The Chairman: You wanted to raise a second point related to this, and it might be a good time to raise that second point now. It too was related, I think, to the definition.

Senator Grosart: The second point is that if the matter does come before the board then the board is required, under the Act, to relate technological change to the specific matter with which we are concerned. I agree there should be protection for any worker who is displaced from his job permanently, just as there is with respect to temporary displacement. If a man is permanently displaced I believe he should be protected. I am 100 per cent in favour of this.

The Chairman: I think the definition should include what the board must find before ordering commencement of new negotiations. I will paraphrase subsection 152(2), where it says the board has to find that the technological change is likely substantially and adversely to affect the terms and conditions or security of employment of a significant number of employees. It seems to me that if we had this kind of general definition you would avoid the irresponsible requests from parties who wish to come before the board. After all, the objective of the legislation is not to prevent technological change but, as Senator Goldenberg indicated yesterday, to protect the workers against the adverse effects of that change. It seems to me it would be logical to include in the general definition, along with section 149, the findings which the board will have to make as a result of a request for a hearing.

Mr. Wilson: Well, it is a matter of drafting, I suppose.

The Chairman: I do not think it is a matter of drafting. It would reduce a lot of the objections to the definition included in section 149.

Senator Martin: Mr. Chairman, may I point out to you that when a court, a board or anyone else comes to interpret subsection 149(1)(a) and (b), if there is any doubt as to the meaning, the way they interpret it is by looking at other relevant sections. You have just referred to subsection 152(2)(b), and this would be one of the sections to which they would refer in an endeavour to reach a judicial interpretation.

The Chairman: However, this is for the board to decide. If we stick to the definition of technological change as it is in section 149, I think Senator Grosart's point is well taken. Almost any matter could be brought before the board by the union, and the board has to hold a hearing. We are endeavouring to reduce the numbers of requests and hearings. If we have only a very general definition, then the board will receive all kinds of requests and they will be swamped, especially in view of the fact that we are dealing with sectors where there is rapid technological change, such as in communications.

Mr. Wilson: We are in the hands of the draftsmen of the legislation who do things, with our help, in what you might call a lawyer-like manner. One of the first objections they would have, if we put it in at this point, would be that you do not need it there.

The other point which you have raised could be looked after, I am sure.

However, when you speak of the number of idle applications, there is always a number of idle applications. Of course, the board will draw up forms and rules of procedure for parties desiring to commence an action under these sections. If they make no other allegations in their paper presentation or application, at least they will have to allege that there are employees being adversely affected. If, in response to that question, they say there are none, I assume the board will tell them, at least in a preliminary way, that they do not seem to have a case but that if they wish to be heard they will be heard.

The Chairman: This is exactly the point: then you will have your hearing.

Mr. Wilson: But it makes no difference whether it is here or there, because they will still have to be adversely affected.

Mr. Robert Mitchell, Director of Legal Services, Department of Labour: Mr. Chairman, even if you changed the definition in an endeavour to bring forward into section 149(1) the effects of the change mentioned in section 152, a frivolous application could still be brought before the board alleging serious adverse effects, and the board would get into the same kind of inquiry and the same procedure would be followed. The same abuse could occur.

Senator Grosart: I would rather doubt that, Mr. Chairman, because if subparagraph (c) were added, which would be one of several improvements which could be made, this would tie the definition down to the effect on job security. Then the board would be in a position to say, "This is not technological change within the definition of the act." The way the act is written now the board is in a position to say that this is technological change.

Mr. Robert Armstrong, Special Assistant to the Deputy Minister, Department of Labour: No, I do not think you are right, senator. I do not think the definition could be severed from section 152, as Senator Martin has indicated. They have to be read together.

Senator Grosart: This is not so. They are severed.

Mr. Armstrong: I defer to what Senator Martin has said.

Senator Grosart: Let us look at it factually. We have had a statement to the effect that you are in the hands of the draftsmen. I sincerely hope this is not the attitude of this or any other department. God help us if we are in the hands of draftsmen. They are there only to give effect to the intent of Parliament.

Mr. Wilson: I wish you would try to get out of the hands of draftsmen, sir. They have a style of doing things and they insist on carrying it through.

Senator Grosart: If I had anything to do with it, no draftsman would insist on telling me what I should do or what I should say.

Mr. Wilson: They do not tell us what to say, but they do insist on following certain drafting principles regarding how to say it.

Senator Goldenberg: I wonder if Senator Grosart is suggesting that it would be more correct to say that it is only technological change if it has an adverse effect on employment.