HOUSE OF COMMONS

Tuesday, June 15, 1954

The house met at eleven o'clock.

EXTERNAL AFFAIRS

SUGGESTED VISIT TO OTTAWA BY SIR WINSTON CHURCHILL AND MR. EDEN

On the orders of the day:

Hon. George A. Drew (Leader of the Opposition): Mr. Speaker, I wish to direct a question to the Prime Minister. May I ask whether, in view of the announcement which has just been made that Sir Winston Churchill and Mr. Eden are going to fly to Washington on June 25, the Prime Minister will consider inviting them to come to Ottawa for a discussion of Asian problems, and also for a possible conference of commonwealth ministers to consider problems affecting nations of the commonwealth in common at this time.

Right Hon. L. S. St. Laurent (Prime Minister): The matter will receive consideration, Mr. Speaker.

MOTOR VEHICLE TRANSPORT

PROVISION FOR REGULATIONS OF INTERPROVINCIAL AND INTERNATIONAL HIGHWAY TRANSPORT

Hon. Stuart S. Garson (for the Minister of Transport) moved the third reading of Bill No. 474, respecting extra-provincial motor vehicle transport.

Mr. Speaker: Is it the pleasure of the house to adopt the motion?

Some hon. Members: Agreed.

Mr. Fleming: On division.

Motion agreed to on division and bill read the third time and passed.

NATIONAL PHYSICAL FITNESS ACT

REPEAL OF EXISTING LEGISLATION

Hon. Paul Martin (Minister of National Health and Welfare) moved the second reading of Bill No. 475, to repeal the National Physical Fitness Act.

Motion agreed to, bill read the second time, considered in committee and reported.

Mr. Speaker: When shall the bill be read a third time?

Some hon. Members: Now.

Mr. Knowles: By leave.

Mr. Martin moved the third reading of the bill.

Motion agreed to and bill read the third time and passed.

CRIMINAL CODE

REVISION AND AMENDMENT OF EXISTING STATUTE —CONCURRENCE IN SENATE AMENDMENTS

Hon. Stuart S. Garson (Minister of Justice) moved the second reading of and concurrence in amendments made by the Senate to Bill No. 7, respecting the criminal law.

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, I wish to say just a few words—

Some hon. Members: Hear, hear.

Mr. Knowles: Maybe I will change my mind about that. I wish to say just a few words in support of the motion that we concur in the amendments to the Criminal Code which have been made by Their Honours in the other place.

According to *Votes and Proceedings* for Thursday, June 10, as recorded at pages 732 to 734 Their Honours have proposed a total of 10 amendments. Some of them are purely a matter of renumbering in consequence of other changes made. But I wish to say that, so far as we can ascertain, and so far as they go, all of the changes proposed by the Senate are acceptable to us. Indeed, there are two of the changes we are very pleased Their Honours saw fit to make. And I am glad to note the smile on the face of the Minister of Justice (Mr. Garson). I take it that smile means he is pleased that the Senate made those changes—

Mr. Fleming: It does not mean a thing.

Mr. Knowles:—despite the fact that he opposed us when we tried to achieve the same results when the bill was in the House of Commons.

I would refer first to the change with respect to applications for writs of habeas corpus. As the Minister of Justice is aware, this is a matter that was discussed at considerable length in our own committee on which the hon. member for Vancouver-Kingsway (Mr. MacInnis) and the hon. member for York South (Mr. Noseworthy)

were our representatives a year ago. It was their contention, as it was the contention of members from other parties on the committee, that the rule respecting habeas corpus should remain the way it was. The minister succeeded in persuading the majority to go along with the change he proposed, and that change was included in Bill No. 7 when it went from this house to the other place.

By virtue of the ninth of the proposed amendments now before us, the Senate has now put the law respecting habeas corpus back in the position in which it was prior to the introduction of this bill. We think that is a good idea, and we are glad the Senate has made that change. I might also say that the proposal that the question of habeas corpus be reconsidered was the subject of a subamendment moved by the hon. member for Kamloops (Mr. Fulton) when we reached third reading of the bill in this house. Therefore I am sure he as well as others will likewise be pleased that this change has been made.

Another change included in these amendments has to do with the reading of the riot act. The third of the ten amendments proposed by the Senate calls for the insertion of certain words after line 42 on page 24 of Bill No. 7. The proposal is that the words "if he is satisfied that a riot is in progress" shall be inserted in clause 68. The effect of that change would make clause 68 read as follows:

> A justice, mayor or sheriff or the lawful deputy of a mayor or sheriff who receives notice that, at any place within his jurisdiction, twelve or more persons are unlawfully and riotously assembled together, shall go to that place and, after approaching as near as safely he may do, if he is satisfied that a riot is in progress, shall command silence and thereupon make or cause to be made in a loud voice a proclamation in the following words or to the like effect.

Then follows the formula that has to be read out on such an occasion. As I say, we are glad that that addition is being made, namely, the inserting of the words "if he is satisfied that a riot is in progress".

As we indicated when we were in committee on the bill—I recall particularly the remarks made by the hon. member for Cape Breton South (Mr. Gillis)—we are still not satisfied with the law respecting the riot act in all of its details. We are concerned in particular as to the various persons down the line who can read the riot act; but at any rate this is a slight improvement, and we welcome it as such.

Most of the other changes proposed by the Senate amendments are technical in character, and we see no objection to any of them. Indeed, there are several others that we welcome.

There is another word I wish to say, Mr. Speaker. It is this: I am sorry that Their Honours did not pay the same attention to the amendment we moved to third reading in this house as they appear to have paid to the subamendment that was moved at that time. As I indicated a moment ago, there was a subamendment asking for reconsideration of the clauses having to do with habeas corpus. Their Honours have paid attention to that request. But there was also our amendment in this house asking that reconsideration be given to clauses 365 and 372, having to do with criminal breach of contract and with mischief. I regret that Their Honours did not see fit, as a result of their consideration, to recommend changes in those two clauses along the lines that we advocated when the bill was in the house, in order that the rights of labour might be fully protected.

I recognize, Mr. Speaker, and I am reminded of it by the look in your eye, that we cannot at this stage discuss matters beyond the scope of the amendments proposed by Their Honours, and the look in your eye is getting to the point where I realize I must not transgress any further. I merely express my regret that these sections have not been altered as we suggested, but we are pleased to welcome such improvements as Their Honours have made in this bill.

Hon. George A. Drew (Leader of the Opposition): Mr. Speaker, I wish to refer to the one amendment, or the one change, that has been made in the contempt of court proceedings. I do so because there is still an opportunity for the Minister of Justice (Mr. Garson) to deal in committee with a problem that is not solved merely by providing the right of appeal. This subject has been discussed earlier. The right of appeal in itself provides some measure of protection in a field where protection did not exist in the earlier provisions of the code; but I submit that there is still reason to give consideration to the introduction of something that would offer a guide to the courts in determining what shall be contempt in the face of the court or from outside the court, and also some gauge as to what the penalty should be.

Perhaps it is only when we come to discuss a subject of this kind that we find to our surprise that there are still mediaeval survivals of law that we have inherited. The British system of law that was adopted in this country from the long-established practice, and incorporated in the Criminal Code for the whole of Canada, has carried forward not only the provisions of the code itself, but certain other long-established practices. It

is necessary to go back a very long way to find the root of this extremely important question of contempt of court. One might say that before 1066 it was the law of the jungle in many respects. After that date, kings began to appoint lawyers to represent and to adjudicate the issues arising between individuals among the people and also between the crown and the people. Later it was found that grievances against the crown itself needed to be dealt with. This led to the appointment of a lawyer to consider these grievances, and that was the genesis of the chancellery division of the court in the United Kingdom which has given so much to our law. However, those judges in the early days, answerable only to the king and in no sense to parliament, were of necessity compelled to protect the authority of the courts. Since they acted in large measure simply upon their appointment by the crown and not under laws passed by parliament, it was natural that they themselves should be given authority to enforce respect for the courts over which they presided.

In those days it became necessary to devise very stern measures against those who in any way indicated a lack of respect for the authority of the courts. We have inherited that common law practice. Bit by bit some attempt has been made to define different types of contempt of court. As was pointed out on earlier occasions, there have been amendments to the Criminal Code dealing with specific forms of contempt. There is, however, that broad question of contempt of court by the press, by writers, either in the court or outside the court, which is yet undefined by statute and in respect of which we are still carrying on with the inherited common law practices which were adopted in this country and which leave to the judge the responsibility for deciding what the law is, the responsibility for deciding what the penalty will be, as well as deciding whether the person charged is guilty of the offence and subject to punishment for that offence. The right of appeal from such a decision, which will now be accorded if the proposed amendment is adopted in regard to appeal from punishment for contempt of court, will undoubtedly be a substantial improvement. It will undoubtedly offer some opportunity for a second consideration of the circumstances under which the statements were made, and the appropriate penalty which should be imposed.

Nevertheless, I would point out that this is still not consistent with our fundamental principles inherent in the rule of law that every person shall know what the law is, and that before they can be haled into court and punished there must be some provision which defines the offence and measures the punishment that should be meted out in the event that the person is found guilty.

We still will have no such definition of the law. We still will have no such measure of the penalty. What happens in the case of an appeal is simply that we multiply the number of judges whose discretion will be exercised in determining what the law is and what the penalty should be.

In saying this I am not, nor is any other member of this house, in any way reflecting upon the judgment exercised by the judges of this country, nor is any hon. member of this house questioning the necessity for some procedure by which respect for the authority of our courts can be maintained.

It is obvious that when criminal proceedings are taking place there should be some procedure by which the judge responsible for the fair trial of the individual or individuals being tried for any offence shall be able to assure the fair, impartial, and unprejudiced trial of the individual or individuals affected. I am sure there is not a single hon. member of this house who would not feel it is essential that some such authority exist.

Having said that, can we be satisfied in the face of the evidence before us that we are observing the fundamental principles of the rule of law when we still leave undefined what contempt of court may be in the case either of the press or of individuals in commenting upon some case before the court?

May I emphasize, Mr. Speaker, that it is not only the press, but it may be an individual as well, whose comments might be challenged. I spoke of the press particularly when this subject was before us on an earlier occasion, because there have been a number of cases where contempt of court by the press has been a subject of widespread discussion throughout the country; and particularly, having regard to the fact that the offence is undefined, we are called upon to discuss this subject from a new point of view because of a warning issued by the chief justice of Newfoundland to the effect that there should be no discussion and no publication of the pleadings in civil proceedings.

I pointed out on that occasion that this is a new concept of contempt of court in this country. Ordinarily it is in fact part of the assurance of justice itself that civil proceedings may be published and that the discussion of the civil trial and of everything related to that trial may be carried in the press. This has been regarded as part of

the open, public, and free trial which assures Canadians that kind of open-handed justice of which we have been so proud.

In the case of the press, which serves to protect the freedom of the individual by reporting trials of this kind, there is a very real necessity for some understanding as to what will or will not constitute contempt of court.

May I say most emphatically that I am not questioning for one moment that in the case of some of those statements published in recent years, which have led to contempt of court proceedings, which were widely discussed throughout Canada, there was some need for restraint on discussions such as then took place.

However, the recent warning issued by the chief justice of Newfoundland—with particular reference to one of the newspapers there and in fact, I believe, to both newspapers in the city of St. John's—leaves the newspapers as well as individuals uncertain as to what may or may not be discussed in regard to civil proceedings, as well as criminal proceedings, which are now before the courts in that province at this time. I am in no way referring to the merits of the issues before the courts. I am referring only to the effect of such a general warning in regard to what should be regarded as the law relating to contempt of court.

If in any one province, under our criminal law and under our inherited law, it is possible to prevent discussion of civil proceedings, then that might very well be followed in other provinces, and the long established practice of fair comment about trials in our courts might be limited to an extent where the security of the individual might conceivably be substantially lessened through the blanket of silence that could now be thrown around trials that have taken place in the past so openly in this country.

We do not want to have the right of any individual before the courts impaired in any way. We do not want the trial of any individual prejudiced. Most certainly in the case of a person charged with some serious criminal offence it is of the most vital importance that nothing shall be said by the press or by anyone else that could conceivably prejudice the jury or lessen the possibilities of a completely fair trial.

Having said that, it is equally part of our long-established judicial proceedings in this country that there shall be an open trial which shall be known to the public so that if in any individual case injustice may be done in the opinion of the public, then reform may be proposed to parliament itself, which is the final authority in this case. It is the parliament of Canada which must decide, and I am still earnestly suggesting that at this time the Minister of Justice consider the advisability of defining in some way what contempt of court will be, and place some guide before the judges as to the nature of the penalty that may be imposed.

I repeat that in providing an appeal we shall have provided the opportunity for a second consideration. The appellate court in each province will be able to decide whether, in the collective judgment of the judges of that court, the penalty which was declared and the penalty imposed were fair and just under the circumstances. But now that this subject is before us, in these days when the difference between the rule of law and the rule of complete state authority is perhaps the thing that defines two systems of life as much as anything else, I believe that we should take this occasion to establish the rule of law not only for the advantage of individuals in this country but for the advantage of the judges themselves who are called upon to maintain the dignity and responsibility of the courts.

Mr. E. D. Fulton (Kamloops): Mr. Speaker, I would have thought that before we were asked to adopt these amendments we might perhaps have from the Minister of Justice a word as to whether the government itself concurs in every amendment proposed by the Senate to this bill.

Mr. Garson: In view of the point which my hon. friend has raised, Mr. Speaker, I may say that the government concurs in every amendment proposed by the Senate.

Mr. Fulton: I thank the minister for that information. Of course we are in a position where it is desirable to bring this matter to some final conclusion. The bill has now been in the process of consideration for going on, I suppose, six years altogether. We are now, one would hope, getting towards the end of this session and it would seem perhaps rather pointless to get into a conflict with the Senate over the details of amendments which, as has been suggested, are not in themselves extensive. To make any amendments to these proposed amendments would, of course, involve the possibility of long conferences and might just delay the passage of the bill at this session. I do not think that would be a desirable result. It is therefore not our intention to move any amendments at this stage, although I must say that I would otherwise have been somewhat tempted to do so.

The amendments that, in my opinion, the Senate should be asked to reconsider are

their first and second proposed amendments. But that is something that can be done at a later date, in another year, by a positive motion to amend the Criminal Code. Such a motion would not create the difficulties which otherwise might be created if one were to move these amendments now. I will therefore just indicate the thoughts we have on the matter so that they may perhaps be taken under consideration by the government.

In dealing with the first amendment which covers the subject of contempt of court so admirably summarized by the Leader of the Opposition (Mr. Drew) a moment ago, may I say that I realize that the Senate has to some extent gone further than this house went when it adopted Bill No. 7. Since this problem of contempt of court is becoming a rather vexed one, and since some judges, I think it is fair to say, have of late shown a high degree of sensitivity as to what constitutes a contempt of court, I would think that we should provide an appeal not only against the punishment but against the conviction, even in the case of a conviction for contempt in the face of the court. The Senate has made this change. As Bill No. 7 went to them, it was necessary to obtain the leave of a judge of the court of appeal to appeal in any event. They have removed that necessity. As we had left it, if that leave to appeal were granted, the convicted person could appeal either the conviction or the sentence, even in the case of contempt in the face of the court. I think it would be desirable—and I think consideration should be given to it for another year—to provide an appeal from the conviction even for contempt in the face of the court. I am prepared to admit that there would not be many cases where such an appeal would be taken or where it would succeed. I suppose, generally speaking, we all know what constitutes a contempt in the face of the court. But in view of what I have called, and after some reflection consider to be, a tendency towards undue sensitivity on the part of some judges with respect to what is actually contempt of court and what is not, I make that observation or suggestion.

Then with respect to the second amendment made by Their Honours, as found at page 733 of our *Votes and Proceedings* for June 10, I must say—and I say this with due respect, and particularly with respect for the highly qualified lawyers who sat on this matter over there—that their proposed subsection 4 of clause 25 strikes me as being unnecessary and redundant. I am going to read to the committee the wording of their proposed subsection 4 which is as follows:

> 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.

I would ask anyone who is interested in the matter what this means. I would be glad of any assistance in establishing just what is meant by those last three lines:

> . . . is justified . . . 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.

That provision seems to me to be a contradiction. In the first place, you state he is justified in using as much force as is necessary to prevent the flight. Therefore he is only justified in using force if it is necessary.

Mr. Garson: I wonder whether my hon. friend would permit me to interject something very briefly?

Mr. Fulton: Yes.

Mr. Garson: May I say that this clause which he is criticizing has been part of the Canadian criminal law for a great many years; I believe it has been so ever since 1892. It is the section which is provided in the existing code, namely section 41, for the protection of peace officers and persons assisting peace officers in preventing escape. The reason this section was, as a Senate amendment, introduced in the Senate is that the royal commission, the Department of Justice, the Senate and the House of Commons all had previously overlooked it. There is not any question at all as to the need for it. I am rather surprised that my hon. friend is criticizing it in any respect.

Mr. Fulton: The minister may be surprised but that does not lessen the validity of the criticism. Section 25 is a consolidation of sections 23 to 27, 29, 30 to 37, 39 and 41 to 45.

Mr. Garson: This provision was left out by an oversight.

Mr. Fulton: An attempt to consolidate that many sections must obviously involve change in the wording.

Mr. Garson: No; there is not any change in this wording. If my hon. friend will examine the existing code, I think he will see that this amendment is a verbatim copy of present Criminal Code section 41.

Mr. Speaker: Order.

Mr. Fulton: You cannot consolidate about 18 sections into one section without changing the wording.

Mr. Garson: If my hon. friend will look at this section he is criticizing and compare it carefully with section 41 of the existing code, he will see that the sections are identically the same.

Mr. Fulton: That may be so. This proposed subclause may be identical with the wording of one of the former clauses of the Criminal Code. However, the point is that in the consolidation produced and presented to us in section 25, the matter of using force and of the force that may be necessary to effect arrest has been fairly carefully worked out and worded. The three subsections of clause 25 as passed by the house seem to me to cover pretty adequately the circumstances under which the use of force may be necessary. The fact is that we have in clause 25 now an outline of the amount of force that may be used in the concluding words of subsection 1 which reads as follows:

> . . . is, if he acts on reasonable and probable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

Then, we have in addition the safeguard of subsection 3 which makes it clear that a person is not justified "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". Therefore it would appear that the amount of force which may be used is quite adequately set out in the present three subsections. We now have this one added, and I am not at all dismayed by the fact that it may have existed in exactly the same wording in one of the old sections of the code.

What I am suggesting, in view of the consolidation represented by the first three subsections of the new section, is that this one is not really necessary and that added as it is now it creates confusion because it is already set out that a person is justified in using force if necessary and therefore if it is not necessary to use force he is not justified in using it. Nothing could follow more clearly than that from the words of the present section 25. After all, the infliction of death or grievous bodily harm is already a crime. Therefore, even under section 25 you would only be justified in doing that which inflicted bodily harm if it were necessary to do it. I can see no reason for restating that simple and obvious proposition under the proposed subsection 4 added by the Senate, particularly when there seems to be a contradiction contained in the last three lines where it says in effect that he is justified in using as much force as is necessary—again that limitation—unless the escape can be prevented by reasonable means in a less violent manner.

If he does not have to use force to prevent the escape then he is not justified in using force at all, and that would be the situation without the addition of the last words there, "unless the escape can be prevented by reasonable means in a less violent manner". In view of the consolidation represented by the first three subsections, I think there is an unnecessary and confusing addition involved in this subsection 4. If it is felt necessary to add anything at all, I think it would be more consistent with the wording of the first three subsections if the words used were something to this effect: "is justified only in using as much force as is necessary to prevent the escape by flight" or "is justified in using only so much force as may be necessary to prevent the escape by flight".

That, it seems to me, would reflect the meaning more clearly than what is set out here because, as I say, it seems to me that there is a contradiction. First you say that he is justified in using force if necessary. Then you say he is not justified in using force if it is not necessary. It does not seem to me to be necessary to add the second qualification. Therefore I think it is not the best draftsmanship which could have been devised for the purpose of this consolidation.

These are the only two observations I wish to make with respect to the proposed amendment. As I say, we would have moved an amendment ourselves, particularly with respect to the contempt matter, had it not been for the fact that at this stage of the session it might have involved us in a protracted discussion with the other place and therefore delayed the session, and also because we can give more consideration to the matter and can bring it forward as a substantive motion at another session if it should then still be considered necessary.

Mr. Angus MacInnis (Vancouver-Kingsway): Mr. Speaker, it is not my intention to debate this matter. I rise to say that I regret that it has been considered necessary to debate it at all because nothing seems more futile to me at this stage than to debate amendments made by the other place if the government, as I understand is the case, is willing to accept them. As the hon. member for Kamloops (Mr. Fulton) said before he sat down, these questions are far-reaching, and if changes are to

be made I think of necessity they must be made at the next or some future session of parliament when we will have plenty of time to debate them.

I have been closely associated with the study of the Criminal Code. Because of that I studied the amendments made by the other place very carefully and on the whole I think they have resulted in a slight improvement. I must admit that I could not see the reason why some amendments were made but then I am not learned in the mysteries of the law. However, I felt that they did not take away materially from what had been done by the house. There is nothing we can do now unless we wish to have a conference with the other place, and I do not think there is anything of sufficient importance for that. Therefore why should we not let this measure go through?

Motion agreed to, amendments read the second time and concurred in.

CRIMINAL CODE

LIMITATION ON OPERATION OF PARIMUTUEL BETTING

Right Hon. J. G. Gardiner (Minister of Agriculture) moved the second reading of Bill No. 476, to amend the Criminal Code (race meetings).

Mr. Charlton: Is the minister going to explain the bill?

Mr. Gardiner: Mr. Speaker, the amendments made by the Senate to the Criminal Code which we have just discussed contain a reference to this particular matter. However, the Criminal Code does not come into effect until January and it is thought to be advisable that in the interval between now and that time the same provisions of the Criminal Code should apply. This bill has been considered in the Senate and comes here now, and its purpose is to make that possible.

The purpose of the amendment is to ensure that a racing association that has been incorporated in one province shall not be entitled to conduct race meetings with parimutuel betting on racetracks that it acquires in another province. It simply prevents a racing association which has a charter in the province of Manitoba, let us say, from transferring that charter to the province of Ontario or Quebec or some other province and conducting races with parimutuel betting with inspection by our department. The natural way for them to get a charter to conduct racing in the other province is to go to the province itself and obtain the right to conduct racing there rather than to simply transfer a charter from one province to another and conduct races as the result of having done so.

Hon. George A. Drew (Leader of the Opposition): Mr. Speaker, I am not going to deal with the contents of the bill except to point out to the Minister of Justice (Mr. Garson) that the very fact we have this bill before us indicates how easy it would be for him to provide an amendment in a separate measure defining the subject I have already discussed.

Mr. Speaker: Order.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Robinson (Simcoe East) in the chair.

On clause 1—*Operation of parimutuel system.*

Mr. Charlton: I think probably we realize the objects of this measure, but I think some little explanation is needed as to the wording. As the amendment is worded here it says:

(2a) Subsection (2) does not apply in respect of a race meeting . . .

And that is to be inserted immediately after subsection 2 of section 235 of the Criminal Code, chapter 36 of the Revised Statutes of 1927. It is true that there is a section 2 where this amendment could come in, but later in this amendment there is a reference to subparagraph (i) of paragraph (c). Well, there is no subparagraph (i) of paragraph (c) in chapter 36 of the Revised Statutes of 1927, so I should like the minister to explain that.

Mr. Gardiner: It is paragraph 1.

Mr. Charlton: But it has a dot over the "i"; subparagraph (i) is under paragraph (d) in the first subsection of section 235. There is a slip-up some place.

Mr. Gardiner: Paragraph (c) relates to bets made or records of bets made through the agency of the parimutuel system only as hereinafter provided upon the race course of any association. Then, there is subparagraph one, which is an "i" with a dot over it, and if you are continuing the same kind of numbering you put two "i's" with a dot over them. These are just different ways of marking the subsections of an act. Then, in this case they continue with sections A, B, and then there is subsection two, which has two "i's" and then it goes on with subsection three and four which is in Roman numerals IV. It is the Roman numeral method of marking the section.

Then, at the end of the whole numbering you will notice it is not Roman numerals that

are used but the Arabic and you have 3, 4, 5 and 6. It is then that this particular section will come, at the end of all that that has to do with 2, and we will put (2a).

Mr. Charlton: That is not the way it is in the Revised Statutes of 1927.

Mr. Garson: There have been amendments.

Mr. Charlton: Why is it different, when it refers back to the revised statutes?

Mr. Gardiner: We have amended it two or three times.

Mr. Michener: Has the minister any particular place in mind? Could he give us an example of what he has in mind?

Mr. Gardiner: That has been going on for some time, since some amendments were made before. It has been the practice to move from one race meet to another within a province, and it has also been the practice to move from one race course in a province to one in another province. There was no justification for having this movement. It was thought there would be a tendency probably to go back and get a racing charter that has started away back at the beginning of this century, start to have races under it, and then move it out of that province to another. It was thought it would be more reasonable for anyone who wanted to race in a particular province to go to the authorities in that province and get the right to race, rather than simply transfer the racing charter from one province into another.

Mr. Michener: I was wondering whether there was a specific instance to which the minister could refer.

Mr. Gardiner: I could give a number of instances.

Mr. Michener: No, but one specific instance.

Mr. Gardiner: There may be a few that might be left. There may be some in British Columbia or in my province, Saskatchewan. I think probably there are one or two in Saskatchewan and some elsewhere. I believe this section should not provide a way of getting any further racing charters in a province where, perhaps, the races can be run to better advantage than in the province where the charter is now. They should not be able to simply transfer that charter into another province where there is more likelihood they will be able to make more money by having the races there. It is thought they should go to the government of that province and get the right to run the races there.

Mr. Pearkes: Would this provision affect any programs that have been already arranged by an association for a meeting this year?

Mr. Gardiner: No, they will have complied with the law as it is. It will not be made retroactive.

Mr. Pearkes: It will not be retroactive to any association that has made provisions to hold a meeting in another province this year?

Mr. Gardiner: No.

Mr. Knowles: I have one or two questions to ask. My first question is as to draftsmanship. Should section one of this bill not have in it the words, "as amended"? Is it the usual practice to say section 235 of the Criminal Code, chapter 36 of the Revised Statutes of Canada, 1927, is amended? Should it not be "as amended," or perhaps "as amended by chapter 25 of the statutes of 1951", is further amended by such and such?

Mr. Garson: No, I do not think so. What I might point out here is that this is just the counterpart of a similar provision that is contained in the Senate amendments to Bill No. 7.

Mr. Knowles: But that does not answer the point we are raising now.

Mr. Garson: No, I know, but this amendment will carry the law through from the date upon which this bill is assented to until the time when Bill No. 7 comes into effect. On this other point my hon. friend raises, I do not think that is necessary. The important point is that this amendment does amend that section 235 of the present Criminal Code.

Mr. Knowles: Perhaps that point could be looked into because it looks to me like sloppy draftsmanship to have a wording that suggests that the statute of 1927 is amended, when actually we are amending the statute of 1927 as it has been amended in the meantime.

Mr. Garson: No, the wording does not necessarily suggest that the statute of 1927 is being amended. We are amending actually a section of the statutes of 1927 which has been amended in the interval.

Mr. Fulton: The point is that it has been amended, as the hon. member for Brant-Haldimand pointed out. If you go back to the 1927 revised statutes, this subsection one is not subsection one of paragraph (c), it is subsection one of paragraph (d), and therefore obviously the section has been amended since 1927.

Mr. Garson: My point is that if effect is given to this particular bill and this proposed (2a) is added to that section, no confusion arises.

Mr. Knowles: There is confusion here right now, Mr. Chairman. I suppose we could spend all morning arguing this point. In any

case, I submit that to attempt to add something to section 235 which does not make sense when it is added is not the best kind of draftsmanship.

My other question is this: Clause 752 of Bill 7 reads:

> This act shall come into force on a day to be fixed by the governor in council.

Was the Minister of Agriculture making an announcement on behalf of the Minister of Justice a moment ago when he said that Bill No. 7 would be proclaimed on January 1, 1955? If not, when is it intended to proclaim Bill No. 7?

Mr. Garson: Yes, I think that is what he was doing; and I have no objection at all to that announcement being made, because it is our intention that Bill 7 when enacted will come into effect on January 1, 1955.

My hon. friend will recall that at various times during the discussion on Bill 7, both in committee and elsewhere, it was pointed out that when there was such a thoroughgoing consolidation and overhaul of the code, which has not been touched for sixty years, there should be an interval of several months between the royal assent and the date on which it came into effect in order to permit provincial law enforcement officers and others to accommodate themselves to the new provisions of the new code. The thought was that the new consolidated code should not come into effect until the beginning of next year.

Mr. Knowles: I take it, though, that it is the government's present intention that that will be the date of proclamation?

Mr. Garson: Yes.

Mr. Knowles: One other question; I realize that this relates to Bill No. 7 but, after all, we are dealing with a measure that ties in with that bill.

Mr. Pickersgill: A breach of the rules.

Mr. Knowles: My hon. friend the Secretary of State ought to know. Is it the intention to reprint Bill No. 7 incorporating in it the amendments that were agreed to this morning, so that those who are interested might have copies of it even before it appears in the statutes?

Mr. Garson: Being a Scotsman, I would not think it was necessary to do that—to reprint the whole bill for that purpose. Any who are interested can get a copy of the Senate amendments, clip them out and paste them on his copy of Bill 7 at the proper points. I do not think we should be expected to run off a copy of the new bill for the convenience of those who are too indolent to do a little clipping. Surely we should not have to do that, at the expense of the taxpayers.

Mr. Knowles: Is your Criminal Code not worth it?

Mr. Garson: Yes, the Criminal Code is worth it; but the Criminal Code will be printed as a statute.

Mr. Knowles: Surely it is not just a scissors and paste document.

Mr. Garson: In due course it will be printed. In the brief interval between that time and the present, surely to goodness those who are sufficiently interested could get this sheet of paper of Senate amendments.

Mr. Knowles: Is that the right sheet?

Mr. Garson: No, this sheet I hold here is the wrong one. But they could get the right one, put it into Bill 7, and that is all that would be required.

Mr. MacInnis: It is my understanding that statutes, other than those printed in bound volumes, are printed as they are passed by the house. I shall give the minister my reason for saying that. Some time ago a correspondent asked me to get him a copy of the Canada Shipping Act. I made inquiries from the printing bureau and was surprised to learn that it was out of print. They told me however that there would be a new printing, and only a few days ago I got my copy of the Canada Shipping Act.

I imagine therefore that if the Canada Shipping Act could be printed in a paper-bound volume, there is every reason in the world why the Criminal Code should be printed in a similar volume and made available in that way. The price of the Canada Shipping Act was, I believe, $3.75; and the price of the Criminal Code might be as much as $5. However, it would be made available to those who would want it, without having to get the bound volume.

Mr. Garson: It is a very simple matter in connection with consolidations of ordinary statutes to have certain bound volumes and certain paper-covered volumes. But that was not what I understood the hon. member for Winnipeg North Centre to suggest. He was suggesting that Bill 7 be reprinted with the Senate amendments in it.

Mr. Knowles: It amounts to the same thing; they use the same type.

An hon. Member: No.

Mr. Fulton: Mr. Chairman, may I discuss a small point in the matter of the wording of the introductory passage to clause 1 of the bill. It is perfectly clear that section 235

(2) was amended substantially in 1951 by chapter 25 of the statutes of that year. This may be a small point, because in another six months the new code will come into effect. I am asking the minister whether for the sake of clarity, and in case some question of enforcement arises during the next six months, it should not be:

Section 235 of the Criminal Code, chapter 36 of the Revised Statutes of Canada, 1927, as amended by chapter 25 of the statutes of 1951 is further amended by adding thereto—

And so on. I make that point because section 235, as enacted in 1927—

Mr. Garson: I accept my hon. friend's amendment. There is no use labouring the discussion of it.

Mr. Fulton: Then, I so move.

Mr. Garson: The Minister of Agriculture points out to me that there are two or three other amendments which have been made. I think the better course would be to accept the suggestion of the hon. member for Winnipeg North Centre.

Mr. Fulton: "As amended"?

Mr. Garson: Yes, "as amended".

Mr. Knowles: I so move.

Mr. Michener: This bill appears somewhat inconsequential, but I suggest hon. members have not had sufficient explanation of the need for it. I would ask that we be advised as to who are affected by the bill. My understanding is that it is to bring into force an amendment to the Criminal Code before January 1, when the whole code comes into effect. There are a great many amendments to the Criminal Code, of great importance, but we are not being asked to bring those amendments into effect before January 1. However, in respect of this one isolated change in the criminal law it would seem that it is considered of sufficient importance that it must be brought into effect soon, with the racing season half over, because some harm will be done if it is not made effective until January 1 of next year. I suggest we should have a proper explanation as to why the bill should be passed at this time.

The Chairman: Shall the clause carry?

Mr. Knowles: Has the amendment been put and carried?

The Chairman: I have not received an amendment.

Mr. Knowles: I have been writing it out. I move:

That Bill 476 be amended by deleting the words "is amended" from line 5 and substituting therefor the words "as amended is further amended".

[Mr. Fulton.]

Amendment agreed to.

The Chairman: Shall the clause as amended carry?

Mr. Charlton: I would ask the minister if there has been a conviction in any province, where parimutuel betting has been carried on without an inspector of the Department of Agriculture being in attendance?

Mr. Gardiner: I would not like to say whether there is or there is not. There is a possibility that there has been, and if there have been any of course the prosecutions would be started in the provinces, if the prosecutions were desired.

Some changes have been made by those who intended to conduct it at certain times. In some cases they have been stopped. I do not know whether they have been stopped in every case.

Mr. Charlton: I understand that some parimutuel betting is going on without the inspectors being there. This would put a stop to that. I am asking the minister whether there have been any convictions.

Mr. Gardiner: Really this particular bill has nothing to do with that. That is where a charter has been transferred from one race track to another within a province. That can still go on under this bill. The only thing that this bill stops is the buying up of a charter in one province and taking that charter over into another province and operating under it without consulting the authorities in that province at all. That is the general position at the present time, and this stops that, and that is the only thing it does.

Clause as amended agreed to.

Title agreed to.

Bill reported, read the third time, by leave, and passed.

SUPPLY

WHEAT—MARKETING OF SURPLUS

The house resumed, from Wednesday, June 9, consideration of the motion of Mr. Prudham for committee of supply, and the amendment thereto of Mr. Drew, and the amendment to the amendment of Mr. Argue.

Mr. Speaker: It might be advisable at this moment to discuss a point of order with respect to the amendment. On June 9, 1954, I raised several questions and deferred the final ruling with the hope that upon resumption of the debate on this amendment some