

Civil Service Act

Being unnecessary I venture to suggest to the committee that the amendment be not adopted.

Mr. McIlraith: I think the parliamentary secretary has correctly and accurately stated the position taken in the special committee dealing with this point and that his reference to the opinion given by the deputy minister of justice is quite correct. However, it seems to me that this is another one of those points or places in the bill where it is important to make it clear that the commission is independent and not merely enabled to act at the request of the government or the minister as the case may be. There are in the bill several places where that point becomes important and this is one of them. While I am not going to put myself in the position of saying that the deputy minister of justice is wrong in his legal opinion—I should be very reluctant to do that—I think his interpretation of the clause is rather generous to the point of view expressed by himself and by the parliamentary secretary to the Minister of Finance. Certainly I can see no possible harm that the proposed amendment would do. It enlarges and makes more certain the right of the commission to act independently and on its own account in this respect. For that reason I should like to see the amendment put so that the committee will be aware of exactly what the point is. I think it is useful to raise these points as the clauses are discussed because it will be useful in dealing with the act and regulations that will flow from the act in years ahead.

Mr. Bell (Carleton): Mr. Chairman, may I say that it is clear that in the structure and intention of the bill there is the desire that the civil service commission may on its own initiative report in respect of those matters which pertain to organization and employment in the department. There is no question that this is the intention of the bill. The opinion of the deputy minister of justice is that the power so to do is fully and amply provided in the first part of subclause (b).

The Chairman: Shall clause 6 carry?

Mr. McIlraith: Mr. Chairman, I wish to answer the parliamentary secretary to the Minister of Finance, if I may. He says it is clear that in the structure of this bill the commission has the power to report on this subject matter. He says that is the intention of the bill. That is the very distinction I wish to make. It was undoubtedly the intention of the government in submitting the bill that this should be so, but I am not satisfied that it is clear in the actual language of the bill before us. It is to make it clear that the

[Mr. Bell (Carleton).]

bill before us, as drafted, does what the government intended in submitting the legislation, and what I understand to be the wishes of the special committee, that I raise this point.

We are not at cross purposes in this matter. In other words, we are not at cross purposes as to what was the intention as to what was to be done in this respect, but it is a question as to whether this clause of the bill adequately expresses that intention. When the parliamentary secretary says it is the intention of the bill I wish to be very sure it is the intention as expressed in the language contained in the bill, and not just the intention of parliament in enacting the bill or of those who were concerned with putting it forward. That is my point.

Mr. MacLellan: On this point, Mr. Chairman, I wonder whether the hon. member for Ottawa West has considered the fact that this amendment could in effect reduce the effectiveness of the clause.

What is provided in the bill under clause 6 (b) and (c) is that there shall be three situations where the commission shall report to the governor in council. The first situation is in any case where they deem it necessary or desirable, as the words are used in the clause. This is very broad. They can report on anything they wish. The second situation is, at the request of the governor in council they shall report upon any matter pertaining to organization and employment in the public service. There is a third situation. That is, at the request of a deputy head they shall, even if they do not wish to do so on their own initiative, report upon any matter pertaining to organization and employment in the department.

I wonder whether the hon. member for Ottawa West has considered that if the words suggested in this amendment were inserted here, "at the request of a deputy head or on its own initiative report on any", and so on, this might narrow down the first situation where they could report; that is, in any situation where it is desirable. Then the two subclauses might be read together as meaning that the commission had only the right to report on its own initiative with regard to the organization and employment in the department.

Does the hon. member not think the first authority of the commission is as wide as it could possibly be and there might be a danger of narrowing that authority by this amendment? I think the present clause expresses our wishes very clearly.

Mr. McIlraith: Mr. Chairman, in reply to the hon. member for Inverness-Richmond, I have considered the very argument he has