Fergusson: Honourable senators, perhaps I worded my second question awkwardly, but I thought that the Civil Service kept a record of the status of their employees. I seem to recall from my own experience that employees are asked about their marital status, and I wonder if the Civil Service does not have some record which would provide that information.

Hon. Mr. Macdonald: I shall be glad to make a further inquiry to ascertain whether it is possible to get the information which the honourable senator seeks. I am glad she did not ask me the ages of the female employees, for that information might be still more difficult to obtain.

CRIMINAL CODE (RACE MEETINGS) BILL

THIRD READING

On the Order:

Third reading of Bill (Q-15), intituled. "An Act to amend the Criminal Code (Race Meetings).—(Hon. Senator Macdonald).

Hon. Mr. Macdonald: Honourable senators will recall that this bill received second reading yesterday afternoon. I was under the impression at that time that the Banking and Commerce Committee's report on Bill 7

APPENDIX

(See page 584.)

The Standing Committee on Banking and Commerce, to whom was referred the Bill (7 from the House of Commons) intituled: "An Act respecting the Criminal Law", have in obedience to the order of reference of 11th May, 1954, examined the said bill and now beg leave to report the English version of the bill with the following amendments:

1. Page 10, lines 1 to 9: strike out clause 9 and substitute therefor the following:

"9. (1) Where a court, judge, justice, or magistrate summarily convicts a person for a contempt of court committed in the face of the court and imposes punishment in respect thereof, that person may appeal against the punishment imposed.

(2) Where a court or judge summarily convicts a person for a contempt of court not committed in the face of the court and punishment is imposed in respect thereof, that person may appeal

(a) from the conviction, or

(b) against the punishment imposed.

(3) An appeal under this section lies to the court of appeal of the province in which the proceedings take place, and, for the purposes of this section, the provisions of Part XVIII apply, mutatis mutandis."

2. Page 13, lines 8 to 14: strike out subclause (3) of clause 25 and substitute therefor the following:

"(3) Subject to subsection (4), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless he believes on reasonable and probable grounds that it is necessary for the purpose of preserving himself or any one under his protection from death or grievous bodily harm.

(4) A peace officer who is proceeding lawfully to arrest, with or without warrant, any person for an offence for which that person may be arrested without warrant, and every one lawfully assisting the peace officer, is justified, if the person to be arrested takes flight to avoid arrest, in using as much force as is necessary to prevent the escape by flight, unless the escape can be prevented by reasonable means in a less violent manner."

3. Page 24, line 42: after "do", insert the words "if he is satisfied that a riot is in progress,"

4. Page 57, lines 43 to 49: strike out subclause (6) and substitute therefor the following:

"(6) Nothing in this section or in section 431 authorizes the seizure, forfeiture or destruction of telephone, telegraph or other communication facilities or equipment that may be evidence of or that may have been used in the commission of an offence under section 176, 177, 179 or 182 and that is owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of such a person."

5. Page 61: immediately after line 38 insert the following as subclause (2) and re-number the subsequent subclauses accordingly:

"(2) Subsection (1) does not apply in respect of a race meeting conducted by an association mentioned in subparagraph (i) of paragraph (c) of that subsection in a province other than a province in which the association, before the 1st day of May, 1954, conducted a race meeting with pari-mutuel betting under the supervision of an officer appointed by the Minister of Agriculture."

6. Page 62, line 19: strike out "(2) and (3)" and substitute therefor "(3) and (4)".

7. Page 134, line 14: insert after "400." "(1)".

8. Page 134; immediately after line 22, insert the following as subclauses (2) and (3):—

"(2) Every one who publishes or prints anything in the likeness or appearance of

(a) all or part of a current bank note or current paper money, or

(b) all or part of any obligation or security of a government or a bank,

is guilty of an offence punishable on summary conviction.

(3) No person shall be convicted of an offence under subsection (2) where it is established that, in publishing or printing anything to which that subsection applies,

(a) no photography was used at any stage for the purpose of publishing or printing it, except in connection with processes necessarily involved in transferring a finished drawing or sketch to a printed surface,

(b) except for the word 'Canada', nothing having the appearance of a word, letter or numeral was a complete word, letter or numeral,

(c) no representation of a human face or figure was more than a general indication of features, without detail,

(d) no more than one colour was used, and

(e) nothing in the likeness or appearance of the back of a current bank note or current paper money was published or printed in any form."

9. Page 238, lines 10 to 18: strike out clause 690 and substitute therefor the following:—

"690. Nothing in this Act limits or affects any provision of the Supreme Court Act that relates to writs of *habeas corpus* arising out of criminal matters."

10. Page 238, lines 19 to 32: strike out clause 691 and substitute therefor the following:—

"691. (1) An appeal lies to the court of appeal from a decision granting or refusing the relief sought in proceedings by way of *mandamus*, *certiorari* or prohibition.

(2) The provisions of Part XVIII apply, *mutatis mutandis*, to appeals under this section."

Your committee beg leave to report the French version of the bill with the following amendments:

1. In the title: Delete "pénal", and substitute therefor "criminel".

2. Page 1, line 5: Number from (1) to (44), inclusively, the 44 definitions prescribed in clause 2, according to their French alphabetical order.

3. Page 7, line 19: Delete "tout", and substitute therefor "une débenture,".

4. Page 8, line 7: Delete "(32)", and substitute therefor "(7)".

5. Page 8, lines 15, 20 and 25: Delete "(42)", and substitute therefor "(41)".

6. Page 8, line 21: Delete "de l'immeuble", and substitute therefor "des biens-fonds".

7. Page 9, line 25: Delete "pénal", and substitute therefor "criminel".

8. Page 12, line 24: Delete "provoquée", and substitute therefor "incitée".

9. Page 37, line 33: Delete "pénal", and substitute therefor "criminel".

10. Page 96, line 15: Immediately after the word "billet", insert "une débenture".

11. Page 148, lines 1 and 2: Delete "prévoit expréssément le contraire", and substitute therefor "y pourvoit expressément de façon différente".

12. Page 148, lines 26 and 27: Delete "prévoit expressément le contraire", and substitute therefor "y pourvoit expressément de façon différente".

13. Page 149, lines 1 and 2: Delete "prévoit expressément le contraire", and substitute therefor "y pourvoit expressément de façon différente".

14. Page 153, lines 10 and 11: Delete "prévoit expressément le contraire", and substitute therefor "y pourvoit expressément de façon différente".

15. Page 156, line 2: Delete "pénale", and substitute therefor "criminelle".

16. Page 231, lines 45 to 48: Delete clause 624 (1), and substitute therefor:

"624.(1) Une sentence commence au moment où elle est imposée, sauf lorsqu'une disposition applicable y pourvoit de façon différente ou que la cour en ordonne autrement".

17. Page 236, line 17: Delete "Sauf dispositions contraires", and substitute therefor "Sauf lorsqu'il y est autrement pourvu".

18. Page 236, line 44: Delete "sauf dispositions contraires", and substitute therefor "sauf lorsqu'il y est autrement pourvu".

19. Page 259, line 1, Delete "Sauf si la loi prévoit le contraire", and substitute therefor "Sauf si la loi y pourvoit différemment".

20. Page 268, line 34: Delete "contraires", and substitute therefor "différentes".

21. Page 270, line 19: Delete "consentent au contraire", and substitute therefor "en conviennent autrement".

22. Page 275, lines 40 and 41: Delete "décision contestée", and substitute therefor "date à laquelle a été rendue la décision mise en question".

23. Page 283, lines 4 and 17: Delete "pénal", and substitute therefor "criminel".

24. Page 296, Form 14: Last line of the last paragraph: Delete "contraire" and substitute therefor "différent".

25. Page 299, Form 17: Last line of the last paragraph: Delete "qu'on l'en sorte", and substitute therefor "qu'il soit livré en d'autres mains".

26. Page 302, Form 20: Second last line of the last paragraph: Delete "qu'on l'en sorte", and substitute therefor "qu'il soit libéré".