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HOUSE OF COMMONS

First Session—Twenty-second Parliament

1953-54

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman—H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

BILL No. 252 (Letter R-5 of the Senate),

An Act Respecting Canadian Pacific Railway Company

MONDAY, FEBRUARY 22, 1954

WITNESSES:

Mr. N. R. Crump, Vice-President, Canadian Pacific Railway Company, and Mr. Harold Deeth, Vice-President of American Nepheline Limited.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954.

87544—1

STANDING COMMITTEE

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman: H. B. McCulloch, Esq.,

and

Barnett,
Batten,
Bell,
Bonnier,
Boucher (*Restigouche-Madawaska*),
Buchanan,
Byrne,
Campbell,
Carter,
Cauchon,
Cavers,
Chevrier,
Clark,
Conacher,
Deschatelets,
Dupuis,
Ellis,
Eudes,
Ferguson,
Follwell,
Fulton,
Gagnon,
Garland,
Goode,
Gourd (*Chapleau*),
Green,
Habel,
Hahn,
Hanna,
Harrison,
Healy,
Herridge,
Hodgson,
Holowach,
Hosking,
Howe (*Wellington-Huron*),
James,
Johnston (*Bow River*),
Kickham,
Lafontaine,
Langlois (*Gaspé*),
Légaré,
McIvor,
Montgomery,
Murphy (*Westmorland*),
Murphy (*Lambton West*),
Nicholson,
Nickle,
Purdy,
Richard (*Saint-Maurice-Laflèche*),
Ross,
Roy,
Shaw,
Small,
Stanton,
Viau,
Villeneuve,
Wood—60.

(Quorum 20)

E. W. INNES,
Clerk of the Committee.

ORDERS OF REFERENCE

HOUSE OF COMMONS,

WEDNESDAY, December 16, 1953.

Resolved—That the following Members do compose the Standing Committee on Railways, Canals and Telegraph Lines:

Messrs.

Barnett,
Batten,
Bell,
Bonnier,
Boucher (*Restigouche-Madawaska*),
Buchanan,
Byrne,
Campbell,
Carter,
Cauchon,
Cavers,
Chevrier,
Clark,
Conacher,
Dupuis,
Ellis,
Eudes,
Ferguson,
Follwell,
Fulton,
Gagnon,
Garland,
Goode,
Gourd (*Chapleau*),
Green,
Habel,
Hahn,
Hamilton,
Hanna,
Harrison,
Healy,
Herridge,
Hodgson,
Holowach,
Hosking,
Howe (*Wellington-Huron*),
James,
Johnston (*Bow River*),
Kickham,
Lafontaine,
Langlois (*Gaspé*),
Légaré,
McCulloch (*Pictou*),
McIvor,
Montgomery,
Murphy (*Westmorland*),
Murphy (*Lambton West*),
Nicholson,
Nickle,
Pouliot,
Purdy,
Richard (*Saint-Maurice-Laflèche*),
Ross,
Roy,
Shaw,
Small,
Stanton,
Viau,
Villeneuve,
Wood—60.

(Quorum 20)

Ordered,—That the Standing Committee on Railways, Canals and Telegraph Lines be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

TUESDAY, January 20, 1954.

Ordered,—That the name of Mr. Deschatelets be substituted for that of Mr. Pouliot on the said Committee.

TUESDAY, February 16, 1954.

Ordered,—That the following Bill be referred to the said Committee:—Bill No. 252 (Letter R-5 of the Senate), intituled: "An Act respecting Canadian Pacific Railway Company".

87544—1½

MONDAY, February 22, 1954.

Ordered,—That the said Committee be empowered to print, from day to day, such papers and evidence as may be ordered by the Committee, and that Standing Order 64 be suspended in relation thereto.

Ordered,—That the quorum of the said Committee be reduced from 20 to 12 Members.

Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORTS TO THE HOUSE

MONDAY, February 22, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

FIRST REPORT

Your Committee has considered Bill No. 252 (Letter R-5 of the Senate), intituled: "An Act respecting Canadian Pacific Railway Company" and has agreed to report it without amendment.

All of which is respectfully submitted.

H. P. CAVERS,
Acting Chairman.

MONDAY, February 22, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

SECOND REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, such papers and evidence as may be ordered by the Committee, and that Standing Order 64 be suspended in relation thereto.
2. That its quorum be reduced from 20 to 12 members.

All of which is respectfully submitted.

H. P. CAVERS,
Acting Chairman.

REPORTS TO THE HOUSE

MONDAY, February [illegible]

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

FIRST REPORT

Your Committee has considered Bill No. [illegible] (Letter [illegible] of the Senate), intituled: "An Act respecting Canadian Pacific Railway Company", and has agreed to report it without amendment.

All of which is respectfully submitted.

H. P. CAVERS,
Acting Chairman.

TUESDAY, February [illegible]

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

SECOND REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, such papers and evidence as may be ordered by the Committee, and that Standing Order 66 be suspended in relation thereto.
2. That its quorum be reduced from 20 to 12 members.

All of which is respectfully submitted.

H. P. CAVERS,
Acting Chairman.

MINUTES OF PROCEEDINGS

MONDAY, February 22, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.00 o'clock a.m. this day.

Members present: Messrs. Barnett, Batten, Bell, Byrne, Carter, Cavers, Deschatelets, Ellis, Fulton, Gagnon, Green, Habel, Hahn, Hamilton, Hodgson, Holowach, Howe (*Wellington-Huron*), Johnston (*Bow River*), Lafontaine, Langlois (*Gaspe*), McIvor, Montgomery, Murphy (*Lambton West*), Nicholson, Purdy, Stanton, Villeneuve, and Wood.

In attendance: Mr. G. J. McIlraith, M.P.; Mr. Alastair Macdonald, Q.C., Ottawa, Parliamentary Agent; and *From the Canadian Pacific Railway Company:* Mr. N. R. Crump, Vice-President; Mr. H. D. Brydone-Jack, Engineer of Construction; *From American Nepheline Limited:* Mr. Harold Deeth, Vice-President; Mr. C. M. Nicholson, Technical Director.

In the absence of the Chairman, Mr. McCulloch, and on motion of Mr. Lafontaine, seconded by Mr. Hahn,

Resolved,—That Mr. Cavers be Chairman of the Committee for this day.

On motion of Mr. Fulton,

Resolved,—That permission be sought to print, from day to day, such papers and evidence as may be ordered by the Committee; and that 500 copies in English and 200 copies in French be printed of this day's proceedings.

On motion of Mr. Carter,

Resolved,—That a recommendation be made to the House to reduce the quorum of this Committee from 20 to 12 members.

The Committee proceeded to the consideration of Bill No. 252 (Letter R-5 of the Senate), intituled: "An Act respecting Canadian Pacific Railway Company".

The preamble was called.

The Sponsor of the Bill, Mr. McIlraith, introduced the representatives of the Canadian Pacific Railway Company and of American Nepheline Limited.

Mr. Crump was called, made a brief statement and was questioned thereon.

The witness was retired.

Mr. Deeth was called and questioned regarding certain aspects of his company's operations.

In response to questions by Mr. Fulton, Mr. Deeth undertook to supply certain information, to appear as an appendix to this day's evidence. (*See Appendix "A"*)

The witness was retired.

The preamble, clause 1 and the Title were severally considered and adopted.

The Bill was adopted and the Acting Chairman was ordered to report it to the House without amendment.

Mr. Cavers, on behalf of the Committee, thanked the witnesses for their assistance.

At 11.05 o'clock a.m. the Committee adjourned to the call of the Chair.

E. W. INNES,
Clerk of the Committee.

EVIDENCE

MONDAY, February 22, 1954,

10.00 A.M.

The ACTING CHAIRMAN: Gentlemen, we are here today to discuss Bill No. 252, (letter R-5 of the Senate), intituled, "An Act respecting the Canadian Pacific Railway Company". I notice we have here today Mr. George J. McIlraith, who introduced the bill in the House of Commons and I am going to ask him to introduce those persons who are present on behalf of the applicant.

Mr. McILRAITH: Mr. Chairman and gentlemen, I presume you do not want me to say anything about the Bill in addition to what I said in the House on second reading. Mr. Alastair Macdonald is here as counsel for the C.P.R. on this bill. Mr. N. R. Crump, vice-president of the C.P.R. is here. Also present is Mr. Harold Deeth, vice-president of the American Nepheline Limited, the mining company to which this spur will run and which will be served by it. In addition we have Mr. C. M. Nicholson, technical director of the American Nepheline Company, and Mr. H. D. Brydone-Jack, engineer of construction for the C.P.R. These gentlemen are available to answer any questions you wish to ask and to give any information required.

Mr. GREEN: Could we have an explanation of the Bill?

Mr. McILRAITH: Perhaps we should have the explanation from Mr. Crump.

Mr. N. R. Crump, Vice-President, Canadian Pacific Railway Company, called:

The WITNESS: Mr. Chairman and gentlemen of the committee, this bill is designed to give the Canadian Pacific Railway permission to build a line of railway approximately fifteen miles long from Havelock, which is a division point on the Canadian Pacific Railway roughly half-way between Montreal and Toronto, almost due northerly a distance of approximately fifteen miles to a point known as Nephton. Nephton is the site of the mining operations of the American Nepheline Corporation where nepheline syenite is mined. The product mined at the plant is in the form of nepheline syenite which incidentally is a product of an igneous rock not unlike granite and is ground and refined in various ways and is sold largely to the glass and ceramic industries. Something like 70 per cent of the product is used in glass and 25 to 30 per cent is used in the ceramic industry for pottery and similar products. The product of this mine presently is trucked by a secondary road from Nephton to Lakefield, a distance of some 24 miles. The primary responsibility of maintaining that highway is with the mining company. It is 24 miles from Nephton to Lakefield by truck and then the product is transferred to the Canadian National Railways and is handled from that point. With the increase in production at the mine and the fact that they have to have continuous marketing, the Nepheline Company have felt that they require railway services for the efficient marketing of their product and they approached the Canadian Pacific Railway some years ago. After a good deal of negotiations we have agreed

to build a line into their plant from Havelock. The construction itself will not be too difficult for the first ten miles. The last five miles will be much more difficult as it is very rocky territory and the line will traverse some very promising outcroppings of limestone which the industry is particularly interested in. Other than that, I do not think there is very much I can say, but I will be glad to answer any questions.

By Mr. McIvor:

Q. Who is paying for this?—A. The C.P.R. and the industry.

Q. The Dominion Government is not asked for any cash?—A. None.

Q. And it is opening up the country?—A. It is opening up a new territory.

By Mr. Green:

Q. What is the financial outlay?—A. We estimate the cost at the moment at approximately $1½ million; the Canadian Pacific will pay for it, and a half of the cost up to but not exceeding $750,000 will be rebated in the form of a premium payment on the tonnage shipped from the mine at the rate of 75 cents a ton.

Q. Apparently the product is now being shipped by the Canadian National Railways?—A. Yes.

Q. Will the construction of this line mean that the Canadian National Railways lose that business?—A. That is right.

Q. How do you explain that?—A. Well, I have already had several discussions with Mr. Gordon and if the Canadian National Railways were to build into Nephton it would require a line of at least 24 miles and the cost would be—we have not made any estimate, but certainly 2·2 or 2·3 million dollars, whereas we can build into that point from Havelock a line 15 miles long at approximately $1,500,000. I certainly think the Canadian Pacific should build it.

Q. What will be the loss in freight to the C.N.R.?—A. The tonnage that is shipped by the mine will be shipped direct from the mine by the Canadian Pacific. I might say that the mining company is very interested in obtaining the direct access by rail because shipment by truck is not too satisfactory and is subject to all the vagaries of the elements and in addition to that it is a very expensive proposition. The nepheline syenite is a rather difficult commodity to handle in bulk. It is very finely ground, the first grinding being done to 30 mesh, and the second down to 200, which is getting down very much to the consistency of talcum powder, and it is a difficult thing to handle by truck and to transship and the Nepheline company have felt that they require rail service if it is going to expand.

Q. What is the estimate of revenue last year in freight?—A. About $400,000.

By Mr. Langlois:

Q. What is the tonnage being shipped?—A. About 114,000 tons last year of which about 70 per cent goes to the United States.

Q. Do you think that your tonnage will increase with the extension to the railway facilities?—A. We would hope so. Mr. Deeth could perhaps answer that better than I. Incidentally there has been sufficient ore located to keep the mine running they estimate for at least twenty years.

Mr. FULTON: Is it estimated that the savings of the company as a result of being able to ship out by rail instead of by road will enable them to absorb this 75 cents per ton premium they will pay until the $750,000 is covered without an increase in the cost of their product?

The WITNESS: That is my understanding. In fact even with the 75-cent premium there will be some saving to it.

By Mr. Murphy (Lambton West):

Q. What would be the difference in the freight rates coming over this railway and the present system?—A. Practically no difference. The freight rates will be on the same general rate level.

Q. As the trucking system?—A. No. As the rail rates presently from Lakefield?

Q. The company is now shipping by truck as I understand it?—A. For 24 miles.

Q. What would be the saving to the company per ton by shipping over the railway?—A. As I recall the figure—I am subject to correction—it was something like $1.10 and $1.15 a ton—I am sorry, $1.50. That is a saving of 75 cents a ton. Incidentally, I think it was mentioned before; the only other known source of nepheline syenite is in the Soviet Union.

By Mr. Fulton:

Q. I do not quite follow your statement that there is a saving of 75 cents a ton, therefore a net saving of 75 cents as against $1.50. Do you mean that all they will charge is 75 cents a ton?—A. I mean by that, Mr. Fulton, the general rate level of railway freight from Nephton, depending upon the destination, of course, will only be slightly greater than from Lakefield, so that the $1.50 cost per ton for trucking will be eliminated with the exception of the 75 cents premium which they will pay on the first half of the construction cost.

Q. In other words, the over-all freight rate, once it hits the rail, will be approximately the same as it is now and will eliminate the additional cost of $1.50?—A. Yes.

By Mr. Green:

Q. Have you made any estimate how long this operation will continue?—A. They have proved so far by testing, amounts indicating at least 20 years operation at the present production rate.

Q. You are building on the expectation there will be business there for 20 years?—A. Yes, sir.

Q. Is there any other business in that territory?—A. There is no other business in that territory at the moment. Whether or not this limestone deposit will develop is a matter of conjecture, but it is a high quality limestone and it may be that the chemical industry at some time in the future will require it.

Q. How many people live at the mine?—A. There are 125 people located at the mine.

Q. Will there be any new construction such as a mill?—A. I think I will have to ask Mr. Deeth to reply to that as a representative of the company.

By Mr. Murphy (Lambton West):

Q. Mr. Crump, is the product being shipped for export or for Canadian processing?—A. Over 70 per cent is exported to the United States, and the other 30 per cent is divided between Canadian and other foreign markets such as Puerto Rico, and spots like that.

By Mr. Langlois:

Q. Mr. Crump, I take it when you gave us the figures on the tonnage you were referring to the outgoing traffic from Nephton. What about incoming traffic?—A. I do not think the incoming traffic will be significant in this operation; if there is an expansion of the mill, which Mr. Deeth can tell you about, we perhaps would have incoming materials. Other than that, I would judge there would only be the commodities coming into Nephton. It is a small community and the tonnage, in relation to the area, is not large.

By Mr. Green:

Q. The cost of the construction is very low, is it not?—A. Well, sir, I can remember when we built a line in British Columbia and $100,000 a mile was a large cost and unheard of at that time? In this territory, as I mentioned, the first ten miles will not be difficult. The last five miles will be more so.

By Mr. Murphy (Lambton West):

Q. How does that compare with the Terrace-Kitimat line?—A. That is a most difficult territory to construct in.

Q. How much will it be?—A. Have you any information, Mr. Brydone-Jack?

Mr. BRYDONE-JACK: About $65,000 a mile on the prairies.

The WITNESS: No, the Terrace-Kitimat line?

Mr. BRYDONE-JACK: I understand $10 million is the appropriation for that, which is roughly 45 miles.

By Mr. Green:

Q. Have you any information on the Lynn Lake line?—A. No, the only figure I have there is $15 million for 155 miles, which is roughly about the same as this, but they are using lighter steel than we are.

By Mr. Murphy (Lambton West):

Q. Would it be a fair question to ask you if the costs today for construction are lower or higher than they would be say a year ago?—A. As a matter of fact, sir, this estimate was made first approximately a year ago and it has not changed. There is very little difference.

Q. Both for labour and material?—A. There is some slight change in material, principally in lumber.

Q. Is it down?—A. No.

Q. Up?—A. Yes.

By Mr. Green:

Q. This is the first line the C.P.R. has built for some years, is it not?—A. Yes it is.

Q. When was the last one?—A. Well, I worked myself on a great many around 1928 and 1929 in the construction department. I am just trying to think if we built any since.

Mr. Brydone-Jack, do you recall if we built any branch lines since the period from 1928 to 1930?

Mr. BRYDONE-JACK: Yes, we built a line in the early thirties.

The WITNESS: That was in the line of branch construction.

Mr. BRYDONE-JACK: There is nothing since then. I think we finished in 1933.

The WITNESS: I cannot recall one at the moment, sir.

Mr. GREEN: This is the first branch line you have built for 25 years?

The WITNESS: Yes.

By Mr. Holowach:

Q. Is there any other place in Canada where this product is found?—A. No.

Q. You mentioned it was possible that this commodity could be found in the U.S.S.R. Would you like to give a clarification on that?—A. No, I do not think I can do that. Mr. Nicholson might be able to do it. My information is only that nepheline syenite is produced in this particular territory and the only other source of production is in the U.S.S.R. Perhaps Mr. Deeth or Mr. Nicholson could give you some further information on that, I do not know.

By Mr. Stanton:

Q. I was wondering if there were any requests from the Canadian National?—A. There has been some communication, I believe, between the Nepheline Company and the Canadian National Railways, but there again I would have to refer you to them. The only information I have is first-hand information of my own conversations with the C.N.R. I would have to refer you to Mr. Deeth.

Q. Referring to that particular locality, for the general prosperity of the community and the country, it is not only necessary that the line be built, but it is a "must"?—A.Yes.

By Mr. Fulton:

Q. Is there any other line of any other railway which this line will cross, and is there any nearer point on your railway than Havelock?—A. No, sir, it is the most direct route. The least distance to any railway line, is 15 miles, and it does not cross any other line of railway.

The ACTING CHAIRMAN: Are there any further questions?

By Mr. Nicholson:

Q. Yes. Is there any explanation as to why the trucking has been done to the C. N. point rather than to Havelock? Is there any reason that the road was built?—A. I would have to again refer that to Mr. Deeth, because I have no first-hand knowledge of the early operations of the company, and I will have to ask Mr. Deeth if he would answer that.

By Mr. Purdy:

Q. Based on present freight rates, what would be the difference in routing the product to its main source of consumption by way of Lakefield rather than by way of Havelock, assuming there were two railway lines?—A. I would think that westbound traffic via Lakefield might be slightly less, and eastbound traffic via Havelock would be slightly less than via Lakefield, due to the geographical position. The margin is not too big, but Lakefield is west of the line to be built from Havelock and there are a few miles difference.

Q. But the 70 per cent of the output goes west?—A. No, 70 per cent goes to the United States.

Q. You are speaking of east and west?—A. Yes.

Q. It goes to different parts of the United States? What would be the percentage going east and west?—A. I have not looked at that.

Mr. LANGLOIS: In view of the small population at Nephton, can we take it that you do not expect any passenger traffic over this section?

The WITNESS: No, this is purely an industrial spur.

Mr. GREEN: Has the company any other branch lines under consideration?

The WITNESS: Not at the moment. It will depend on developments. We are ready and anxious to serve any new developments if we can serve them, but at the moment we have none.

By Mr. Holowach:

Q. Are there any figures available as to the men in the trucking industry that would be affected by this project?—A. Again, I think perhaps Mr. Deeth can give you something on that, but the firm that does the trucking also will continue to do the trucking right up at the quarry face, they will continue to have their trucks in there, and they conduct a general trucking business, and gasoline and service station, and sell new cars.

Q. You have no figures as to the business?—A. Mr. Deeth may.

By Mr. Byrne:

Q. With this new arrangement, once the C.P.R. has built the railway, there is an assurance that in future they will carry the entire production from the mine?—A. That is right.

Q. In the way of financing, then, as I understand it, the capital cost will be rebated about 50 per cent by the mining company?—A. That is right.

Q. And you will have very little further compensation in the way of making up the other 50 per cent of the capital cost, except the few cents more per ton you will charge, and the fact that you will carry the entire product?—A. That is the situation.

By Mr. Hahn:

Q. How frequently do you expect to run trains into this point?—A. At the moment, with the production they have there, I would say about one a day. That is, one in each 24 hours.

By Mr. Montgomery:

Q. How many would be employed on a train?—A. On a freight train there are five men, regardless of the length.

Q. Would there be any station there?—A. There would probably be accommodation for an operator or something of that kind, not a passenger station as such, because there would be no passenger traffic handled.

Mr. BELL: Why is it in this case the railway can compete satisfactorily with a trucking company, whereas in other cases we find trucking companies who operate at lower rates than the railways?

The WITNESS: I would suggest that in this case a significant factor is that the industry maintains the road.

Mr. GREEN: In other words, if the Ontario government took over the road, that would alter the whole picture?

The WITNESS: It could be.

By Mr. Purdy:

Q. Mr. Crump, I think you mentioned this would be an industrial spur?—A. In the terms of the statute, it is more than six miles in length, and it is consequently a branch line, but to all intents and purposes to my thinking it is an industrial spur, because it is a short line of railway serving one industry.

Q. And there is no difference on the over-all freight rates?—A. No, let me make that clear.

Mr. HAHN: To which place in the United States does most of this material go?

Mr. LANGLOIS: I suggest that Mr. Deeth answer those questions.

The ACTING CHAIRMAN: I think he would be in a better position to answer those.

Mr. NICHOLSON: This is scarcely relevant to the answer to Mr. Green's question, but the elevators have been doubled at Churchill and the C.P.R. has not been able to get much grain from your branch lines in Manitoba. Has any consideration been given to extension of lines for Churchill traffic?

The WITNESS: None whatever. That again would be a completely unnecessary duplication of trackage.

Mr. HODGSON: You hope your line will be completed within five years?

The WITNESS: It would be closer to five months if the bill is approved.

Mr. H. Deeth, Vice-President, American Nepheline Limited, called:

By The Acting Chairman:

Q. Mr. Deeth, you are vice-president of American Nepheline Limited, is that correct?—A. Yes.

Q. And you represent the company here today?—A. Yes. Mr. Crump has given a comprehensive picture of the whole thing. Perhaps it would be better for me to answer directly any questions you want to raise. I will be glad to try and answer them.

By Mr. Carter:

Q. What is your product used for?—A. It is used in the ceramic industry, which is a broad term covering the glass and glass product industry. The bulk of our products goes into the glass trade in the United States and Canada.

Q. Is it produced elsewhere in Canada?—A. No, we are the only producers of nepheline syenite.

Mr. HOLOWACH: Where have you been importing the product from?

The WITNESS: We don't do importing. We pioneered the development of this nepheline syenite, and we have a large area with a good many millions of tons, and we process the product, and we have to contribute the material that goes into it. We ship our raw material.

Mr. MURPHY (*Lambton West*): Most of your products go to the east of the United States?

The WITNESS: It is widely distributed in the United States. We have some business in California. The bulk of our glass business is in Pennsylvania, Indiana, Ohio, New York State, and some goes to New Jersey.

Mr. STANTON: Is it your intention to expand production as the years go on?

The WITNESS: As I said before, we have pioneered during the last 15 years on this product, and each year has seen a corresponding increase in sales in the company, and we have been going through a growing period, and we have come to the point now where, to expand further, a railway is of great necessity, and with the railway coming in we can project our plans into the future, knowing that we have an assured method of transportation.

By Mr. Murphy (Lambton West):

Q. With the increased production from this line, is there little likelihood of having to import from Russia?—A. We do not know, of course, what goes on in Russia. That reference, which quite frequently is used, arises from the statement made probably 15 years ago that Russia was developing deposits in the Ural mountains, and much of the technical literature had reference to this nepheline syenite, but up to this moment we have had no definite information as to Russia exporting to other countries.

Q. You have some other export business, to other countries besides the United States?—A. We have some export business in the United Kingdom, and with some countries of Europe, South America, and with Puerto Rico, as Mr. Crump has said.

Q. There are no other countries producing this material except Russia, that you know of?—A. None except Russia, that we know of.

Q. Who owns this company?—A. We are owned or controlled 51% by Ventures Limited, a large management organization in Canada.

Mr. HODGSON: When did you start in on this mine?

The WITNESS: We started in on this mountain 15 years ago, and gradually the development has continued.

By Mr. Carter:

Q. Have you done any exploration with a view to discoveries of that material anywhere else?—A. We have. In the past years we have found areas where nepheline deposits are located, but that is not the whole story. Unless such deposits can be made suitable for the ceramics trade by processing and making the product uniform they are of no use. But this deposit is very uniform in its natural state and we can reduce the iron content of it and make it acceptable for the ceramics industry.

Q. How big an operation have you at the present time?—A. In what respect, Mr. Carter?

Q. I mean in the number of employees and the number of tons.—A. We have about 125 employees at the mine at Nephton, and about 25 employees at Lakefield. And when the consolidation takes place, we will have about 150.

Q. Is there a community located at Nephton?—A. Yes, we have a townsite with probably 16 houses, and a boarding house for the men.

Q. What is the nature of the road which you have been using?—A. It is a secondary road, a township road, or partly a county road which we have been maintaining mostly ourselves.

Q. Do you anticipate that there will be the same amount of traffic over that road after the railway is completed?—A. I would not think so, Mr. Carter.

Q. You say that there is a community there, however?—A. Yes, but it will not have heavy traffic.

By Mr. Hahn:

Q. Is there any other mineral in that area which might be mined commercially after your mine runs out?—A. As Mr. Crump knows, there is limestone on the route of the proposed railway coming in which might be used in the future.

Q. How far would the limestone deposit be from Nephton?—A. It would probably be about 14 or 15 miles south of Nephton.

By Mr. Green:

Q. Are you going to expand your mill at all?—A. Yes, Mr. Green. We have plans for the expansion of the mill.

Q. Would that mean an increase in the number of employees?—A. To some extent, yes.

Q. How long have you been shipping material out?—A. About 15 years.

Q. And during the whole of that time you have been shipping over the Canadian National Railways from Lakefield, have you not?—A. That is right.

Q. Why then are you switching to the Canadian Pacific Railway?—A. When we first started in 1936 we shipped about 4,000 tons. Last year we shipped 114,000 tons, and it is very necessary with that amount of tonnage, that we have complete railroad facilities right from our point of origin to the customer rather than to have to transship from trucks to railroad.

Q. Were you not able to make a satisfactory arrangement with the Canadian National Railways?—A. We have had discussions with them, Mr. Green, but the difficulty is the distance involved. Going in from Lakefield the distance would be greater than coming in from Havelock. Moreover it would probably be much more costly to the company.

By Mr. Hodgson:

Q. How many cars a day do you expect to ship out of Nephton?—A. That would have to be an estimate. Let me put it this way: our activity now is, roughly, about 12,000 tons a month. We are shipping at the rate of, let us say, 10,000 tons a month. It all depends on how much you put into a car. With the heavy type of hopper cars you can load 80 tons, with the ordinary boxcar you can load only 40 tons.

Mr. BELL: Where do you get your power?

The WITNESS: By means of a direct hydro line from Healey's Falls.

By Mr. Gagnon:

Q. Do you mean to say that Canadian National Railways were not interested in building that line?—A. No.

Q. And that you could not reach an agreement with them?—A. I would say, Mr. Gagnon, that the agreement with the Canadian Pacific Railway was certainly far more satisfactory.

Q. More satisfactory for you or for the company?—A. For the company, yes, because of the total mileage involved, which would mean a less costly project and a more prompt connection.

By Mr. Murphy (Lambton West):

Q. Did you originally build the road which runs in there?—A. I went in to that country 15 years ago, Mr. Murphy. At that time there was a road running in for a distance of about 25 miles. Then we had to build a road further in as well as improve the secondary or county or township road which was already there.

Q. And you have kept it up ever since that time?—A. We have maintained it ever since that time.

Q. Did the county assist you in that regard?—A. The county assisted us.

Q. To the extent of 50 per cent, I suppose.—A. I do not know about the percentage figures, Mr. Murphy. It has been done under a mutual arrangement.

Q. Was it the usual arrangement that is made with respect to county roads?—A. I am not familiar with the details, Mr. Murphy.

Q. Would they pay half and you pay half?—A. It was not a question of payments. It was a question of getting the work done, and it seemed to be working out in a way by which we were doing a great deal of the work. We had to buy our own power grader, because Peterboro is a big county and has only so much equipment.

Mr. FULTON: Have you estimated how much it cost you per annum, let us say, over the last 5 years on the average, or for any number of years that you care to give?

The WITNESS: I am sorry, Mr. Fulton, but I have not that figure.

Mr. HAHN: How many inhabitants would there be along that road at the present time?

The WITNESS: It is a rural community, Mr. Hahn, together with a summer resort area and I could not guess.

By Mr. McIvor:

Q. How many employees have you?—A. We have about 125 at the mine.

Q. And do you expect to have an increase?—A. Our plans would provide for some increase.

Mr. HOLOWACH: Do you care to give us your figures as to the amount of additional capital which you intend to invest should this project go through?

The WITNESS: Within reason, Mr. Holowach, the plan we have would, probably over a period of the next few years, calls for half a million dollars.

Mr. HOWE: Mr. Chairman, I wonder if the witness could tell us what the company has spent in the last few years towards the upkeep of this road?

The WITNESS: I am sorry, but I do not have those figures available. But from the standpoint of the money spent, it would revolve around the use of our power graders and equipment such as snow plows and so on in order to keep the road open for continuous truck service.

By Mr. Murphy (Lambton West):

Q. How many other people, outside of your own company, would the proposed railroad serve going in that way?—A. I believe another member asked that question this morning, Mr. Murphy. I think it would be very difficult to answer it.

Q. Would there be as many as 50?—A. There would probably be 100 people using it; mostly people from farms which are located throughout that area.

Q. And after you begin to ship by rail, the road would be kept up by the county?—A. Yes, by the county and the township, Mr. Murphy.

Mr. GAGNON: Am I correct in my understanding that the proposal to build the railroad would first have to be approved by the Board of Transport Commissioners?

The WITNESS: I am sorry, but I do not know, Mr. Gagnon.

Mr. CRUMP: Oh yes. Every location of a railroad line has to be approved.

Mr. GAGNON: Is the building of that road to be approved by the Board of Transport Commissioners?

Mr. CRUMP: Yes. Our line has to be approved when the building location plans have been made and approved before we can operate.

Mr. HAHN: In the event that the railway is built, will the present roadway be left in the same condition it was in?

Mr. DEETH: In the same condition, but it will not have the terrific traffic of the heavy trucks which it has at the present time.

Mr. FULTON: I would like to get some figures which I think would be useful to the committee generally as to what it cost the company to keep up this road. I know there are members here who are interested in this question of rail versus road transportation. I was going to suggest, without holding up the bill, that Mr. Deeth could undertake to file the figures of the average cost later. (*See "Appendix A"*)

The WITNESS: I shall be glad to do so.

The ACTING CHAIRMAN: I thought someone here might be able to give us the figures and, if not, Mr. Deeth might give us the figures later.

Mr. CARTER: I wonder if Mr. Deeth could tell us whether the contract he has with the C.P.R. protects the company?

The WITNESS: I do not understand that question.

Mr. CARTER: How do you know when you are building a railway with the prospect of twenty years' operation whether in ten years' time trucking will not compete and make it unprofitable to operate?

The WITNESS: In our type of operations we have a large volume of bulk material and the operation of rail movement is what is really required by our customers and I assume that that would be the permanent method of shipping.

Mr. LANGLOIS: Has not the company given an undertaking to the C.P.R. to guarantee a minimum tonnage over a period of time?

The WITNESS: I do not believe that there is any guarantee as to minimum tonnage. We do agree, I believe, to ship all competitive materials out over the line.

Mr. CRUMP: There is no guaranteed minimum.

By Mr. Deschatelets:

Q. Can you tell me in what proportion the demand has increased over the last year?—A. I can give you those figures. In 1952 we shipped 83,000 tons, in 1953 we shipped 114,000 tons.

Q. How do your prices compare with the prices of the Russian product on the market?—A. We have not come up against any competition in that respect.

Q. There is no product you are competing with in the world, then?—A. The product indirectly is feldspar, a similar type of material.

Q. How does your price compare with that?—A. It would be comparable.

Q. Do you employ union labour?—A. Yes.

By Mr. Purdy:

Q. Evidence has been given of the chances of further development on the line. Has there been a similar survey made in the 24 miles?—A. I am not familiar with that. I just do not know of any. But there is no timber in that country.

Q. Evidence has been given that if the line was to Lakefield the product moving west would go at a slightly less rate, and that moving east to Havelock would go at a slightly less rate. Have you any figures to give us as to what the figure would be on your present production?—A. I do not think any definite figures would be necessary. It could be explained this way: with the present basis of rates our rail rate from Nephton will be corresponding to the same railway rate which now exists from Lakefield with the exception that on some points there may be one or two cents a hundred difference, but for all purposes the rates are practically the same.

Q. One or two cents a hundred on your poundage is quite a lot of money? Two cents would be 40 cents a ton?—A. Yes.

Q. How many tons?—A. 114,000, of which 70 per cent would go to the United States, but we have not broken that down.

Q. Do you know what it would be?—A. No.

By Mr. McIvor:

Q. You have no trouble getting a market for your product?—A. That has been our main endeavour in the last fifteen years, to expand our market, and we have been successfully expanding it each year.

Q. You are selling to anybody who will buy?—A. Yes.

Q. Did you say that this product is not used by any factory in Canada at the present time?—A. No. I said that it is most generally used in the United States, but we do supply a great many plants in Canada.

Q. Your firm has no factories in Canada at the present time?—A. We only produce the raw material which we ship to the potteries and glass factories. Our only plant is at Nephton and Lakefield.

Mr. HAHN: You mentioned that there are other plants not being used today. Are there any of those on the Pacific or the Prairies?—A. Not that I know of.

By Mr. Ellis:

Q. Mr. Deeth mentioned that his company got a better deal from the C.P.R. and I would like to ask him whether that is due to the fact that if he made a similar deal with the C.N.R. the company would be required to pay 50 per cent of the capital costs and since that would be greater the company's share would be greater.—A. Yes.

Q. That is the difference between the deals with the C.P.R. and the C.N.R.? —A. That would be one of the factors, yes.

Q. How much more would it cost the company?—A. I am not familiar with all the negotiations in that respect, but assuming you have 24 miles of railway to build it is naturally going to be considerably more costly.

Mr. HODGSON: Does not the geographical condition of the country indicate it would be easier to build a line to Nephton than to Havelock?—A. Yes.

By Mr. Hamilton:

Q. Referring to price, your price f.o.b. shipping point presumably would be at Lakefield?—A. Yes.

Q. So that the effect when this line is built would be that the shipper will be paying charges from the mine rather than from Lakefield?—A. No. I think our method of operation would be to have an f.o.b. price at Nephton which would be our shipping point.

Q. That was the point I was trying to make before I ask another question. Therefore, the entire saving as a result of not having to truck this material will revert to the company?—A. Yes. After we have paid back our premium on our portion of the cost of the railway.

By Mr. Gagnon:

Q. Have you long term contracts with the companies using your product?—A. No.

Q. What are the names of the companies using your product in Canada?—A. I do not think I could answer that. We ship to large glass companies in Canada and some of the pottery companies.

By Mr. Hodgson:

Q. How far would you be from some of the iron companies in Canada, for instance at Marmora?—A. You mean the Bethlehem Steel Mine?

Q. Yes.

Mr. CRUMP: That is on the Canadian National lines.

Mr. HODGSON: The iron development is all through that same country?

The WITNESS: I have not heard of any iron discoveries in that section at all.

Mr. LANGLOIS: I understand that you had been negotiating with the C.N.R. before you made this agreement with the C.P.R. Could you tell us what were the views of the C.N.R. on this proposal?

The WITNESS: I was not personally involved in that negotiation, and cannot answer that first-hand, but I would say naturally the C.N.R. were interested, although they realized the greater distance they had to contend with, as compared to our direct line right from Havelock to the mine.

Mr. GAGNON: Were you approached by the C.P.R. company?

The WITNESS: I cannot answer that, I do not know. That was some time ago.

Mr. CRUMP: Can I be of assistance?

The WITNESS: It is a question of whether we approached you or you approached us.

Mr. CRUMP: The American Nepheline Corporation approached the Canadian Pacific first in the summer of 1946 and secondly, preliminary to these negotiations, in 1950.

The ACTING CHAIRMAN: Now, gentlemen, we have had the evidence of Mr. Crump and Mr. Deeth. Shall the preamble to this Bill carry?

Carried.

The ACTING CHAIRMAN: Shall clause 1 of the Bill carry?

Carried.

The ACTING CHAIRMAN: Shall the title carry?

Carried.

The ACTING CHAIRMAN: Shall the Bill carry?

Carried.

The ACTING CHAIRMAN: Shall I report the Bill?

Carried.

Mr. FULTON: Could we agree that the information be filed by Mr. Deeth in order not to hold up the Bill? It could be printed later as an appendix.

The ACTING CHAIRMAN: I think it is understood he will give us that information. It could be printed as an appendix, but in the meantime we might report.

Mr. FULTON: Yes, I did not want to hold up the report as long as we agree that the figures are to be reported later.

Mr. McIVOR: I would like to express, Mr. Chairman, my appreciation of the courteous way in which the witnesses carried this.

The ACTING CHAIRMAN: Yes, and I should like on behalf of the committee to thank the witnesses for coming here and giving us such a full explanation to all the questions put to them. Thank you very much.

I think there is no further business to come before the committee. May we have a motion to adjourn?

Mr. McIVOR: I so move.

Information supplied, as requested by Mr. Fulton.

Appendix "A"

AMERICAN NEPHELINE LIMITED
Lakefield, Ontario

FEBRUARY 23rd, 1954.

Mr. Geo. H. Baillie,
Vice-President Eastern Region,
Canadian Pacific Railway Company,
Toronto 1, Ontario.

Dear Mr. Baillie:

At your request, I am listing below American Nepheline Limited expenditures for the past three years on the general maintenance of the road from highway No. 28 to Nephton, a distance of 22 miles, the Nephton branch from highway No. 28 being about two miles out of Lakefield: 1951, $28,241; 1952, $22,351; 1953, $29,461.

The above expenditures consist of grading, snowplowing, and Spring break-up road repairs.

Yours very truly,
AMERICAN NEPHELINE LIMITED,
(s) E. Craig,
Vice President and General Manager.

HOUSE OF COMMONS

First Session—Twenty-second Parliament

1953-54

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman—H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

Bill No. 325, (Letter D-10 of the Senate),
An Act to authorize Niagara Gas Transmission Limited to construct, own and operate an extra-provincial pipe line.

Bill No. 389, (Letter S-11 of the Senate),
An Act respecting Trans-Canada Pipe Lines Limited.

FRIDAY, APRIL 2, 1954

WITNESSES:

Mr. K. B. Palmer, Q.C., Counsel, Mr. Edward J. Tucker, Vice-President and General Manager, Mr. George F. Knight, Assistant General Manager, Niagara Gas Transmission Limited; Mr. Ray Milner, Vice-President, Mr. Frank Schultz, Vice-President, Trans-Canada Pipe Lines Limited; Mr. Morris Natelson, Lehman Brothers, Brokers, New York, N.Y., and Mr. Baldwin, Nesbitt Thomson and Company, Montreal, P.Q.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954.

STANDING COMMITTEE

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman: H. B. McCulloch, Esq.,

and

Barnett,
Batten,
Bell,
Bonnier,
Boucher (*Restigouche-Madawaska*),
Buchanan,
Byrne,
Campbell,
Carter,
Cauchon,
Cavers,
Chevrier,
Clark,
Conacher,
Decore,
Deschatelets,
Dupuis,
Ellis,
Eudes,
Ferguson,
Follwell,
Fulton,
Gagnon,
Garland,
Goode,
Gourd (*Chapleau*),
Green,
Habel,
Hahn,
Harrison,
Healy,
Herridge,
Hodgson,
Holowach,
Hosking,
Howe (*Wellington-Huron*),
James,
Johnston (*Bow River*),
Kickham,
Lafontaine,
Langlois (*Gaspé*),
Légaré
McIvor,
Montgomery,
Murphy (*Westmorland*),
Murphy (*Lambton West*),
Nicholson,
Nickle,
Purdy,
Richard (*Saint-Maurice-Laflèche*),
Ross,
Roy,
Shaw,
Small,
Stanton,
Viau,
Villeneuve,
Wood—60.

(Quorum 20)

E. W. INNES,
Clerk of the Commitee.

ORDERS OF REFERENCE

TUESDAY, February 23, 1954.

Ordered,—That the following Bill be referred to the said Committee: Bill No. 296 (Letter W-8 of the Senate), intituled: "An Act respecting Brazilian Telephone Company".

(NOTE: *No verbatim evidence was taken in respect of this bill.*)

THURSDAY, February 25, 1954.

Ordered,—That the said Committee be empowered to sit while the House is sitting.

TUESDAY, March 16, 1954.

Ordered,—That the following Bill be referred to the said Committee: Bill No. 325 (Letter D-10 of the Senate), intituled: "An Act to authorize Niagara Gas Transmission Limited to construct, own and operate an extra-provincial pipe line".

THURSDAY, March 25, 1954.

Ordered,—That the name of Mr. Decore be substituted for that of Mr. Hanna on the said Committee.

TUESDAY, March 30, 1954.

Ordered,—That the following Bill be referred to the said Committee: Bill No. 389 (Letter S-11 of the Senate), intituled: "An Act respecting Trans-Canada Pipe Lines Limited".

Attest.

LEON J. RAYMOND,
Clerk of the House.

87652—1½

REPORTS TO THE HOUSE

THURSDAY, February 25, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

FOURTH REPORT

Your Committee recommends that it be empowered to sit while the House is sitting.

All of which is respectfully submitted.

H. B. McCULLOCH,
Chairman.

(NOTE: *The Third Report of the Committee was on a Private Bill, in respect of which no verbatim evidence was taken.*)

MONDAY, April 5, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

FIFTH REPORT

Your Committee has considered the following Bills and has agreed to report them without amendment:

Bill No. 325 (Letter D-10 of the Senate), intituled: "An Act to authorize Niagara Gas Transmission Limited to construct, own and operate an extra-provincial pipe line".

Bill No. 389 (Letter S-11 of the Senate), intituled: "An Act respecting Trans-Canada Pipe Lines Limited".

A copy of the evidence adduced in respect of the above-mentioned Bills together with the evidence taken in respect of Bill No. 252 (Letter R-5 of the Senate), intituled: "An Act respecting Canadian Pacific Railway Company" which was reported on February 22, 1954, is appended.

All of which is respectfully submitted.

H. B. McCULLOCH,
Chairman.

MINUTES OF PROCEEDINGS

FRIDAY, April 2, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 o'clock a.m. this day. The Chairman, Mr. H. B. McCulloch, presided.

Members present: Messrs. Barnett, Batten, Bell, Bonnier, Byrne, Campbell, Carter, Cavers, Conacher, Deschatelets, Decore, Follwell, Gourd (*Chapleau*), Green, Habel, Hahn, Hamilton, Harrison, Healy, Herridge, Hodgson, Holowach, Hosking, Howe (*Wellington-Huron*), James, Kickham, Légaré, McCulloch (*Pictou*), McIvor, Murphy (*Lambton West*), Nickle, Purdy, Richard (*St. Maurice-Laflèche*), Stanton Viau, and Wood.

In attendance: Hon. George Prudham, Minister of Mines and Technical Surveys; Mr. G. J. McIlraith, M.P.; *From Niagara Gas Transmission Ltd.:* Mr. R. Merriam, representing D. K. MacTavish, Q.C., Parliamentary Agent; Mr. K. B. Palmer, Q.C., Counsel; Mr. Edward J. Tucker, Vice-President and General Manager and Mr. George F. Knight, Assistant General Manager; *From Trans-Canada Pipe Lines Limited:* Mr. J. Ross Tolmie, Parliamentary Agent; Mr. Ray Milner, Vice-President; Mr. Frank A. Schultz, Vice-President; and *From the Department of Transport:* Mr. W. J. Matthews, Director of Administration and Legal Services.

The Committee proceeded to consider, jointly, Bill No. 325, (Letter D-10 of the Senate), intituled: "An Act to authorize Niagara Gas Transmission Limited to construct, own and operate an extra-provincial pipe line" and Bill No. 389, (Letter S-11 of the Senate), intituled: "An Act respecting Trans-Canada Pipe Lines Limited".

The Preamble of the Bills were called.

Agreed: To receive evidence on both Bills at the same time.

Mr. R. Merriam introduced the representatives of Niagara Gas Transmission Limited. Mr. Palmer outlined the purposes of Bill No. 325; and assisted by Mr. Tucker and Mr. Knight, answered questions concerning the operation of the proposed pipe line.

Copies of an agreement between Niagara Gas Transmission Limited and Trans-Canada Pipe Lines were distributed to Committee members present.

The witness undertook to supply the Committee with a copy of the Export Permit received by his Company, from the United States Federal Power Commission.

Mr. Tolmie and the representatives of Trans-Canada Pipe Lines were introduced. Messrs. Milner and Schultz were questioned regarding the effect of the agreement between the two companies and the intentions of Trans-Canada Pipe Lines respecting the supplying of Natural Gas to certain areas.

At 1.00 o'clock p.m., the Committee adjourned until 3.30 o'clock p.m. this day.

AFTERNOON SITTING

The Committee resumed at 3.30 o'clock p.m. The Chairman, Mr. H. B. McCulloch, presided.

Members present: Messrs. Barnett, Batten, Bell, Byrne, Carter, Cavers, Conacher, Deschatelets, Decore, Gourd (*Chapleau*), Green, Habel, Hahn, Harrison, Herridge, Holowach, Hosking, Howe (*Wellington-Huron*), James, Lafontaine, Légaré, McCulloch (*Pictou*), McIvor, Murphy (*Lambton West*), Nickle, Purdy, and Wood.

In attendance: The Right Honourable C. D. Howe, Minister of Trade and Commerce; Hon. George Prudham, Minister of Mines and Technical Surveys; Mr. G. J. McIlraith, M.P.; Mr. Morris Natelson of Lehman Brothers, Bankers, New York City, N.Y., and Mr. Baldwin of Nesbitt, Thomson and Company, Montreal; *From Niagara Gas Transmission Limited*: Mr. R. Merriam, representing D. K. MacTavish, Q.C., Parliamentary Agent; Mr. K. B. Palmer, Q.C., Counsel; Mr. Edward J. Tucker, Vice-President and General Manager, and Mr. George F. Knight, Assistant General Manager; *From Trans-Canada Pipe Lines Limited:* Mr. J. Ross Tolmie, Parliamentary Agent; Mr. Ray Milner, Vice-President, and Mr. Frank A. Schultz, Vice-President.

On motion of Mr. Decore, seconded by Mr. Wood,

Resolved,—That the Committee print 650 copies in English and 200 copies in French of the Minutes of Proceedings and Evidence adduced in respect of Bills Nos. 325 and 389.

The Committee resumed questioning of the representatives of Niagara Gas Transmission Limited and of Trans-Canada Pipe Lines Limited.

The Right Honourable C. D. Howe outlined Government policy with respect to the export of Natural Gas if a large surplus should be available and he also pointed out the safeguards set up to protect the interests of the Canadian gas consumers.

Mr. Natelson and Mr. Baldwin were called and questioned regarding the Financing of Trans-Canada Pipe Lines Limited.

The Committee proceeded to a detailed consideration, clause by clause, of Bills No. 325 and 389.

Bill No. 325:

The Preamble, Clauses 1 and 2, the Title and the Bill were severally considered and adopted.

The Chairman was ordered to report the Bill to the House without amendment.

Bill No. 389:

The Preamble, Clause 1, the Title and the Bill were adopted and the Chairman ordered to report the Bill to the House without amendment.

Mr. McIvor extended a vote of thanks to the persons who had appeared before the Committee.

The witnesses retired.

At 5.45 o'clock p.m., the Committee adjourned to the call of the Chair.

E. W. INNES,
Clerk of the Committee.

EVIDENCE

FRIDAY, April 2, 1954,

10.30 A.M.

The CHAIRMAN: Gentlemen, will you please come to order.

We have before us the following bills: No. 325, D 10 of the Senate, an Act to authorize Niagara Gas Transmission Limited to construct, own and operate an extra-provincial pipeline; and bill No. 389, S 11 of the Senate, an Act respecting Trans-Canada Pipe Lines Limited. Mr. Decore is agent for Mr. Ross Talmie.

Is it the wish of the committee to take these bills together?

Mr. DECORE: I think that it is to our advantage that these bills be heard together. We can proceed, possibly, with the first bill, the Niagara Gas Transmission Limited and I think the two will tie in together and that the evidence should be taken at the same time in connection with both bills.

The CHAIRMAN: Does the preamble carry?

Mr. DECORE: In which bill?

The CHAIRMAN: 325.

Mr. GREEN: I think that Mr. Decore's idea is very sound. These two bills obviously affect the whole principle of Trans-Canada Pipe Lines, and I suggest that we proceed to hear evidence before we carry any part of any bill.

Mr. DECORE: If I may make the suggestion, possibly we can call the parliamentary agent for the first bill, the Niagara Gas Transmission Limited, Mr. R. C. Merriam, who might very briefly explain the nature of the bill, the witnesses who will appear, and the evidence he has to present.

Mr. R. C. MERRIAM: Mr. Chairman, and gentlemen of the committee, it is true we are acting as parliamentary agents and are fairly well aware of the general picture, but Mr. Palmer, Q.C. of Toronto, who is the company's solicitor is in this committee room and is very much more versed in the overall picture than we are. I would suggest that possibly Mr. Palmer would be better qualified to explain the bill to the members of the committee, and we also have Mr. Tucker, vice president, to answer any questions which the committee might like to ask.

The CHAIRMAN: Perhaps Mr. Palmer would come up and answer any questions.

Mr. K. B. Palmer, Q.C., counsel for Niagara Gas Transmission Limited, called:

The WITNESS: Mr. Chairman and members of the committee, Niagara Gas Transmission Limited is an Ontario company that was formed in September of 1952 to build a pipe line from the international boundary in the Niagara river to the city of Toronto for the transportation of gas to be obtained from Texas and Louisiana. Contracts have been entered into with producers in the United States, and arrangements made with Tennessee Gas and Transmission Company, for the transportation of the gas. In the meantime, as you know, in December of last year the Pipe Lines Act was amended to require

any company that wishes to construct and operate an extra provincial pipeline to obtain authority from parliament. That is the reason for this bill. Mr. Tucker of the gas company is here and is quite prepared to answer any questions that members might wish to ask.

By Mr. Cavers:

Q. Mr. Chairman, might I ask a question of Mr. Palmer. Is there any limitation of the period under which this company would be entitled to import gas from the United States of America?—A. At the present time it has contracts for the importation of gas over a 28 year period, but within the past week negotiations have been conducted with Trans-Canada Pipe Lines, and our agreement has been reached under which the line would be constructed by Trans-Canada and would be operated by and leased to Niagara for a period of five years, and when western gas is at the doors of Toronto the flow of United States gas will be stopped and we will take the western gas.

Q. What is the course of the pipeline from the time it leaves the international boundary at the Niagara river until it gets to Toronto?—A. I think that Mr. Knight would be in a better position to answer that question than I. It comes from Niagara to the village of Ancaster, and then it goes to Toronto.

Q. Will the line from the international border service the Niagara frontier?—A. Not under the arrangements made presently. It is purely designed to service the franchise area.

Q. Just in the city of Toronto?—A. Yes.

Q. Then after the five-year period is ended under which this agreement operates will you continue to bring gas through past the city of Toronto, or would it end at the city of Toronto?—A. It would be a matter for Trans-Canada, I think, to answer, because Trans-Canada will be the transporters of the Alberta gas we will then be taking. We will really be a consumer of the western line. Where the Alberta gas finds its ultimate extended terminus is not within my province to say.

Q. So that after a period of five years, after your agreement expires, the extent of this line would be a vacuum?—A. No. I would not contemplate that that would be the case. There are suggested plans in contemplation under which there may be a reverse flow of the western gas. In other words, the United States gas will stop, and if there is a surplus of Alberta gas it would be available for the area serviced by that pipeline.

Q. By your present plans it is not contemplated to serve the area between Toronto and the United States boundary at all?—A. Not while we are taking United States gas, with one possible exception I think. There is a possibility that the Provincial Gas Company may take a certain quantity of this gas.

By Mr. Herridge:

Q. With reference to that agreement you spoke about, could we have a copy of that agreement tabled with the committee at the present time?—A. I would be very glad to table it.

Q. Are there copies for all the members of the committee?—A. Mr. McIlraith has some copies available.

By Mr. Green:

Q. Has that agreement actually been signed?—A. It has been signed. The agreement is between Consumers Gas Company of Toronto, Niagara Gas Transmission Limited, Trans-Canada Pipe Lines, and Tennessee Gas Transmission Company. It is signed by Consumers, Niagara, and Trans-Canada, and copies are in Houston, Texas, for signature by Tennessee, and I am expecting a wire almost any moment to say that they have executed the agreement and that it is

in the mail. This copy as you will see bears the signature of the three principal parties. Tennessee is joined really only as a partner of Consumers. Tennessee has been made a party to this contract partly because it is a partner with Consumers in this venture, and also for the purpose of guaranteeing that when Alberta gas comes to Toronto, Tennessee will take over, or save Niagara against further obligations under its purchase contracts for United States gas; that is, Tennessee will take over the contracts which the producers have with Niagara now.

By Mr. Holowach:

Q. Mr. Palmer, I think you mentioned that Trans-Canada would be financing the line you mentioned?—A. Trans-Canada, under this agreement, will build the line up there.

Q. Then where does your company fit in? Is it merely to act as administrators for the five years until western gas is made available?—A. The line will be leased to Niagara. Niagara is the buyer of the United States gas under the purchase contracts, and of necessity it has to remain in that position because of the wording or language of the permit issued by the Federal Power Commission. So the result is that Niagara will be the lessee and operator of the line during that five-year period.

As I said before, when Alberta gas comes to Toronto, then these contracts will be cancelled and we shall enter into a new contract for Alberta gas.

Q. It would depend upon the terms which you set down for the Trans-Canada people being acceptable to them?—A. Oh yes. They signed the agreement and it is quite acceptable to them. I should perhaps add that to take care of the remote possibility that the western line may not be built. Niagara has an option to buy the line at cost less depreciation at the end of five years, if the western line is not built at the end of that time.

Mr. HERRIDGE: Would it be possible, Mr. Chairman, for the members of the committee to have copies of that agreement distributed to them now?

The CHAIRMAN: Have you got copies, Mr. McIlraith?

Mr. MCILRAITH: Yes, I have.

The CHAIRMAN: Would you mind distributing them.

By Mr. Campbell:

Q. Once Alberta gas comes through, will this pipe line be available, or will the gas in the pipe line then be available as a stand-by, in case there is trouble in the line?—A. You mean will the United States gas be available?

Q. Yes.—A. I do not think that I am in a position to answer that question; I think that we would have the western line, and you would have to depend for storage on the facilities in the Don field at Toronto. I do not think we could have it both ways, that is, to cancel the flow of United States gas and at the same time have any call on United States gas to take care of any contingency or failure of the western supply, but I really do not know.

Mr. TUCKER: I think we can get that information from the witnesses who appear on behalf of Trans-Canada.

The CHAIRMAN: Mr. Duncan McIlraith is one of the agents, but he is sick at the present moment and I wonder if the committee would permit his brother Mr. George McIlraith to speak.

Mr. MURPHY (*Lambton West*): Have you facilities for storage now in the Don field?

The WITNESS: No.

Mr. CAVERS: Would you mind holding the questions and answers until we distribute the agreement, if you please?

The WITNESS: If there are not enough copies of the agremeent, I have a summary of it which the members of the committee might find useful.

Mr. BYRNE: Why not read the summary, Mr. Chairman?

Mr. McIVOR: I have a question to ask when there is an opportunity, Mr. Chairman.

The WITNESS: Mr. Chairman?

By Mr. Hodgson:

Q. Is there an unlimited supply of gas for the Tennessee Transaction Company?—A. I am sorry, but I do not understand you.

Q. I wondered if there was an unlimited supply of gas available for the Tennessee Transmission Company.—A. You mean available to Tennessee?

Q. Available to Consumers Gas on delivery?—A. Under our contract with the producers, Tennessee is merely a transporter of the gas, and the contract is for up to 22 billion cubic feet of gas per year. If at any time more gas than that quantity is required, we would have to negotiate another contract and arrange for a further supply.

Q. You do not anticipate that they have more gas than would be required for your company?—A. Our company, or Consumers has entered into contracts for a quantity which is sufficient for their own requirements.

If Ontario or the area in the Niagara Peninsula requires more gas than is called for by those contracts, then other contracts would have to be arranged.

Q. Would you use any restraint on Trans-Canada from selling gas off its line on its way to Toronto, if there is not sufficient gas to meet your needs?—A. Which line are you speaking of?

Q. The line from Sarnia, when it comes through.—A. From Niagara to Toronto?

Q. Yes.—A. Well, we will be the lessees and the operator of that line and at the moment with the exception of any quantity taken by the provincial people, it is contemplated that the line will only be used for the transportation of gas to the consumers area. Then, if more gas is available than is required at Toronto, there is nothing to prevent us from selling that surplus gas.

Q. It would be used for selling and not made use of by the builders of the line, Trans-Canada?—A. Under the arrangement between the companies and Niagara, during this interim period the operator has the full management and control of operation of the line.

By Mr. Follwell:

Q. When this gas line is built and in operation, will Consumers Gas Company service all their customers with natural gas, or will they still use some manufactured gas?—A. No. It is contemplated that there will be a complete change-over to natural gas almost right away.

Q. Will there be stand-by equipment or gas to take care of any interruption of the natural gas supply?—A. Yes.

By Mr. Hodgson:

Q. If you are going to have disbursements of gas and you are primarily interested in servicing Toronto, you will want to give them the best possible service in that area, whereas if the Trans-Canada line were built and had the right to have gas available for sale in quantities, would they not build the line in a different location in order that, when they were supplying gas from the west it would then service a different area? I know very well that once this line gets built, it is very difficult to change over and I am interested in servicing

the areas of Guelph, Galt and Kitchener; those are big areas which are very highly industrialized, and if this line were contemplated as a final line, that area quite likely would be serviced, whereas if the Trans-Canada Pipe Line is going to be built directly to Toronto, there would be many areas which should be serviced but which will not get serviced. That is what I am trying to get at.—A. Yes. I might suggest, Mr. Chairman, that question could perhaps be better answered by Trans-Canada but I may say that Niagara or Consumers has not the final say as to the route this line will follow. In other words, Trans-Canada is going to build it. The plans have to be approved by Trans-Canada engineers and I am sure that the long range picture will be kept in mind.

Q. For the first five years your company alone—or your companies—have the power to say what areas are to get gas?

The CHAIRMAN: No.

The WITNESS: I suppose it perhaps does have that effect. You see, our arrangements for the import of U.S. gas—we started three years ago—and in the whole material filed before the Federal Power Commission the case had to be made out on the basis that we were applying for gas to serve a definite area or where there was an established market and also a potential market that could develop.

By Mr. Green:

Q. When you applied to the Federal Power Commission you asked specifically for gas to serve the greater Toronto area?—A. Yes.

Mr. HERRIDGE: Would the witness speak louder, please? Some who are interested cannot hear his replies.

The CHAIRMAN: Yes, the witness and the members should speak up so the reporter can take it for the record.

Mr. DECORE: If I may interrupt, it seems to me some of the questions asked of this witness are questions which should probably be asked of people from Trans-Canada and I think we could save time if we had one of the witnesses of Trans-Canada give evidence. Mr. Palmer can stand by and we can recall him again if necessary. I think it will save a lot of time. Trans-Canada have the overall picture.

By Mr. Green:

Q. These questions I am asking are properly answered by the solicitor. I understand you to say that when the company—I think you said the Niagara Gas Transmission Limited—applied to the Federal Power Commission of the United States for a permit to have this gas exported from the United States to Canada they based that application on supplying the greater Toronto area?—A. That is correct.

Q. And your permit, I presume, reads in that way?—A. That is correct.

Q. So that if you supply any other area than the greater Toronto area you will be breaking the terms of your permit, is that correct?—A. I believe that is so, yes.

Q. And that will be the condition for the next five years because Niagara Gas Transmission Limited with Consumers will have the exclusive operation of this line, is that correct?—A. Yes. Let me make one qualification to what I said a moment ago. I do not think there is anything in the permit that would prevent Niagara from selling any surplus gas along the line. In other words, while the material submitted to the Federal Power Commission was predicated on Consumers taking the full supply, nevertheless the Commission was primarily interested in knowing that there was an established market or

that market could be developed for the gas that they asked to be allowed to have exported and I do not think there would be anything to prevent Niagara from selling surplus gas to stations along the way.

Q. What do you mean by surplus gas?—A. If during the period of development in Toronto more gas could be obtained under that contract than Consumers, as the distributor, was in a position to use, I think Niagara could sell it. I will ask Mr. Tucker if he will verify that. I think that is so.

Mr. TUCKER: The situation is this with regard to the distribution of gas. Certain companies have certain franchise areas and we do not want to interfere with one another, and if any company can bring its line, or if we can build our line close enough to their distribution system and we have sufficient gas to sell to them, we are empowered to sell it, but only to the distributing company and not to an individual. That would be interfering with that company's franchise area. Therefore, gas coming in from Louisiana where we bought it has been so much—22 billions a year is the maximum—and that is what we have our permit for. If in Toronto's franchise area we can only sell 20 billion that year, then if some of these other companies want gas and it can help them out in their distribution, we are empowered to sell the difference between what we require in Toronto and the 22 billion.

Mr. GREEN: What are your estimated requirements in Toronto?

Mr. TUCKER: We estimate that within 5 years we will require 22 billion a year.

Mr. GREEN: So there woud be very little, if any surplus gas, left for disposal in any other area than Toronto?

Mr. TUCKER: We have canvassed the other companies, to be straight on this thing. I canvassed them myself personally before we sent to the Federal Power Commission to see if they would require any gas and to see if I should try and get some gas for them in our permit, and in each case except one they said "No" that they had arrangements made for themselves. Therefore there is no gas contemplated to be sold to these other companies which are the Dominion Natural Gas Company—

Mr. GREEN: Could you tell us the areas in which the respective companies operate, approximately?

Mr. TUCKER: The Union Company serves south-Western Ontario. The Dominion Company serves a little to the east of it. The Niagara Gas Transmission Limited has no right to serve any of these areas, but we can serve the companies who have the right. That is the point I was making in the first place. That is, under this arrangement, we are not permitted to go all over the province and serve it.

Mr. GREEN: And is your permit in the name of the Niagara Gas Transmission Limited, or in the name of Consumers Gas?

The WITNESS: The import permit is in the name of Niagara Gas Transmission Limited.

Mr. GREEN: Could we have a copy of that permit?

The WITNESS: I do not think we have it here. Oh yes, we have one copy—I will find it for you. It is a voluminous document.

Mr. GREEN: Is that all permit?

The WITNESS: It is an opinion as well as the permit proper.

Mr. GREEN: The permit is quite short, is it not?

The WITNESS: Would you care to have me read part of the actual operative part?

Mr. GREEN: Yes.

The WITNESS: "The Commission orders that the Tennessee Gas Transmission Company and Niagara Gas Transmission Limited are hereby authorized to export natural gas from the United States to the Dominion of Canada in the manner, to the extent, upon the conditions and at the point specified in their joint application as document number G-1921, subject to the following terms and conditions:" and then there are a number of conditions which I do not think I need read. It was qualified by our obtaining a permit and that has been obtained. Tennessee is not allowed to deliver to Niagara any natural gas in excess of the specified volume. We have to keep daily records and so on. The authorization of the permit is not transferrable and as I said a moment ago—this is in answer to a question which came from that corner of the room, I think,—that it is for that reason, among other things, that Niagara has to continue as the buyer and the importer of the U.S. gas.

Q. Could we have a copy of the permit?—A. Yes.

Q. Could we have a copy made?

Mr. TUCKER: We can get you one.

By Mr. Green:

Q. I think he said that this permit was for a twenty-year period, is that correct?—A. Yes, that is correct.

Q. Now, you are going to import the gas for only a five-year period. I presume that will mean that you will have to go back to the Federal Power Commission for permission to alter the terms of your original permit?—A. No, I do not think that we will. In other words, we have a right to export over a period, but I do not think it is mandatory upon us actually to export for that twenty-year period. On the other hand, the gas that we do not take will have to be disposed of by Tennessee, and my understanding is that Tennessee will have to go to the commission and go through the usual procedure of obtaining authorization to sell the gas elsewhere. They are before the commission every week of the year, almost.

Q. Have any steps been taken by the Tennessee people to bring that situation before the Federal Power Commission since these negotiations?—A. I do not know that they have. These arrangements were made only in the past few days, and I am very doubtful that that has been the case.

Mr. MURPHY (*Lambton West*): You were giving us an answer on storage facilities on the Don fields, and you were interrupted.

The WITNESS: We have no information of any storage facilities in the Don fields, but Tennessee has storage facilities in northern New York. I will ask Mr. Tucker to correct me if I go off the rails at any point.

Mr. MURPHY (*Lambton West*): You contemplate no arrangement with the western Ontario companies for storage? You mentioned the Dominion and Union Gas. I think the Union Gas has all the storage in the Don fields at the moment.

Mr. TUCKER: Consumers has no arrangement for storage. I do not know whether Trans-Canada has any contemplated because when we need storage for western gas they are the people who would have to supply it.

By Mr. Murphy (Lambton West)*:*

Q. You mentioned too, Mr. Palmer, that there is a provision in this contract you have tabled that in the event of western gas not coming to Toronto the Tennessee Gas Transmission Company would have an option to purchase the line back from Trans-Canada?—A. That is correct. That is provided for in section VIII on page 6.

Q. What interests me, Mr. Palmer, is that, from the way you answered a question, it struck me that there might be a possibility that the western gas would not be coming into Toronto. Is there any reason for my submitting that question to you?—A. I did not mean to suggest that Toronto would be by-passed by the western line by that provision for the option.

Q. I do not mean by-passed. I took it from what you said that the western line might probably not be built beyond Winnipeg or some such place. Is there any thought of that?—A. My feeling is that section VIII is a reflection of the lawyers' pessimism. It is merely to take care of the remote possibility that the western line may not be built.

Q. Have you any reason to believe that the line will not be built?—A. None whatever.

Mr. HOLOWACH: Mr. Palmer, bearing in mind the tremendous potential market that exists in those areas where you contemplate building your servicing lines, are you satisfied in your own mind that the arrangement you have with the Tennessee people, in terms of a project for many years ahead, is sound? Supposing the Trans-Canada people were not able for some unforeseeable reason to give gas to your line, could it stand on its own feet?

The WITNESS: I think so, because these arrangements for the importation of United States gas were not only under contemplation, but were actually in process long before we had any idea that Alberta had an exportable surplus of gas.

Mr. MURPHY (*Lambton West*): Have you any figures available?

Mr. MCIVOR: Mr. Chairman, I am not a lawyer, and this agreement seems to be drawn according to the lawyer's way of doing things. I do not see anything in the bill which will tell us that the Niagara Gas Company will withdraw when the Trans-Canada comes through from the west. Will there be anything in this bill to say that it will withdraw after five years?

The CHAIRMAN: Mr. Palmer could answer that, I would think.

The WITNESS: I cannot speak for the members of the House, naturally, but the important consideration, as I understand the feeling of the members, is that the granting of a permit to Niagara for importation of United States gas should not be the means or the vehicle of blocking or impeding the larger project, and the agreement that has been reached with Trans-Canada is a firm agreement and has been designed to accomplish that objective of assuring Trans-Canada, as the prospective builder of the western line, that the Toronto area will be available for western gas when the western line is built.

Mr. MCIVOR: Will that be put in the bill?

The WITNESS: It is in the agreement. I would not think it would be necessary to put it in the bill, sir.

Mr. HARRISON: In other words, if western gas is available before the five-year period is ended, would the United States gas company be empowered to take western gas as soon as it is available?

The WITNESS: Yes; as you see in the agreement.

Mr. HAMILTON: Item 7, section II.

The WITNESS: There are two important provisions. On page 5, section VI, it states:

> Trans-Canada and Niagara shall enter into a lease providing for the leasing of the line to Niagara for a term of five (5) years from the date when the construction of the line is completed or until the Trans-Canada line has been constructed and Alberta gas is available to Consumers, whichever is the shorter period.

So that if western gas is made available in three years our lease comes to an end. By virtue of section X, on page 7:

> Consumers agrees with Trans-Canada that it will cease to purchase or accept delivery of U.S. gas from Niagara, and will terminate its contract with Niagara for the purchase of such gas, when the Trans-Canada line has been constructed from Alberta to the point of delivery of U.S. gas into Consumers' distribution system and Trans-Canada is in a position to supply Consumers with Alberta gas in quantities sufficient to satisfy Consumers' requirements at Trans-Canada's published zone prices applicable to the Toronto area.

Mr. MURPHY (*Lambton West*): How soon do you expect the line to be completed?

The WITNESS: November 1, 1954.

Mr. HERRIDGE: Section V of this agreement reads as follows:

> Trans-Canada agrees to commence construction of the line forthwith upon the issuance of the order of the Board of Transport Commissions (sic) referred to in section IV and thereafter to proceed with the construction and completion of the line with all possible speed so that the line shall be completed and ready for operation prior to November 1, 1954. Tennessee agrees that the construction of the facilities necessary to connect the line with the transmission system of Tennessee will also be completed prior to November 1, 1954. Tennessee further agrees to make available to Trans-Canada, at Tennessee's cost, the pipe heretofore contracted for by Tennessee for the construction of the line.

My question is this: is the witness quite confident that Tennessee will have this portion of the contract completed by the time specified?

The WITNESS: Yes, because that is the shorter part of the line. Tennessee has to build on the U.S. side approximately 45 miles, and the Canadian portion is approximately 85 miles. As indicated in that section, the pipe required for the whole line, the U.S. portion as well, is already under option with Tennessee.

The CHAIRMAN: Mr. Hosking.

By Mr. Hosking:

Q. Mr. Chairman, this is quite a complicated matter. The point I want to advance is this: is it desirable for the Trans-Canada Line to service these people, and is there anything in the agreement that will make the price at which these people are offering the gas to Trans-Canada so low that they could sell it at other places at a higher price and prevent it coming to Toronto? The surrounding district is vitally interested in any form of power and gas is power. Without power you do not have development, and in the western provinces the people have noticed that. The area surrounding the Toronto-Hamilton district is a highly industrialized area, and I want to make sure that nothing in this agreement will be disadvantageous to the Trans-Canada line to service Toronto, because that would mean that the rest of us excluded from this line will be cut off. I would like to hear from the Tennessee Company if they have more gas available than the quantity which they will supply to Consumers Gas. Is there anybody here representing Tennessee?—A. No. As I said before Tennessee is not selling this gas to Niagara. Tennessee is only the carrier, and the Niagara contracts are with producing companies in Louisiana and Texas.

Q. Do these companies have more than the quantity required for consumers?—A. I think that the quantities that are covered by our contract are probably infinitesimal in relation to supply. Mr. Tucker would be in a better

position than I to answer that question. But, 22 billion cubic feet a year is very small in relation to the supplies through the gas lines in the United States.

Q. Coming back again to the danger of this line making it disadvantageous for Trans-Canada to operate in the southern part of Ontario—A. May I interrupt. Niagara and Consumers are firmly committed in this agreement—or rather Consumers is—to cut off the supply of United States gas and to take Alberta gas.

Q. That may be, but if you have contracted with Trans-Canada so that it is not advantageous for them to sell their gas in Toronto, and they can get markets where they can get more for it, they might never desire to come south into the southern part of the province. If you are a buyer and have a price that would be more, then it would be undesirable for them to service this area, and the whole industrial area of the province of Ontario would not have this supply?—A. On that score Consumers will have converted to natural gas and will have taken United States gas for a period of 3 or 4 years, and Consumers has contracted to buy gas from Trans-Canada, and Trans-Canada has contracted to sell gas to Consumers at prices applicable to the Toronto area. If I might make the suggestion, it seems to me that Trans-Canada perhaps could answer your question better than I. I think I am correct in saying that the feeding of the gas to the Toronto area is the whole basis and the sine qua non of the bill here, as this line would not be economical if the Toronto area were carved out of it.

Mr. CAVERS: But, the purpose is not to serve Toronto alone?

The WITNESS: No.

Mr. CAVERS: It is to serve other parts of Canada as well?

The WITNESS: Yes, but the build-up of demand in the Toronto area, as I have always understood it, is of prime importance to the success of the western line.

Mr. HOSKING: Could I ask another question of Mr. Tucker. Has the Guelph Light and Power asked you for gas? Were they one of the ones you canvassed?

Mr. TUCKER: I have talked to them, but they are committed to the Union Gas Company of Ontario which serves southwestern Ontario and the Union Company have already published a plan to build a pipe line from Toronto. I guess, through to Hamilton and on to the Don field in Lambton County serving the three centres you mentioned, Waterloo, Kitchener, and Guelph. We have no interest in those centres because they are quite close to the Union franchise territory.

Mr. HOSKING: The Union Company has contracted with you?

Mr. TUCKER: No. I am speaking of the usual gossip one hears around, that they are contemplating serving those three towns you speak of, Guelph, Kitchener and Waterloo, with western gas I take it. When western gas reaches Toronto they will run a line serving Hamilton and the other three towns. It is entirely in the hands of the Union Gas Company.

Mr. HOSKING: At the end of five years, when this agreement ends, suppose that the Trans-Canada line has come into Ontario but has not joined up with this pipe line, does this bill have to be re-negotiated at that time? If the people in the province of Ontario are then dissatisfied can they end the contract for gas coming to Toronto, from the Tennessee Company. Can they end the agreement?—A. I think that is something we should insist on, that at the end of five years it can be cut off if the right thing has not been done to develop Ontario.

Mr. TUCKER: Trans-Canada will be here with gas in volume and will take care of the whole of eastern Canada.

Mr. DECORE: I still think that we could save time if we had somebody to give evidence from the Trans-Canada company. Many of these questions are applicable to witnesses from Trans-Canada.

Mr. CAVERS: There is one question I would like to ask. What is the course of this line? Where is it to run from? It says somewhere from the international boundary to Toronto. I would like to know the exact route.

Mr. TUCKER: Here is a rough sketch.

Mr. CAVERS: Is it this heavy line?

Mr. TUCKER: Yes.

Mr. CAVERS: Extending through Niagara, three miles south of Lewiston and then through Allanburg, Thorold, within five miles of St. Catharines, Campden, Grimsby Centre, Grassie, Tapleyton and Ancaster. Mr. Tucker, have the Dominion Natural Gas Company asked you for any rights for gas from this line?

Mr. TUCKER: No, sir.

Mr. CAVERS: You will not be intending to give any gas for the development of any of the areas through which you pass?

Mr. TUCKER: You mentioned Grimsby a moment ago. The Grimsby Gas Company is a local affair—

Mr. CAVERS: I know it. I represent that district.

Mr. TUCKER: I have a letter on my desk at the moment asking if we could give them gas off that pipe line? I have not answered it.

Mr. HOSKING: Will you be able to do that?

Mr. TUCKER: I think we will, yes.

Mr. MURPHY (*Lambton-west*): As the representative of Consumers Gas Company, can you tell us if the importation of gas through the proposed line will have any bearing on the present price of gas to the consumer?

Mr. TUCKER: Oh yes, we think it will reduce it considerably.

Mr. MURPHY (*Lambton-west*): How much?

Mr. TUCKER: Natural gas has twice the heating value of manufactured gas.

Mr. MURPHY (*Lambton-west*): Let us get the first point clear; the gas you now supply is manufactured gas?

Mr. TUCKER: Yes, and it costs on the average, $1.60 per thousand feet. When natural gas is used we hope we can sell it for less than $1.60 per thousand feet.

Mr. MURPHY (*Lambton-west*): Who will determine the price?

Mr. TUCKER: We will have to determine it, but we have to take it to the fuel controller.

Mr. MURPHY (*Lambton-west*): The fuel controller in Toronto for Ontario?

Mr. TUCKER: Or the Ontario government.

Mr. MURPHY (*Lambton-west*): Do you have a perpetual contract to supply Toronto?

Mr. TUCKER: Yes, without limits as to time.

Mr. MURPHY (*Lambton-west*): Can you tell us what difference there might be in the price to the Consumer Company when the Trans-Canada pipe line is finished?

Mr. TUCKER: As between the new price and the price we will have to charge?

Mr. MURPHY (*Lambton-west*): Yes, for Toronto, the price for the western gas?

Mr. TUCKER: We think they will do a good job on the construction and we hope that the price will not change.

Mr. MURPHY (*Lambton-west*): But it will not be any cheaper?

Mr. TUCKER: No, I do not think it will be any cheaper. But they can speak for themselves. We have all seen costs, but when we get to Toronto, we hope that the price at the city gate will not be greatly different.

Mr. MURPHY (*Lambton-west*): One more question: Let us assume that after we get the western gas into Toronto and are able to transport gas over this new line back into the United States, will that affect the price to the consumer in Toronto or the consumers in Ontario?

Mr. TUCKER: I understand that any gas to be exported to the United States will be western gas after it comes down, and they will just use this gas line to take the gas to Buffalo, and it will not make any difference. The deal will be between the exporter and the man who imports it in the United States, because we won't own the line.

Mr. MURPHY (*Lambton-west*): Greater volume will not make any difference in price?

Mr. TUCKER: I hope it will, from the standpoint of the Trans-Canada people.

Mr. BYRNE: We decided at the outset, Mr. Chairman, that we would take both of these bills together in the presumption that they were supposed to be integrated, and thereby we might proceed in an orderly fashion. Mr. Decore has asked on several occasions that we call witnesses from both companies before us at the same time. I would like to ask several questions which I feel are closely related, and in order to avoid my having to ask the same questions two or three times, would it not be possible to have the witnesses from Trans-Canada Pipe Lines before us at the same time?

Mr. GREEN: You mean, that they be made available?

Mr. BYRNE: Yes, to answer questions which are closely related.

Mr. HOLOWACH: Let us keep Mr. Tucker on the witness stand.

Mr. CONACHER: Why cannot we have all the witnesses sitting up there? Is there any harm in that?

Mr. DECORE: It may be that we can now call the witnesses from Trans-Canada; and we can always ask further questions of these witnesses who are now before us.

Mr. HAHN: I was going to propose the same thing and to consolidate my questions and have them all answered at the same time.

Mr. DECORE: Perhaps we should now call on Mr. Tolmie who might give the members of the committee an outline of Trans-Canada and suggest which witnesses should be first.

Mr. BYRNE: There are several matters running in my mind; there are two applications that are going to be confused through application to the Power Commission in the United States, and I would like to ask some questions of witnesses both from the Niagara Transmission and from Trans-Canada Pipe Lines. But if that is not proper, then I shall only ask the questions which I wish to direct to the witnesses from Niagara, and I will have to ask them again in order to get the whole matter coordinated, and it is going to be very confusing. We are taking these two bills together, so why not have the witnesses taken together?

Mr. HERRIDGE: I suggest, Mr. Chairman, that we ask Mr. McIlraith to suggest the witnesses we should have from Trans-Canada and I support Mr. Byrne's suggestion.

The CHAIRMAN: Mr. McIlraith.

Mr. McIlraith: Perhaps with the indulgence of the committee I could clarify what I think the committee is trying to get at. There are two parliamentary agents on record on the Trans-Canada bill and I thank you for your indulgence in permitting me to speak on behalf of one of them. I would suggest that I might explain to the committee who the witnesses are: First of all we have Mr. Ray Milner, Q.C., Vice-President of Trans-Canada. Then we have Mr. Frank Schultz, who is also a Vice-President of Trans-Canada; and of course we have Mr. Ross Tolmie, one of the parliamentary agents here, who is also a vice-president. What you want would have to do with the pipe line construction and not with the actual clauses of the bill which have to do with the capital structure. So I would think these are the witnesses you would want to hear, and I would suggest, that we bring the three of them up together. If I might anticipate, the questions in the first instance might be directed to Mr. Milner. I think he could clarify matters which are arising between the transporting lines and the consuming or retail companies. Therefore with your permission I would suggest that we call the following gentlemen: Mr. Ray Milner, one of the vice-presidents; Mr. Frank Schultz, another vice-president, and Mr. Ross Tolmie.

This is Mr. Ray Milner, one of the vice-presidents. He is a Q.C. from Edmonton, Alberta. This gentleman is Mr. Frank Shultz from Dallas, Texas, and he is another vice-president. And this is Mr. Ross Tolmie. I think you know him. He is the parliamentary agent from Ottawa and he is also a vice-president.

Mr. Byrne: Earlier it was pointed out that when the Niagara Transmission Company applied to the Federal Power Commission for a permit to import or export gas from the United States, what the Federal Power Commission was concerned, before granting a permit, that they were assured of a market.

The Witness: That was one of the considerations but it was not the sole one. They were governed, I think, by section 3 of the Natural Gas Act which says that any permit given by the Commission must not be inconsistent with the public interest. I think that is the wording.

Mr. Green: In the United States.

Mr. Byrne: Why I asked the question is this: We know from experience that the Federal Power Commission in the United States are just a bit touchy one way or another because we have had applications on the west coast for quite some time to have natural gas exported to the northwest Pacific and we would not want to endanger that position in any way now. Now, when that decision was arrived at it was the understanding that the Niagara Gas Company would take gas for 20 years; that is, the application was for 20 years. I notice here in your agreement that you would not reach the maximum of 22 billion cubic feet until the end of five years. At the end of 5 years it is proposed now through an agreement reached in the last few days that after reaching your maximum consumption that the gas be cut off. Does the Federal Power Commission know this, or do you think it would have prejudiced their decision to have had any such action so contemplated?

The Witness: With regard to your first question I think I said in answer to a similar question a few minutes ago that I doubt very much whether Tennessee has approached the Federal Power Commission on the subject. The decision was only reached within the past few days. With regard to your second question, as to whether it would have prejudiced their decision if the application had been for 5 years and not for 20 years, I really do not know. I do not think it would have made any difference.

Mr. Byrne: Well, of course, you understand they wanted to make sure there was a market and the application was for 20 years. I would like to ask

Mr. Milner a question. The Trans-Canada pipe line as indicated in the amending bill is now an integrated company. That is, you have joined forces with a company which was prepared to bring gas east to Winnipeg and thence south to the Minneapolis area?

The CHAIRMAN: Will you answer, please?

Mr. MILNER: Yes.

Mr. BYRNE: The matter of exporting gas to the Minneapolis area, I presume, is a very important one in relation to the overall plan for completing this pipe line in western Canada?

Mr. MILNER: It is important, yes. It is important particularly in its beneficial effect upon prices when the western gas reaches eastern Canada.

Mr. BYRNE: Then it is possible that should the Federal Power Commission not grant an import permit for some time or it should be delayed, that it would be possible that the overall picture would be delayed? How do you feel about this question then of the decision by the Federal Power Commission? Is there any danger that this agreement now might prejudice their decision?

Mr. MILNER: No, we are coming east in any event.

Mr. BYRNE: The main line is coming east regardless and there will be no hold up regardless of whether or not they give an export permit?

Mr. MILNER: Yes.

The CHAIRMAN: Mr. Hahn?

By Mr. Hahn:

Q. Mr. Palmer, in connection with the Niagara Peninsula area, as I understand it, the Niagara Gas Company has no further arrangement with any other gas firm to sell gas in that peninsula. Is it true at this time that they take the Tennessee gas?—A. That is correct. There are no firm arrangements with any other company. I mentioned Provincial Gas earlier today. They have signified their desire to obtain a certain amount of gas but there is no firm contract at the moment.

Q. If and when Trans-Canada builds this line to Toronto, the only guarantee we have is that they have the Toronto area available for consumption, is that right?

The WITNESS: The only guarantee?

Mr. HAHN: The guarantee they have is the Toronto area alone? They are not necessarily bound to sell to the other provincial lines, because you have no agreement with them?

The WITNESS: That is correct, as far as any arrangement through us through Niagara or Consumers is concerned. Whether or not Trans-Canada has any contracts with any one besides Niagara Consumers, I do not know. Perhaps Mr. Milner could answer.

Mr. HAHN: Perhaps Mr. Milner would answer then. Have you any other agreements with these other companies?

Mr. MILNER: No, we have no agreement yet. We are negotiating with the various companies. We expect to bring enough Alberta gas down here to satisfy the requirements of Ontario, but of course we still are awaiting the necessary legislation and permits. When these have been obtained, we have to go to the transport board and lay out our case in detail and receive their approval. That will take some little time yet. There is a great variety of contracts which have to be negotiated and settled as rapidly as possible. That is, we have to make contracts with the distributors in Ontario and we have to make contracts with the oil producers in Alberta, and the whole thing has to be tied in together.

Mr. HAHN: Is there any agreement between Tennessee and yourselves, or through Niagara possibly, whereby the moment you go into production in the Toronto area that Tennessee will not send any gas into these other places, and so protect your market?

Mr. MILNER: Well, there is no actual agreement but it will be highly probable they will do so. In the first place, they would have to get contracts with the other people and have to build other lines, and have to get a permit from the Federal Power Commission and all those things. Moreover, they have not the gas to sell over here.

Mr. HAHN: Well, once the 22 billion cubic feet of gas becomes available from the Toronto area, Toronto cannot buy from them and that would be available for the rest of the area?

Mr. MILNER: No, you will notice the gas which is being imported by Consumers is Niagara gas which is not owned by either Tennessee or Consumers, as far as that is concerned. Tennessee is merely lending its transportation facilities, for a fee, to convey that gas from the field to Niagara.

Mr. HAHN: That is all, thank you.

Mr. NICKLE: Mr. Chairman, I would like first of all to ask a question of Mr. Tucker. It has been asked earlier by another questioner whether or not Tennessee Transmission or Panhandle—although Panhandle was not mentioned—might have additional capacity to deliver American gas into eastern Canada. Is it not true that the fact that F.P.C. approved the export of 22 billion cubic feet to Niagara Transmission indicates that Tennessee Transmission still has remaining, after making provision for disposing of 22 billion cubic feet a year, an undedicated transport capacity of approximately 45 billion feet a year, part of which might be made available to Canada on a short-term basis, I presume?

Mr. TUCKER: Naturally I cannot answer for the Federal Power Commission, but the Tennessee Gas Transmission and the Panhandle people have tremendous reserves and tremendous transportation capacity. Whether they could get the Federal Power Commission to permit them on application to export some of that gas in addition to what they already have power to export—I would not know. I would not have any way of telling, but I do know the gas we are talking about here belongs to the Niagara Gas Transmission or Consumers, whichever you like. It is our gas. We own it. We did this so as to prevent any attempt to take it away from us on the way up, and all that Tennessee are doing are acting as common carriers for us. Now, if we want more, they have lots of capacity to send us more, but we would have to make another application to the Federal Power Commission asking for more gas and we would not expect to do that for 5 years anyway, and by the time we have this national project worked out—as Mr. Milner said—there would be plenty of gas to service the whole of Ontario. We are not considering for one moment any shortage of gas from any source whatever.

Mr. NICKLE: In the agreement between Niagara Transmission and Trans-Canada, in clause 8, I find these words:—"The importation of U.S. gas during the period prior to the date when the construction of the Trans-Canada line is completed is essential to the successful operation of the Trans-Canada line." Now, by that I presume it is meant that the build-up of the higher priced household fuel market in Toronto with American gas is going to improve considerably the over-all economics of the Trans-Canada line. Is that a correct interpretation?

Mr. TUCKER: That is quite right. That is one of the main reasons why they want to bring the gas in now. They have it available in the middle of the Niagara river, and they cannot budge it from there, but I will be able to give gas services to 1,300,000 people at a figure, as I said to you, sir, of approximately

half the cost. I want to do it now, not in five years' time. When this line is built we will switch over to western gas, because it is a Canadian project. That is all this is for.

Mr. NICKLE: Now, carrying the same reasoning through, Mr. Tucker, that the build-up of a market with American gas in advance is essential to the successful operation of Trans-Canada, might we not also assume that, were more gas made available to you by American companies on a short-term basis, either through Tennessee Transmission or through Panhandle, which supplies Union through Windsor, in order to supply more markets in western Ontario and perhaps extending on speedily to points east of Toronto, notably Montreal and Ottawa, the over-all economics of the Trans-Canada line could be further improved during the market build-up achieved with that additional American gas?

Mr. TUCKER: That is quite a big order. One would have to know fairly well the economics of the line, the load and the load factor and so forth, but I would say that the same reasoning that we apply to our business would be applicable to any other similar situation.

Mr. NICKLE: The pipe line construction that I indicated there, of course, would be for pipe lines through southern Ontario and eastward through Toronto to Montreal and Ottawa. It would constitute part of the eventual Trans-Canada system, so that actually, if the economics of that comparatively short pipe line building are justified, then it would be on a substantially better basis if we had in addition to that present pipe line construction, spent another $200 million, roughly, between Winnipeg and Toronto for the Trans-Canada line immediately. Is that not correct, that by lowering the immediate capital outlay we would actually improve the economics of that gas supply?

Mr. TUCKER: The economics of pipe line construction and operation, of course, are bound up with the volume of gas that you can send through and the rate at which you can send it through. I would not like to answer a question so involved. Maybe Mr. Milner may have it at his finger-tips, and I would rather let him answer it.

Mr. NICKLE: As a last point, there is the matter of price. Some publicity was given a while ago to the probable price of American gas delivered to your gates at Toronto, that is the gate of Consumers' Gas. The price, I believe, was published as a fraction over 53 cents per thousand cubic feet. Is it your belief that that price, or one extremely close to it, will prevail under the arrangements now made for Trans-Canada to build and then lease to you this line from Niagara to Toronto?

Mr. TUCKER: As far as that price of 53·17 cents is concerned, that is the price under the arrangement. Now, there have been some questions raised as to transportation costs in the United States having to be revised, and there may be a few cents, one or two, to be added to that, or maybe there will be no change at all. At the moment the price to me under our contract is 53·17 cents at the border. What the price will be to Trans-Canada under the same circumstances has not been published yet. It has not been calculated, so I don't see how it could be. But if any of the experts on my right want to guess at a price, I will be glad to hear it. However, we do expect that we will pay a little for our nationalism anyway.

Mr. NICKLE: Do you expect that the price of Canadian gas will be higher than American?

Mr. TUCKER: There has been an ominous silence; so I believe that is so.

Mr. NICKLE: I wonder if I could direct a few questions to the representatives of Trans-Canada? Perhaps Mr. Schultz could answer. In the matter of pricing gas in eastern Canada, Mr. Tucker has mentioned that the price of

American gas delivered at Toronto is going to be about 53·17 cents per thousand cubic feet and that the price of Canadian gas will be higher than that. In southwestern Ontario we have American gas now being delivered to Union Gas Company at a price, I believe, of approximately 33 cents per thousand cubic feet delivered to the Union Gas Company at Windsor. If the flow of American gas will be cut off at Toronto when Canadian gas reaches Toronto, is it your belief that the flow of American gas into Windsor to Union Gas Company shall also be cut off at the same time?

Mr. SCHULTZ: No. There are two points involved in your question. First of all, the gas that Union is now acquiring from Panhandle is on a dumpload basis. They receive it during the summer months when Panhandle can let them have it. It is on a seller's option basis. Union has to take that gas and store it, and obviously they have to make a storage charge against it, they have to pay 33 cents at gate for that, but they cannot store it and sell it for that, and when it is finally sold to meet their winter peaks the cost is much greater than 33 cents to Union.

Mr. NICKLE: Could you tell us how much?

Mr. SCHULTZ: I do not know what they put into it as a service charge for storing it. When Trans-Canada was in this by itself I told the Union people we would not interfere with this dumpload of gas that they are getting.

Mr. NICKLE: I assume from that that we will have cheap American gas continuing to come into the southwestern corner of Ontario, Union natural gas, but the cheaper gas to Toronto will be cut off, is that correct?

Mr. SCHULTZ: It will not be cheaper, in our opinion. As Mr. Tucker said when he indicated that there are going to be adjustments made in the transportation charge in the United States, and as I understand the contract,—I do not want to speak for Mr. Tucker but it is my understanding that the contract price started at 53; at the end of the three years it went to, roughly, 58 cents, and these adjustments presumably will come on top of that. It is our position from the beginning that we could supply gas to Toronto cheaper than it can be brought from the United States.

Mr. NICKLE: Would you indicate what you believe the gate price of Alberta gas would be at Toronto?

Mr. SCHULTZ: Not at the moment. We are revising all of our costs right now. When we have this bill through this committee and parliament we intend to settle immediately with Consumers and negotiate a contract, and it is so provided in this agreement here.

Mr. NICKLE: Is it not true that the cost of that gas from Alberta is going to depend largely upon the total market to be served by the all Canadian pipe line, or the pipe line from the west, and that the movement of that pipe line into a market already established such as Toronto's market will be established, will cut the transport cost per unit of gas. That is a correct interpretation, is it not?

Mr. SCHULTZ: I would say that anything that will build the domestic and commercial load here in Ontario will help Trans-Canada.

Mr. NICKLE: By the same token would not the addition of other markets to the Trans-Canada pipe line, for instance, outside of Canada improve it by reducing cost of transport per unit of gas?

Mr. SCHULTZ: I would say it is true, with this exception that if there is a limited supply the Board of Transport Commissioners might take the position that the home consumers must be taken care of first.

Mr. NICKLE: But would outside markets help to reduce the cost?

Mr. SCHULTZ: It depends on where it is sold and what you would get for it.

Mr. NICKLE: Have you in mind any American markets that could be served by Trans-Canada pipe lines in order to improve the overall economics of the proposed Trans-Canada pipe lines?

Mr. SCHULTZ: The only one we could think of is the Minneapolis market.

Mr. NICKLE: What about delivery of gas at Niagara through the Tennessee Transmission and Gas Company to Buffalo and New York and the eastern states?

Mr. SCHULTZ: My own opinion is to reverse this line and sell to Tennessee Transmission and Gas Company would be of no benefit to Trans-Canada.

Mr. NICKLE: Do you feel that selling to Minneapolis would be of benefit?

Mr. SCHULTZ: During a build-up period only.

Mr. NICKLE: Do you feel that the sale of gas to Minneapolis, as far as Canadian gas could get there either by building the line in two stages, or selling to Minneapolis from the line which reaches Winnipeg would improve the economics?

Mr. SCHULTZ: Well, I think it is axiomatic that the quicker you can get income when building a line the better off you are. There are factors which Trans-Canada has no control over. Trans-Canada is going to build a pipe line, and I think we are going to be told how and when to build it. If we are told to build an all-Canadian pipe line, that is what we are going to do. On the other hand if we are allowed to sell to Minneapolis—

Mr. NICKLE: What you are saying is this pipe line plan is dictated more by political exigencies than by economics?

Mr. SCHULTZ: No, I would not say that.

Mr. NICKLE: Mr. Schultz, in the original Trans-Canada submissions of a year or so ago to the Alberta Conservation Board suggested prices were set out of 55 to 57 cents as gate prices for sale of Trans-Canada gas to eastern Canadian utility companies. A price was also given as the sale price for gas sold to the uninterruptible industrial market of 45 cents per thousand. Is it now your belief that a large market could be developed for industrial gas in eastern Canada at 45 cent per thousand feet?

Mr. SCHULTZ: We will get a fair share at 45 cents, and as a matter of fact I think Trans-Canada will be in the position in uninterruptible sales to sell gas cheaper than 45 cents.

Mr. NICKLE: I noticed in the press two or three weeks ago one of the commissioners of the Ontario Hydro Commission made the public statement that the competitive price of natural gas for the two Ontario Hydro Electric Commission steam plants at Windsor and Toronto was 32 cents per thousand feet, and this commissioner did not expect that Ontario Hydro would use Alberta gas because gas could not be delivered at a competitive price. That was followed a week or two later by a statement by the chairman of the Hydro Commission to the effect that the Hydro will use Alberta gas to the tune of 10 to 15 billion feet a year. Could you give us any explanation how that will be accomplished? Will the price be above 32, or are you considering cutting it, and charging it to someone else?

Mr. SCHULTZ: We did not include the Hydro in our consideration. If they wish to buy gas we will be delighted to sell it. But, we never contemplated they would be a customer.

Mr. NICKLE: The only possible large market at present through northern Ontario is Sudbury, the International Nickel Plant. I have heard that the price is competitive as compared to coal at 38 cents a thousand feet. Do you believe Trans-Canada can deliver gas to them at that price?

Mr. SCHULTZ: We have not negotiated a contract yet, but their coal costs them about 12.50 delivered there and they have carrying charges and ash disposal and things like that. As I remember the figure we figured something like 45 cents.

Mr. NICKLE: Your estimate is higher than theirs.

Mr. SCHULTZ: I felt that we were pretty much together. But, we have not negotiated a firm contract, and I hate to say what we can do it for. We have some ideas, but they are trading awfully hard on their side and we want to see a fair price.

Mr. NICKLE: Is it your belief that if a line into eastern Canada were completed immediately that you could actually find in eastern Canada at the 45 cent average price you set out in your old Trans-Canada brief a year or so ago a market as large as you outline in that brief, at 45 cent per thousand?

Mr. SCHULTZ: I think so.

Mr. NICKLE: You are satisfied with that?

Mr. SCHULTZ: Yes. I am not a marketing expert, but we hired two of the best outfits in the business, and we are going on their judgment. They spent a lot of money in telling us that we can find the market.

Mr. NICKLE: Going back to the other end of the line, your brief of a year or so ago stipulated a price for gathered gas—and I use the term gathered to differentiate from a well head price which at no time is the price mentioned so far as Canadian lines are concerned. You start off with a proposed gathered price of 8 cents estimated to reach 10 cents in five years. Then last spring in a further submisison to the Conservation Board in Alberta, you suggested that provided government concessions were obtained, it might be possible to raise the gathering gas price to start at 10 cents and to escalate in five years to 12 cents. What did you have in mind by way of government concessions?

Mr. SCHULTZ: Do you mean by "government concessions" assistance in this matter?

Mr. NICKLE: Yes.

Mr. SCHULTZ: Well, our experts have never claimed that we needed any help in doing this job. I would not contemplate that a project of such national importance should receive less treatment than the set-up which interprovincial or any other important project has received in the way of sales tax and duty remissions. But even without that I do not think that we have to have it, because I think that we can make it work; and it all goes back to what we have always said: that this project would have three rough years, and that as we got a market built up, the project would be entirely economic and go along by itself.

Mr. NICKLE: How would you propose those government concessions which you suggested before the Conservation Board?

Mr. SCHULTZ: The situation in Alberta is pretty well taken out of their hands under the new set-up and as I see the situation now Trans-Canada are negotiating at arms length with the provincial government; and what the cost price will be, I do not know. But as I understand it the company does not have any official set-up yet with officers and directors with whom we can deal.

Mr. NICKLE: You will be buying your gas at the eastern border of Alberta from the Alberta Grid Company?

Mr. SCHULTZ: What the price will be, I do not know.

Mr. NICKLE: It will not be possible to ascertain the economic feasibility of the Trans-Canada project as now envisioned until No. 1: a price has been established by the Alberta Grid Company at the Alberta border starting with

the hope that the gathering price will be satisfactory to the Alberta government or No. 2 until you have reached an agreement with several utility companies in eastern Canada with sufficient volume and continuing demand for the gas; and No. 3, and this is the point I am coming to now, that there will be a guarantee satisfactory to the insurance companies that would have to invest the largest part of the money to be used to finance this pipe line; that is, a guarantee that the bonds will be issued by Trans-Canada Pipe Line Limited. You will recall that in the case of the two oil pipe line enterprises, Trans-Mountain guaranteed that all the bonds were given on a very firm basis through commitments made by a group of the major oil companies. Is it your belief that these same major oil companies which have not a financial interest in the gas pipe line anywhere near approaching their interest in the oil pipe line—is it your belief that they will provide the same form of guarantee to make the bonds of Trans-Canada Pipe Line a legal investment to Canadian and American insurance companies?

Mr. SCHULTZ: No; and we do not intend to ask the oil companies to do that, or to do anything to take over the contracts. I am not going to speak for the financial people because I am a geologist. However, it is my understanding that what the insurance companies are interested in is the servicing of the bonded indebtedness, and if we have to take over contracts to satisfy that, that is all.

Mr. NICKLE: Do you think it might not be essential to the plan that the bonds be guaranteed by the federal government.

Mr. SCHULTZ: I would not contemplate that at all.

Mr. NICKLE: You think it could be done without government guarantee?

Mr. SCHULTZ: Yes.

Mr. NICKLE: That is all.

Mr. MURPHY (*Lambton-west*): I would like to ask Mr. Tucker one question which may be rather embarrassing. I hope it is not, but if it is, I apologize for it. I am concerned about the B.T.U. of the gas that you will deliver to the consumers in Toronto. Will that gas be the same with respect to B.T.U.'s.

Mr. TUCKER: Just as we receive it, 1,000 B.T.U.'s.

Mr. MURPHY (*Lambton-west*): Is that your experience with respect to all gas distributors?

Mr. TUCKER: That is what most of them now do, although they have tried to mix this gas with lower B.T.U. gas.

Mr. MURPHY (*Lambton-west*): They could mix it with air, could they not?

Mr. TUCKER: They could, but they do not mix it with air. They send out gas of about 800 B.T.U.'s.

Mr. MURPHY (*Lambton-west*): Yes.

Mr. TUCKER: But all of them have taken a second step. All appliances and burners have to be adjusted to burn the richer gas and in order to make that conversion less severe they had taken to sending out a mixture, but in all cases they have gone back to the original 1,000 B.T.U. gas and we intend to send that 1,000 B.T.U. gas out just as we receive it, right from the beginning.

Mr. MURPHY (*Lambton-west*): Is it not a fact that some of the gas distributors also sell gas appliances and gas furnaces?

Mr. TUCKER: Yes.

Mr. MURPHY (*Lambton-west*): And is it not a fact that some gas distributors in Ontario do mix certain other elements with the natural gas which they receive from the pipe line?

Mr. TUCKER: Not to my knowledge. I do not know of any. Both the Dominion and Union send out 1,000 B.T.U. gas.

Mr. MURPHY (*Lambton-west*): Is there any likelihood of the cost of gas from the storage in the Don valley becoming a little high?

Mr. TUCKER: You mean will it make any difference in the picture?

Mr. MURPHY (*Lambton-west*): Yes.

Mr. TUCKER: I do not think so.

Mr. GREEN: There have been some statements made about prices, Mr. Tucker, at Toronto, and you made some observation. I would like to deal with that question. Apparently the price you are figuring on today is a little over 53 cents, that is, from the Tennessee Transmission Company at the Toronto city gate. Is that correct?

Mr. TUCKER: Yes.

Mr. GREEN: And Mr. Schultz said something about there being an increase after the first three years which would bring the price up to about 58 cents.

Mr. TUCKER: In the first three years it will definitely be 53 cents. After then the producers will get a little more and the transportation costs may be adjusted somewhat, but all in all I do not think it will be a major matter or that the increase above the present price of gas will be very great.

Mr. GREEN: That may be correct. Nevertheless price is very important when we consider western gas.

Mr. TUCKER: I do not know very much about that. We heard what Mr. Schultz had to say about the price.

Mr. GREEN: But the Federal Power Commission felt that you ought to charge a certain rate for the gas. I believe you were put in what they call zone 5.

Mr. TUCKER: That is a transportation zone. It has nothing to do with prices, as our prices are not stabilized.

Mr. GREEN: It might put up the price?

Mr. TUCKER: It might do so.

Mr. GREEN: By how much?

Mr. TUCKER: By whatever the increase would be.

Mr. GREEN: But there has been no change yet?

Mr. TUCKER: There has been no change in the price which I set out and which I advertised, if you like to call it that, or quoted. The price is still 53 cents.

Mr. GREEN: What was the effect of putting you in zone 5 instead of zone 4?

Mr. TUCKER: The maximum affect of that would be, I think, that there perhaps was 4½ cents a thousand as a maximum difference. I do not want to bring this up again, but at Washington a representative was present from the Trans-Canada people and it was to their advantage that the price to us would be so high that we would want to buy their gas in preference. The question came up and it was said that I had made a good deal, and that I had a better deal than Buffalo, and they thought it was unfair that people in the United States should have to pay more for their gas than I was paying. What finally happened was that the arguments were just noted, and my transporters, The Tennessee Gas Transmission Company, have until 60 days before they begin to transport gas for me to file a rate and justify it.

Mr. GREEN: What is that?

Mr. TUCKER: To file a rate, a transportation rate.

Mr. GREEN: So the question of the rate at the Toronto city gate is still open?

Mr. TUCKER: It is still open, yes.

Mr. GREEN: And the Tennessee Transmission Company will have to file an application with the Federal Power Commission for an increase, or they are about to do so? Is that correct?

Mr. TUCKER: They will not do so until May.

Mr. GREEN: They will be filing an application?

Mr. TUCKER: I do not know what the date will be.

Mr. GREEN: They are filing an application before the Federal Power Commission in May for an increase?

Mr. TUCKER: I did not say that. They are filing a rate so there shall be a rate on file with the Commission, and it will be applicable to anyone who qualifies under the rate and it should not be any different from the rate I have now.

Mr. GREEN: It could be higher?

Mr. TUCKER: Yes, or lower.

Mr. GREEN: I guess it is not very likely to be much lower?

Mr. TUCKER: I have never heard of prices going down, but that is the situation anyway.

Mr. GREEN: You do not know how much that will be? Have you heard any rumours as to what it will be? In other words, Tennessee Transmission who are your associates and are partial owners with you of Niagara Transmission Limited—

Mr. TUCKER: They are going to try to work out a good rate for me.

Mr. GREEN: Have they told you what rate they are proposing to file with the Federal Power Commission?

Mr. TUCKER: No sir.

Mr. GREEN: And you do not know what the rate on Trans-Canada is, I suppose?

Mr. TUCKER: No.

The CHAIRMAN: Mr. James?

By Mr. James:

Q. I wonder if the witness could tell us something about the appliance conversion they have in mind for the city of Toronto?—A. The man who should answer that question is Mr. George Knight, the engineer of the company.

Mr. KNIGHT: I take it you do not want the actual date of the conversion but just a general picture of how it will be carried out?

Mr. JAMES: Yes?

Mr. KNIGHT: We propose to divide the city of Toronto into a number of districts and commence the conversion district by district over a period of 90 days, starting with the west end where it will take perhaps two days. When that district is completed and has 100 per cent natural gas we will move into the central district and so on across the city. Prior to the actual date of conversion we will make a survey of the actual equipment concerned. On the date of conversion itself it involves changing the burners, putting a small orifice in and putting enough gas in for each individual customer, and giving him the same amount of air so that it will have the same burning characteristics as manufactured gas.

Mr. JAMES: Is this conversion to be carried out and paid for by consumers?

Mr. KNIGHT: Yes.

Mr. JAMES: The customer has no part in it except to let you in his house?

Mr. TUCKER: Do no let us fool ourselves—the customer will pay for it, but we are not making a direct charge for it.

Mr. JAMES: Do you anticipate it will be completed in a 90 day period from the time you start?

Mr. KNIGHT: That is correct.

The CHAIRMAN: Mr. Hosking.

Mr. HOSKING: Mr. Chairman, I would like to ask a question of Mr. Schultz after I ask a question of Mr. Palmer. Mr. Palmer, I believe you told me that Guelph, Kitchener and Galt would have to deal with Union Gas Company?

The WITNESS: I do not recall saying that. I think Mr. Tucker might have said that.

Mr. TUCKER: Excuse me, in Galt it will be the Dominion Natural Gas Company.

Mr. HOSKING: And who in Guelph?

Mr. TUCKER: Guelph at the present time has a city-owned gas plant and they run their own show.

Mr. HOSKING: It is the Guelph Light, Heat and Power?

Mr. TUCKER: Yes, the Guelph Light, Heat and Power Commissioners. It is a city-owned plant, and they run their own show. If natural gas is going to go anywhere near them, however, they will want it.

Mr. HOSKING: Do they have to deal direct with the Union Gas Company which is down in the Chatham area as you told me before?

Mr. TUCKER: Yes.

Mr. HOSKING: Why could they not deal direct with Trans-Canada?

Mr. TUCKER: Because Trans-Canada is a pipe-line serving—or I presume it is going to serve—the Union Company, and the Union Company will then exercise its franchise.

Mr. HOSKING: The thing I want to know is this—and this is big business, this is not small business— the cities of Guelph, Galt, Kitchener and Waterloo —why cannot they deal direct with the Trans-Canada line? Why must they buy from the Union Company which is interested in another section of the province altogether?

Mr. TUCKER: They go up to Sarnia, too. I do not know if I have a map here or not.

Mr. HOSKING: Why do we have to deal with them? Why cannot we deal direct with Trans-Canada pipe line?

Mr. TUCKER: I cannot answer concerning the policy, but the fact is that the province is already served with natural gas.

Mr. HOSKING: Not where we are. Not in Galt or Guelph.

Mr. TUCKER: Galt, yes.

Mr. HOSKING: I am sorry, I mean in Kitchener, Waterloo or Guelph?

Mr. TUCKER: No, but you said Galt.

Mr. HOSKING: I said Galt because we usually group the three together as they are close; but excluding Galt, the rest do not have any.

Mr. TUCKER: I cannot answer your question.

Mr. HOSKING: May I ask this question of Mr. Schultz. If you are building this pipe line now to service Toronto, why do you not service some of the other districts that are on the way of this pipe line? Why does it go exclusively from the Niagara Peninsula border directly into Toronto. Why can't I tell the Guelph Light, Heat and Power Commission that if they contact the Trans-Canada and run a pipe line from Guelph—possibly serving Kitchener and

Waterloo directly into your line at Burlington—which is only a matter of 20 some miles—why can't we get gas out of the pipe line that is going into Toronto?

Mr. SCHULTZ: I think that is properly a question for Mr. Tucker, but it is his gas.

Mr. HOSKING: But you are building the line? You are building it and you own it, and you are leasing it to them?

Mr. SCHULTZ: But it is his gas.

Mr. HOSKING: But it is your gas and you are eventually going to take it over? You are making a deal with Consumers Gas. Why not make a deal with some of the other cities who are as interested in getting gas as Consumers are?

Mr. SCHULTZ: I cannot speak for the Federal Power Commission, but it is my understanding they have a certificate for a specific job to bring it to 21—

Mr. HOSKING: Who is "they"?

Mr. SCHULTZ: Consumer, Niagara and Tennessee.

Mr. HOSKING: You mean Consumer Gas have asked for this specifically?

Mr. SCHULTZ: It has been granted.

Mr. HOSKING: They asked for it and it has been granted. This should not exclude any of the others asking to join into the pipe line you are building? This is really serious—the business and industrial part of the dominion of Canada.

Mr. SCHULTZ: The Consumer went to Washington and fought a battle. They won that battle, and got some gas, and it is their gas and legally I cannot answer the question as to what are the rights of other communities, but it seems to me they have spent their money, and they won a three-year battle—

Mr. HOSKING: But we are passing a bill and some of us might be interested outside the city of Toronto—very interested. All I want to know is what does the larger population of that industrial area of the province of Ontario have to do to get gas? You have exclusive rights on this, I presume?

Mr. SCHULTZ: No, if Trans-Canada build their pipe line from Alberta to eastern Canada, those communities can buy all the gas they want to buy.

Hon. MEMBERS: Hear, hear.

Mr. HOSKING: But at the same time it would be difficult to do this at a future date and it would be very advantageous to do the things that should be done now. Now, all I am asking is this: if the proper moves are made to get extra gas is there anything to prevent those cities that I have mentioned which are not tied up with other companies from joining in your gas line and getting gas?

Mr. SCHULTZ: If there is other gas available, I do not see any reason why not.

Mr. HOSKING: They would be able to get a lease on your line to supply them?

Mr. SCHULTZ: If there is excess capacity, I do not see any reason why it should not be worked out.

Mr. HOSKING: You say, "If there is excess capacity." That is not good enough. Is any thought being given to what their position would be if they asked for it?

Mr. SCHULTZ: I think they would have to go back to the Federal Power Commission to fight a three-year battle, as the Consumers did.

Mr. HOSKING: Have you made a tight agreement? I have seen that point occur too often. Now is the time to get these things done.

Mr. HAHN: Is there anyone who can legally tell us whether it can be done or not?

Mr. TUCKER: It cannot be done.

Mr. HOSKING: Why?

Mr. TUCKER: Because one has to consider franchise rules and regulations, and this is an industry that is regulated from beginning to end.

Mr. HOSKING: Regulated?

Mr. TUCKER: Yes, regulated from beginning to end. I would not think of going and selling gas without talking to the Dominion Natural Gas Company.

Mr. CAVERS: You would refuse to go to St. Catharines and sell gas there?

Mr. TUCKER: Someone is selling there, Dominion.

Mr. CAVERS: If Dominion wanted gas from that pipe line, would you give it to them?

Mr. TUCKER: I would give it to them.

Mr. CAVERS: If Grimsby wanted gas from this pipe line, would you give it to them?

Mr. TUCKER: Have you any personal interest in this?

Mr. CAVERS: No, I have no personal interest in it, I do not own shares in a company or anything. I have only my constituents' interests. If the Dominion Natural Gas Company wanted gas for St. Catharines, would you supply them from this line?

Mr. TUCKER: Might I make this explanation, which I think will take care of your question? The Dominion company have the franchies in Galt and also in St. Catharines. I would scrupulously agree with them to run their own franchise. I would not go near them except to offer them what facilities I might have, and I have already done that. I have already approached the Dominion company and asked them whether in engineering this line I would include some space for them. They told me, "No," that they had other plans. What they are, I do not know. I did not ask. They said very definitely that they did not want any gas off my line. The amount of gas that I have bought in Louisiana, and which the Federal Power Commission has given me permission to bring up here, is that for my own territory plus one around Welland and Port Union and Niagara Falls.

Mr. HOSKING: Have you been in correspondence with them?

Mr. TUCKER: I saw all those people before I started this.

Mr. HOSKING: Have you correspondence showing that they did not want the gas?

Mr. TUCKER: I have my ears, that is all.

Mr. HOSKING: You have nothing in writing?

Mr. TUCKER: No.

Mr. HOSKING: What if they write and say they do?

Mr. TUCKER: They cannot. It is too late. I have the line engineered and fixed up. The time to say that they wanted it is when I went to Washington. It took me three years to get a permit out of them, and it has taken a long time to get the thing in the shape that it is now in. I have worked at it for a long time. The 1,300,000 people that we serve in the Ontario area will have a supply of natural gas right here now.

Mr. HOSKING: Would you answer this?

Mr. CAVERS: I think Mr. Tucker wants to finish.

Mr. TUCKER: I have got a supply of Louisiana gas and it is right here now available to us by November 1. Since all that has been going on, the development in the west has come through, and it appears that our market is essential to the build-up of that line for other parts of Canada. We have arranged with

the people from whom we bought the gas in good faith to take it back when this is available to us to take its place. I do not know if we can do any more than that. As for bringing in other customers, we hope we can do it.

Mr. HOSKING: Was the supply of gas that you acquired difficult to acquire?

Mr. CONACHER: It took three years.

Mr. HOSKING: The negotiations can still take three years, but what I want to find out is this. Were they not anxious to have these people in at those places where there was no gas supply?

Mr. TUCKER: I do not know anything about Guelph or St. Catharines.

Mr. HOSKING: If there is only so much gas?

Mr. TUCKER: I bought what I needed.

Mr. HOSKING: Is the U.S. government not anxious to export this gas?

Mr. TUCKER: No, you will have quite a time to export gas.

Mr. HOSKING: I have one other question that I want to ask then I am finished. Mr. Chairman, is this pipe line giving them the exclusive right to build a pipe line, or can anybody else build a pipe line after this one is done?

Mr. TUCKER: Yes. This is not the only pipe line that will be built. Trans-Canada will be up there to build their pipe line very shortly.

Mr. HARRISON: I think my question might best be addressed to the representatives of the Trans-Canada company. I think the original intention of Trans-Canada was to build a pipe line to service eastern Canada, is that correct, Mr. Tucker or Mr. Schultz?

Mr. MILNER: That was the original intention. Western contemplated building as far as Winnipeg and Minneapolis in the first place and then coming on here later.

Mr. HARRISON: It was my understanding that the Western company was to supply the area around Minneapolis and Trans-Canada eastern Canada. But since these original plans were laid, I think that the Alberta government decided that the two companies could better work together. I am interested in what the thinking of Mr. Milner is in this respect, that the two companies should have got together. Have you any ideas on that?

Mr. MILNER: It was an obvious thing. I do not think there was any force about it. It was referred to as a shotgun wedding, but I do not think that it was anything like that. Both parties were in favour of getting together, because the two projects could be operated together to the benefit of both.

Mr. HARRISON: Will the Alberta Gas Conservation Board have any suggestions to make to you after the gas leaves the border as to where you sell? Are you free to sell it anywhere you like?

Mr. TUCKER: With the Alberta government, it might be different.

Mr. HARRISON: What would the Alberta government's position be on that?

Mr. MILNER: They are in favour of the joint scheme, that is to go east and also to go to Minneapolis if the American permit can be obtained.

Mr. HARRISON: They will insist on supplying both markets?

Mr. MILNER: If it can be done.

Mr. HARRISON: What would be the price of the gate at Winnipeg in this plan?

Mr. MILNER: We cannot say anything very definite about that. It would be in the same zone as the gas delivered to Northern Natural at the border, something in the same order.

Mr. WOOD: The same price?

Mr. MILNER: I could not say that.

Mr. HARRISON: Have you any approximate idea of the price at Winnipeg?

Mr. MILNER: No. But, the price quoted to Northern Natural is 34 cents at the border.

Mr. HARRISON: Would it be higher or lower in Winnipeg?

Mr. MILNER: We try to keep it around that figure. Winnipeg would be taking very much less gas, and so there may be some differential.

Mr. HARRISON: Would industrial users in Winnipeg have approximately the same price as industrial users in Minneapolis?

Mr. MILNER: I cannot tell you that. It just depends how it works out. I have forgotten what the industrial rate in Minneapolis is. It depends on the load factor, whether seasonal and many other factors.

Mr. HARRISON: It is my understanding that the original commitment of Northern was to deliver gas at 27·8 cents at the boundary and that they had a firm commitment to do that.

Mr. MILNER: At one time it was discussed at 28·6.

Mr. HARRISON: Is there going to be any considerable differential to industry in Canada and the United States? This is a Canadian resource, and we do not particularly want to have an advantage given to people across the border to hang us with our own rope as it were.

Mr. MILNER: The amount of gas we would deliver to Northern Natural is a very small part of the gas distributed by Northern Natural. They distribute at the present time something like 250 billion a year. We will be giving them in the initial stage not more than 35 billion.

Mr. HARRISON: Mr. Schultz, a moment or two ago, said they still contemplated delivering gas down here at about 45 cents. Would the size of the line have any effect on that? I imagine it would.

Mr. MILNER: It depends how loaded the line is.

Mr. HARRISON: Your present line is what size as contemplated?

Mr. MILNER: 36 inches to Winnipeg and 28 inches from Winnipeg east. That is still subject to consideration.

Mr. HARRISON: Would there be any advantage as far as the users at this end are concerned, provided the load required it, if it were a 36 inch line from Winnipeg east?

Mr. MILNER: If you could keep it loaded, get it loaded and keep it loaded in a very short time after construction. But, in a pipe line fixed charges are very high and if you only use 50 per cent of its capacity for a number of years you would likely go broke. If there were smaller sizes, it may pay enough on the smaller sizes that in due course you would be able to duplicate the line.

Mr. HARRISON: What would be the capacity of the lines running east?

Mr. MILNER: Five hundred million.

Mr. HARRISON: It is my understanding that at the point when you start to get over 500 million a day probably a 36 inch line would be a paying proposition, particularly to the consumers at this end.

Mr. MILNER: A 36 inch line would bring you to about 800 million; but with a 36 inch line, over a number of years you are not going to sell over 300 million.

Mr. HARRISON: What would be the effect then, supposing you got over that 500 million load and you are going to sell, it may be 650 million or even 700 million; what would be the effect on the consumer at this end if you only put in a 30 inch line?

Mr. MILNER: We would do as every other company has done, namely, begin to loop.

Mr. HARRISON: But if you did that, your capital expenditure would go up again, would it not?

Mr. MILNER: Yes, but we would not be carrying an unused capital expenditure in the meantime.

The CHAIRMAN: Now, Mr. Conacher.

Mr. CONACHER: There will be brought in, by export, Mr. Tucker, 22 billion cubic feet to satisfy Toronto's need; but in the event that the Dominion Gas Company, at the time you surveyed their problem had then asked you for 2 or 3 more billion cubic feet, you would have tried to get 25 billion to handle the problem that was now arising?

Mr. TUCKER: Yes.

Mr. CONACHER: Thank you.

Mr. HOLOWACH: I think it is fitting and proper at this moment to compliment these three gentlemen, Mr. Milner, Mr. Schultz and Mr. Tolmie for appearing here as representatives of a single corporation rather than as two competitive companies and at the same time to give acknowledgement to all those who supported the principle of amalgamation in the federal House and in fairness to one who is not here, the Honourable Mr. Ernest Manning, Premier of the Province of Alberta, who suggested the merger of the two companies. I would like to ask a question of Mr. Milner: Will Mr. Milner tell me this: Are you happy about the deal that has been presented to you by Niagara Gas Transmission Limited? The reason I ask the question is this: Do the plans, as called for by them, conflict in any way with the plans of Trans-Canada Pipe Lines Limited?

Mr. MILNER: No. I think from the point of view of all parties, it is an excellent deal. We have no criticism of it at all. Of course I hesitate to speak for Consumer, but I think I can say that for Consumer too, and that it works out some very serious problems in a way which is satisfactory to all of us.

Mr. HOLOWACH: You mentioned that it was desirable from an economic standpoint that a western market be found in the middle states for the Trans-Canada line in order to carry out a threefold objective, namely: a proper return to the producers in Alberta; the economic feasibility of the line, and to keep a low cost supply available to the consumers in the eastern market. Do you anticipate any difficulty in supplying the western U.S.A. market and if so, from what source?

Mr. MILNER: You mean by the western market, the Minneapolis market?

Mr. HOLOWACH: Yes.

Mr. MILNER: We can begin to supply them with gas the moment the line is completed and at a very high load factor. They will take gas from us at the rate of practically 100 million cubic feet per day, day in and day out, throughout the year. That, of course, would provide us with an amount of revenue in the early years, which would be slow down here where our market for a time is going to be relatively thin. That Minneapolis market will go a long way to help carry the load.

Although the maximum sounds small, our engineers tell us that in the early stages they estimate that sales are going to be small in eastern Canada, and that the eastern producer will get the benefit of about a dime, 10 cents. But as years go on and the market builds up the sales in turn, the benefit may not be so important but it will still be worth something in the order of a nickel, about a nickel.

Mr. HOLOWACH: Naturally the people of Alberta are very concerned about the line and it being economically feasible. Do you visualize any necessity of a subsidy from the federal authorities in order to make that possible?

Mr. MILNER: I do not like to talk about dollars until we have the final figures, but I do not think so. Certainly none has been asked for and none promised. It is a great project and many factors are still unknown. For example, details of the contracts which we may get down here are still very much in the air. But I hope that this can be put through on a sound basis and without assistance.

Mr. HOLOWACH: One more question. Did not the initial plan of Trans-Canada Pipe Lines Limited call for a more impressive servicing in eastern Canada than the one presented by the Niagara Gas people?

Mr. MILNER: I do not quite follow you.

Mr. HOLOWACH: Did not the initial plan of Trans-Canada Pipe Lines Limited so far as servicing the eastern market is concerned—was it not more comprehensive than the one presented by the Niagara people?

Mr. MILNER: The difference in this—correct me if I am wrong—originally Trans-Canada did not contemplate gas being brought into the Toronto area from across the line. Now the situation has been changed to this extent, and to this extent only, that American gas is coming in for a short period of time—two years or a little more—and that will enable the Toronto market to be built up so that when western gas arrives, it will have a substantial market in Toronto to walk right into—otherwise it would walk into a bare market.

Mr. HOLOWACH: Well, Mr. Milner, did not the initial plans of the Trans-Canada pipe line call for servicing some of the towns that are not being mentioned in the plans of the Niagara Gas people—that is Galt and some other places?

Mr. MILNER: Yes, Trans-Canada anticipated serving the same territory, but probably in a different way. The Niagara line changes our plans to some extent, but not in the final result.

Mr. HOLOWACH: You do not feel that in accepting the proposition presented to you by the Niagara Gas people that you were more or less forced to accept their proposition and you found yourself, so to speak, over a barrel?

Mr. TUCKER: I would not say so because certainly a line down here is of great importance from a national point of view and there is a great market here. The difference originally as between Trans-Canada and ourselves was merely on the question of timing. We felt an effort should be made to build up the Ontario market before western gas arrived so we would have some market to serve. Trans-Canada thought they would come into a more or less bare market—that was the point of disagreement. Now, what has been done by Consumers, and which I hope will be done to some extent by the Union and the other companies, has resulted in a solution of the difference because the market is now being built up.

Mr. HOLOWACH: After you receive the charter the next step, I suppose, will be to get permission from the Alberta government?

Mr. MILNER: The hearings were concluded last week and I would imagine that matter will be finished within two weeks at the outside.

Mr. HOLOWACH: Do you foresee any technical difficulty which may be presented by the province of Alberta in the matter of giving the export license?

Mr. MILNER: No.

Mr. HOLOWACH: I have directed these questions because I am primarily concerned with protecting the best interests of the Trans-Canada pipe line, realizing it will have a tremendous and positive economic effect upon this country quite apart from its being one of the great engineering feats of this century.

The CHAIRMAN: Mr. Hamilton?

Mr. HAMILTON: Mr. Chairman, I am just a little perturbed as a result of some of the questions and answers this morning, as to whether the area east of Toronto has been dropped out of eastern Canada completely—

SOME HON. MEMBER: Hear, hear.

Mr. HAMILTON: —and I was just wondering if Mr. Milner can tell us what thought has been given to the extension of the Trans-Canada line east of Toronto to serve the Montreal market and the area between Toronto and Montreal. That is my first question.

Mr. MILNER: Well, we certainly are very much interested in serving Montreal and carrying the line through as far as Montreal. We have had numerous talks and negotiations with the Quebec Hydro Commission and we certainly anticipate going on to Montreal, where there is a very large potential market. To make it clearer, our project is for what is called eastern and central Canada. We will go to every place where there is a market to be served.

Mr. HAMILTON: Would you say that up to date you have received a sympathetic hearing from the Quebec Hydro?

Mr. MILNER: Oh, very.

Mr. HAMILTON: Assuming that you reach Toronto within the five-year period contemplated by the agreement in front of us, have you any idea how many more years will elapse before natural gas will be available in Montreal?

Mr. MILNER: I would like to clear up that five-year point. The agreement mentions five years, but it aso mentions five years from 1st November, 1954, or when western gas arrives here, whichever is the sooner. We certainly expect it to arrive here at the end of 1956. That is really two and a half years, rather than five. We would hope to proceed immediately to Montreal as part of the general scheme.

Mr. HAMILTON: Do you feel you could service both areas with, say, a 30-inch pipe line?

Mr. MILNER: Yes.

Mr. HAMILTON: Thank you, sir.

The CHAIRMAN: Mr. Palmer has a telegram that he would like to read.

The WITNESS: Mr. Chairman, earlier this morning I mentioned that this agreement had been executed by Consumer Gas and Niagara and Trans-Canada, and that copies were in the hands of the companies for execution. A few minutes ago I received a telegram from Houston, Texas:

> "Have executed contract with Consumers, Niagara and Trans-Canada received today. Have mailed executed copies to you. Tennessee Gas Transmission Company.
>
> N. W. Freeman,
> Vice-President."

Mr. HOSKING: Could Mr. Schultz tell me with whom he communicated in the city of Guelph? Would it be the chairman of the Hydro Electric Power Commission? I am sorry; should I be asking Mr. Tucker?

Mr. TUCKER: I have had no communication with anyone in the city of Guelph, but I do know that the commissioners of the city of Guelph signed a letter of intent to purchase natural gas from the Union Gas Company, and when the Union Gas Company is able through its facilities to serve the city of Guelph it will do the job.

Mr. NICKLE: There is one question I would like to ask because it is pertinent to what Mr. Milner said. Mr. Milner made the statement that by tying in Minneapolis the cost of gas in eastern Canada would be reduced

during the intial years by about 10 cents per thousand cubic feet, which would of course amount to many millions of dollars per year. Over the long term it would probably save about 5 cents per thousand cubic feet. In that connection, Mr. Milner, do you feel that the Minneapolis market could be captured on an interruptible basis, or should or would a firm commitment of sufficient gas to amortize the loan from the border to Minneapolis have to be made in order to ensure the capture of that very vital market to the success of the Canadian company?

Mr. MILNER: It is quite a distance, about 400 miles to the border.

Mr. NICKLE: Yes.

Mr. MILNER: I would have to give that very careful consideration, because it depends on the prices for which one can get natural gas elsewhere. There are possibilities, as you know, in the Williston Basin, although they are not maturing very rapidly. There are other possibilities. Up to date, of course, Northern Natural gas short of gas, but it is a scheme that has certainly not been given any serious consideration.

Mr. NICKLE: In the light of developments in the Williston Basin, the sooner you capture firmly the Minneapolis market the better the prospects are of making the Canadian market economically sound?

Mr. MILNER: That is correct.

The CHAIRMAN: I think we will adjourn now until 3.30.

AFTERNOON SESSION

The CHAIRMAN: Gentlemen, I think we have a quorum.

Mr. DECORE: Probably, it would be in order, and I will so move, that the committee print 650 copies in English and 200 copies in French of the minutes and proceedings and evidence taken in respect to Bills 325 and 389.

Mr. HAHN: I second the motion.

The CHAIRMAN: It has been moved and seconded that 650 copies in English and 200 copies in French of the minutes and proceedings and evidence in respect to Bills 325 and 389 be printed. All in favour please signify.

Carried.

The CHAIRMAN: Are there any questions you would like to ask?

Mr. GREEN: During the debates in the House we were told, I think, by the sponsor of the Niagara Bill that the agreements would be made available in the committee, and I wonder if we could have a copy of the agreements between Consumers and Tennessee, and also agreements under which they contracted for their gas in the United States? I think all the agreements should be filed with the committee.

Mr. K. B. Palmer, Q.C., counsel for Niagara Gas Transmission Limited, recalled:

The WITNESS: Mr. Chairman, I do not think that we have those agreements available today. We have, of course, a copy of the agreement between Trans-Canada and Consumers and Niagara. If the committee feels that they want copies of these other agreements they are public documents and we can get them, but we cannot get them today.

Mr. GREEN: I think that they should be filed with the committee, Mr. Chairman, so that we have the whole picture. Is there any objection to doing that?

The WITNESS: Not on our part.

Mr. GREEN: Would you file them?

The WITNESS: Yes, I will undertake, Mr. Chairman, to have copies made available to you.

Mr. WOOD: Mr. Chairman, I was interested in the remarks of, I think, Mr. Schultz in regard to the outlay to Minneapolis in which he said they expected to sell one hundred million cubic feet a day, and also mentioned a figure of 28·6 cents.

Mr. SHULTZ: The figure of 28·6 cents was not mentioned.

Mr. WOOD: Could I ask you what size pipe you anticpate building to Minneapolis?

Mr. SCHULTZ: A 24 inch pipe.

Mr. WOOD: What type of market do you anticipate to serve in the United States?

Mr. SCHULTZ: I think Mr. Milner is better qualified to answer that.

Mr. MILNER: It would feed into the Northern Natural system. They would take it and distribute it. Once it was over the border it would be out of our hands.

Mr. WOOD: It would serve the domestic and commercial market?

Mr. MILNER: Yes. As I pointed out this morning one hundred million a day. But, they already distribute about 250 million.

Mr. WOOD: The point is that the figure which you gave me this morning is pretty large in respect to what they expect to deliver in Toronto. Figuring the size of Minneapolis I thought that the figure was out of line.

Mr. MILNER: It is a question of building up the market, building up the domestic market. For instance, in the fifth year this contract contemplates 21 and 22 billion, in the Toronto area.

Now then, the Calgary and Edmonton distributing system distribute about 26 or 28 billions. There is lots of room for growth. The population of one place is 200,000, and in Toronto about 1¼ million.

Mr. WOOD: What is the population of Minneapolis?

Mr. MILNER: In the order of around 2 million.

Mr. WOOD: It must have grown pretty fast recently then. Could you tell me what the price you expect to charge at Minneapolis at the gate would be?

Mr. MILNER: We expect to charge 38 cents, but no agreement has been made. That is at the border, not at the gate.

Mr. WOOD: At what price do you expect to charge Winnipeg consumers?

Mr. MILNER: Somewhere in the same order. The Minneapolis load is very much more valuable. Winnipeg has a very bad load factor; it goes up like this, the first year is about 3½ billion, and gradually increases to somewhere around to 10 or 11 billion. There again it is the question of buildup. How fast you can establish sales not only in existing territory, but in any growing areas.

Mr. WOOD: Why do you say that it will be up and down? Is that on account of the seasons?

Mr. MILNER: Yes.

Mr. WOOD: That is industrial?

Mr. MILNER: No, that is domestic, heating.

Mr. WOOD: Do you figure that the Winnipeg price will be higher than that going into the United States?

Mr. MILNER: No, I think it will be about the same price, giving Winnipeg the benefit.

Mr. WOOD: I was wondering if it was higher there what effect that would have on eastern consumption down here. Would Toronto be getting a cheaper price than some of the smaller cities?

Mr. MILNER: The final analysis always depends on what load you can build up.

Mr. WOOD: Would all the gas directed to Northern Natural Gas Company which would be serving Minneapolis be available to central Canada providing there is a larger market here than is at present anticipated?

Mr. MILNER: There has been some talk about that, but it depends on if, as and when. I would not say that it would not be available. But, we do not see any shortage of gas in Alberta. The new discoveries are coming in richer, and it is not a question of whether we can serve the markets down here, but the question is whether we will not need at a later date another market.

Mr. WOOD: You are obligated to the extent that it would not all be available?

Mr. MILNER: No.

Mr. WOOD: Providing you had a market here larger than you anticipated that would be able to take all the Alberta gas would the gas you are delivering to Minneapolis be available for this market?

Mr. MILNER: Not immediately. You would have to give them very substantial notice. If we cut them off they would have to replace that gas, and Minneapolis would have to find it somewhere in the States.

Mr. McIVOR: What about the price of gas for Fort William?

Mr. MILNER: It would be a little bit higher but not a great deal higher. We will treat them right if they will buy the gas.

Mr. CAVERS: I wonder if you could clear up the matter of the line you will establish from the international boundary in the Niagara River to Toronto? This line is being constructed by whom?

Mr. SCHULTZ: It will be built by Trans-Canada Pipe Lines Limited.

Mr. CAVERS: And you will have the property and ownership in the line itself?

Mr. SCHULTZ: No. The line is leased to Consumers, with a lease to be in effect until such time as the Trans-Canada West-East line is completed and we are able to supply Consumers with gas in quality and quantity.

Mr. CAVERS: This Trans-Canada line will extend from the border to Toronto on the route which we were advised about this morning?

Mr. SCHULTZ: Yes.

Mr. CAVERS: And then you propose to lease the line to the company known as Niagara Gas Transmission Compnay?

Mr. SCHULTZ: That is correct.

Mr. CAVERS: And is that lease for a period of five years?

Mr. SCHULTZ: For a period of five years or until such time as the west-east all Canadian pipe line is completed, whichever is the shorter.

Mr. CAVERS: You mean whichever is the sooner?

Mr. SCHULTZ: Yes.

Mr. CAVERS: Let me ask you this question, because I have not had an opportunity to go through the whole agreement. Is there anything in the agreement which provides for an option or a renewal of the lease at the end of the five year period?

Mr. SCHULTZ: No, there is not. At the end of the five year period if, for some unforseeable reason Trans-Canada is not built, then Consumers has the option to purchase that line.

Mr. CAVERS: That is if the Trans-Canada line is not built?

Mr. SCHULTZ: Yes.

Mr. CAVERS: Does that mean beyond a point, or if it is built as far as a point, or must it be built to Toronto?

Mr. SCHULTZ: If the Trans-Canada line is built to Toronto and we can supply Consumers with gas, then the lease arrangement is ended.

Mr. CAVERS: I see. Well, then, Mr. Milner said that you assumed that you would have adequate gas to supply the whole of eastern Canada?

Mr. SCHULTZ: That is correct.

Mr. CAVERS: And if you do extend your pipe line to Toronto, you then will immediately take a section of the pipe line from Toronto across to the Niagara river?

Mr. SCHULTZ: That is right.

Mr. CAVERS: And if you do that, then will your company, Trans-Canada, undertake to provide the intermediate points from Toronto around the lake and so on to the Niagara river with gas?

Mr. SCHULTZ: Yes, we will. In fact we are contemplating starting negotiations for firm contracts with those areas immediately.

Mr. CAVERS: Now, that brings up another point. Will you undertake to arrange these contracts with the present companies such as Union Gas, Dominion Natural Gas Company, Grimsby Gas Company and Guelph Light, Heat and Power, or will you undertake to arrange for new agreements with the municipalities concerned?

Mr. SCHULTZ: We cannot invade the marketing area of Union. This is primarily a gas transmission line and if it has been decided that an area in question is in the Union marketing area, we would have to negotiate with Union.

Mr. CAVERS: If you were coming into an area contained within a private gas company's franchise, you would then of necessity have to deal with them rather than with any other firm directly?

Mr. SCHULTZ: That is rgiht.

Mr. CAVERS: So that in the case of Guelph, you would have to deal with Guelph Light, Heat and Power Company?

Mr. SCHULTZ: If it was within their franchise area we would have to deal with them.

Mr. CAVERS: Or if you came within the franchise area of Dominion Natural Gas?

Mr. SCHULTZ: We would have to deal with them.

Mr. CAVERS: Or if you came within the franchise area of Grimsby Gas Company and so on?

Mr. SCHULTZ: Yes, and we would hope to have firm contracts negotiated within the next two or three months.

Mr. CAVERS: Then, during the period of the lease with Niagara Gas Transmission Company, what rental is agreed upon between yourselves and them for the use of the pipe line? Is it set out in the agreement?

Mr. SCHULTZ: It is set out but in a very general way. However, the idea of it is that the rental will be in sufficient amount to take care of the fixed charges and of the right of way costs and such factors.

Mr. CAVERS: Then, Mr. Schultz, there is one other thing: how do you propose to erect your pipe line across the Niagara Power Diversion Development at Queenston, and across the Welland Ship Cannal? Do you propose to place your pipe line underneath those projects?

Mr. SCHULTZ: I am sure that it would be under them.

Mr. CAVERS: Do you know whether that has been done at the present time?

Mr. SCHULTZ: No, I am not familiar enough with it to say.

Mr. CAVERS: You cannot say that it will go under them?

Mr. SCHULTZ: That would be my opinion. But I think perhaps Consumers would have a much better idea because they have studied it more in detail than we have. In my case it is just an off-hand opinion but I would say they would go under.

Mr. CAVERS: As to the Niagara river crossing, there is a new Niagara power diversion which runs into the Niagara river at Queenston coming down from Chippawa, and in addition you have the Welland Ship Canal. Do you know whether any thought has been given to that?

The WITNESS: I am not able to say of my own knowledge, but I think that the Tennessee engineers have investigated it and I am practically certain that the route would be under water. I know that we are going under the Niagara Parks Commission land and under the Niagara river. I think that there would be no question of our not going under the canal.

Mr. TUCKER: I think the Hydro people are making excavations at the very moment, while there is no water in the canal, and I think it would go underneath their project.

Mr. CAVERS: You are able to give us assurance now, Mr. Schultz, that when the Trans-Canada takes over the section of the pipe line running from Toronto to the international border you will then be able to reverse the process and provide gas for that area rather than to have it come in from the United States, with the result that that area would be adequately supplied?

Mr. SCHULTZ: I can say that we will give them more gas than they will be willing to buy. That is the net of it.

Mr. McIVOR: Is there any doubt of this Trans-Canada pipe line being built?

Mr. SCHULTZ: In my opinion there is no doubt about it at all.

Mr. McIVOR: That is good enough for me. Then there is another thing. I think we should have another section to this bill because, coming from the lake head, we want to be sure that it will be an all Canadian pipe line and that nothing will stop it. Do I understand now that this is a legal document? I ask you, Mr. McIlraith, if this document is as legally binding as the bill?

Mr. McILRAITH: That is a question for a lawyer to answer. The incidence is different. It is just as legally binding, but the incidence is different. I do not know how far I can go to elaborate on the difference between an agreement and a bill, and an Act of Parilament.

Mr. CAVERS: An agreement only affects the parties.

Mr. McILRAITH: The curious thing is that at the moment there is a binding agreement in existence which binds all these interests, yet there is no Act.

Mr. HAHN: I would like to ask Mr. Milner what effect will the loss of the proposed Minneapolis market have on the price of gas in Ontario.

Mr. MILNER: We consider that it would be unfortunate but we will go ahead and build, as I have said, to the east; but it is going to be a very much harder struggle to get it on a paying basis.

Mr. HAHN: You mentioned something about 10 cents. Would that be the minimum loss per thousand?

Mr. MILNER: No. I said that until such time as the eastern market is built up, it would give us the benefit of about 10 cents.

Mr. HAHN: Have you any particular hope of building up that eastern market by sending gas to the city of New York and to the northeastern states?

Mr. MILNER: No.

Mr. HAHN: There is no hope then at this time of marketing that gas in the United States?

Mr. MILNER: I would not think so.

Mr. HAHN: Therefore the suggestion that has been carried from time to time that there would be a reverse flow of gas down the Tennessee line through the United States has no foundation?

Mr. MILNER: I would not say it has no foundation, but it has none in the immediate future.

Mr. HAHN: Will a 30 inch gas line carry all the gas that is required if we bring it to eastern Canada under this agreement?

Mr. MILNER: I think it will carry more gas than we will be able to sell down here for a long time.

Mr. GREEN: I would like to ask Mr. Schultz a question. Mr. Schultz, is this present Trans-Canada plan what might be described as an integrated project consisting of the project to bring the line to Ontario and Quebec and the other project to go to the boundary in order to serve the Minneapolis area?

Mr. SCHULTZ: It is a combined project, yes.

Mr. GREEN: It is in effect an integrated project?

Mr. SCHULTZ: Yes.

Mr. GREEN: And was it put before the Alberta Conservation Board on that basis?

Mr. SCHULTZ: Yes it was.

Mr. GREEN: To what extent does the construction of the all Canadian line depend on the Federal Power Commission of the United States giving permission to import the gas at the border in Manitoba?

Mr. SCHULTZ: It does not depend on the Federal Power Commission in any way. It is divided into, you might say, an "A" and "B" project. The "A" is the all Canadian line, and the "B" is the Minneapolis divergence, and there is no intention on our part to wait for approval from the Federal Power Commission for project "B" before we commence construction of project "A".

Mr. GREEN: Which project is to be completed first?

Mr. SCHULTZ: That is a difficult question to answer. I can conceive that if we were given permission by the Transport Board to do both parts that we could complete them at the same time.

Mr. GREEN: Which are you aiming at building first, the pipe line to eastern Canada or the one to the American boundary?

Mr. SCHULTZ: The all Canadian pipe line is my old love, and I think that is what we are shooting at first. If we can take advantage of the Minneapolis market, it will be most helpful to Trans-Canada for the first three years, but there is no intention to hold up the building of the Canadian part of this project for the purpose of getting permission from the Federal Power Commission for the Minneapolis section.

Mr. GREEN: What worries me about the whole position is whether you are turning this Minneapolis pipe line into the main line, and the one to eastern Canada into a branch line. I think about 99 per cent of the members of the House of Commons feel the same way about it, and are worried about the same thing happening. That is a thing we want to be sure we stop.

Mr. SCHULTZ: I am not a lawyer, but it looks to me as though that is something over which, if the Trans-Canada wanted to do some such thing,

we would have no jurisdiction. It seems to me that is a matter for the Transport Board to tell us what we can do, whether we can build "A" and "B" or "A" plus "B".

Mr. GREEN: What will be the status of the whole plan if the Federal Power Commission refuses to grant permission to import the gas into the United States?

Mr. SCHULTZ: We would proceed with the building of the all Canadian pipe line project.

Mr. GREEN: You would go head with the all Canadian pipe line project?

Mr. SCHULTZ: Yes.

Mr. GREEN: Are you going to build your second project to the American border in Manitoba before the Federal Power Commission gives permission to import gas into the United States?

Mr. SCHULTZ: No sir, we could not do that. We could not finance it. The insurance companies would not look at it unless all the requisite permits had been issued, and we could not build a foot of line to the United States market without having the approval of the Federal Power Commission.

Mr. GREEN: Has there been an application made as yet to the Federal Power Commission by the Northern Natural Gas Company, or any other American company for a permit to import this gas to the States?

Mr. MILNER: I have a recollection that there was some sort of an application tied on to another application which is more or less dead at the moment, but I really cannot tell you.

Mr. SCHULTZ: I think Northern Natural's attitude would be that if we made a deal with them they would have to file a new.

Mr. GREEN: They would have to file a new application with the Federal Power Commission for permission to import to the United States?

Mr. SCHULTZ: I believe that is correct. They would have to re-apply to the Federal Power Commission.

Mr. GREEN: What will happen then if there is a delay in having that decided by the Federal Power Commission? I ask that because we have on the west coast already been held up two years by the Federal Power Commission, and also, in the east, on the St. Lawrence seaway project. It would appear that it depends on how fast the Federal Power Commission works and it does not seem to work fast, if it doesn't want to?

Mr. SCHULTZ: It is a very slow body.

Mr. GREEN: What will be the effect of a delay by the Federal Power Commission?

Mr. SCHULTZ: This is the reason we broke it into an "A" and "B" project so there would be no delay in the construction of the all Canadian pipe line. Another point is this: before this Minneapolis divergence could become a reality it would have to have the permission of the Minister of Trade and Commerce to export.

Mr. GREEN: You made application to the Alberta Conservation Board on the basis of two projects, an integrated project?

Mr. SCHULTZ: One project with an "A" and "B" part.

Mr. GREEN: Yes. Does that mean that the government of Alberta would dedicate a certain amount of gas to "A" project and another amount of gas to "B" project?

Mr. SCHULTZ: Well, the hearing was completed on Tuesday, and we do not know in what form the permit will be issued, but we have asked for the combined projects for 540 million feet of gas. Whether it will come as a lump

volume or whether it will grant 350 million feet for the all Canadian pipeline and the balance for the other, I do not know. I do not think we will know until the permit is actually here.

Mr. GREEN: Suppose the permit from the Alberta government is on these terms, that a certain amount of gas has to go to Minneapolis and another amount has to go to eastern Canada—then what happens if you cannot get into the States?

Mr. SCHULTZ: We go ahead with the all Canadian pipeline.

Mr. GREEN: Yes, but can you get the gas that was designated by the Alberta government for Minneapolis to eastern Canada.

Mr. SCHULTZ: No, but from the very beginning in our application to the Alberta Conservation Board, we asked for 350 million feet for the all Canadian pipeline. We think that will get the pipeline started, and presumably if this permit came from Alberta breaking it down into gas dedicated in two separate parts instead of a lump sum, presumably they would give us enough for the all Canadian pipeline project.

Mr. GREEN: In that eventuality, if you cannot get permission to go into the States, you would ignore the amount that was allotted to the "B" project and go ahead with the Trans-Canada?

Mr. SCHULTZ: I would not want to say that we would ignore it, but we certainly would not hold up the construction of the all Canadian pipeline project because of an inability to get into the Minneapolis market.

Mr. GREEN: And you have no intention of moving towards the boundary from Winnipeg until there is a permit granted by the Commission?

Mr. SCHULTZ: I think that is a fair statement. Northern Natural would not be willing to lay a line from their Minneapolis area to the Canadian border—which is a matter of 350 miles and involves an expenditure in the neighbourhood of $20 million—until they had a permit, and we certainly would not spend the $2 million or $3 million—more than that, $5 million—to lay the 60 miles of line we would have to lay until they were ready to meet us at the border.

Mr. GREEN: You said this morning that the line to Minneapolis would help the eastern line only during the building, is that correct?

Mr. SCHULTZ: I believe I said that, and I think I should correct it, because our engineers—I did not realize this until I talked to Mr. Milner at lunch time—but after I left Calgary last week they did work on this thing in view of the Alberta application we had pending, and it is my understanding from Mr. Milner that there is a permanent effect that helps Eastern Canada. There is a permanent help to the price we will have to have here.

Mr. GREEN: That information you got from Mr. Milner?

Mr. SCHULTZ: Yes, and he got it from the Trans-Canada engineers.

Mr. GREEN: Then it is clear that, should the Alberta government dedicate a certain amount of gas to the Minneapolis project, that gas is lost to the eastern Canadians?

Mr. SCHULTZ: I would not say that it is lost.

Mr. GREEN: Close to it.

Mr. SCHULTZ: There is so much gas out there that it will be a question where the market is going to come from. During the last week there have been two very important discoveries and I think that for the first time the Conservation Board out there realizes the enormous job they have of marketing their gas. I am convinced that we will be able to get all the gas from Alberta and Saskatchewan that we need to furnish this eastern Canadian market, and we have a good idea of what this eastern Canadian market is going

to build up to in the next ten years. If we could only count on the 350 million feet that we have asked for, that would not be a very good project, but we have so much faith in what is going to happen to the gas reserves in Alberta and Saskatchewan and we know what the market is in the east, and there will be almost unlimited gas available to satisfy this market.

Mr. GREEN: In other words, do you think that if the Alberta government should take the position at the present time that they will only dedicate 350 to the eastern Canadian markets, before very long there will be so much gas they will have to dedicate more or you will get more from Saskatchewan.

Mr. SCHULTZ: Absolutely.

Mr. GREEN: How much gas have you in mind as requirements for eastern Canada? You start with 350. What do you think that will amount to eventually?

Mr. SCHULTZ: As we say, we think we can see a demand for a billion a day in ten years.

Mr. GREEN: A billion a day in ten years?

Mr. SCHULTZ: Say from the tenth to the twentieth year.

Mr. GREEN: That is over what you have at the moment, the 350 million?

Mr. SCHULTZ: Yes.

Mr. GREEN: If that is what you foresee, why do you not build a 36-inch or 34-inch pipe line to eastern Canada instead of a 30-inch?

Mr. SCHULTZ: Because for the first ten years there would be an unused portion of your capacity in the 36-inch pipe line. A part of the capacity of a 36-inch pipe line would be unused, and you would be paying for something and not using it. It is better business to build an economic project and then as more gas becomes available to us in Alberta to start looping. By looping we would obtain a safety factor that we could not have with a 36-inch line. With two 30-inch lines in the eastern area, if something happens to one we do not interrupt the service, and it makes a much more economic project.

Mr. GREEN: A loop line is much more expensive than one larger line?

Mr. SCHULTZ: I think that is fair, but if you have a 36-inch line that you do not use for ten years and you pay for half of it without ever having used it, you might as well use that money to build your loops as you need them.

Mr. GREEN: Both you and Mr. Milner said that a 30-inch line to eastern Canada is economical and that you will not need any assistance other than the ordinary assistance given to other companies. So on a 30-inch line you are clear. What about on a 36-inch line? What is the difference in cost? Give us the figures for a 34-inch line and a 36-inch line, as compared with the 30-inch.

Mr. SCHULTZ: That is a real compliment, but I cannot do it, because I do not have the figures in my mind. There is certainly a difference in cost, but the amount of gas to be dedicated to us is a factor, because the insurance companies when they put up this money, as a rule of thumb want to see a trillion feet of gas for every 100 million feet through. That rule of thumb more or less guarantees a full life of the pipe line deliverability. We can make the deliverability for the 30-inch pipe line and have an economic project, but if you get something bigger, there is not a trillion feet of gas in Alberta today to dedicate to it.

Mr. GREEN: You are expecting to get a lot more dedicated to you?

Mr. SCHULTZ: But the bankers do not go much on what you expect. They insist on firm contracts. I can expect that there will be enough gas in Alberta to supply five or six pipe lines, but they would not give us very much money on my expectancy.

Mr. GREEN: What is the difference between a 34-inch pipe line and a 36-inch pipe line?

Mr. SCHULTZ: I would say that a 34-inch pipe line would carry 700 million cubic feet a day.

Mr. GREEN: I understand that, because of the terrain through which the pipe line would go, a 34-inch pipe line might be very much more advantageous than a 36-inch pipe line?

Mr. SCHULTZ: As far as I am personally concerned. There has never been a 36-inch pipe line built. There were some 34-inch pipe lines built in California primarily. If I had to make a choice at this moment to build 1,200 miles of something that has never been built before or developing what is already built, I would prefer the 34-inch pipe line.

Mr. GREEN: You cannot give me an estimate of the difference of the cost?

Mr. SCHULTZ: Not from memory.

Mr. GREEN: Is it right to say that a 34-inch pipe line would mean cheaper gas in eastern Canada and a higher price to the producer?

Mr. SCHULTZ: Not necessarily. If you could operate a 34-inch pipe line and had unlimited gas in Alberta and could operate at full capacity, I would say it would be cheaper gas in eastern Canada, but if you have a limited amount of gas in Alberta to put through and a limited demand here for it obviously during the years when you are building up the gas will cost you more.

Mr. GREEN: During the years when you are building up?

Mr. SCHULTZ: Yes.

Mr. GREEN: How many years do you expect the build-up to take?

Mr. SCHULTZ: I think we will have gas available for the next fifteen years at least.

Mr. GREEN: What do you call a bulid-up?

Mr. SCHULTZ: To see the 30-inch pipe line operated at full capacity?

Mr. GREEN: Yes.

Mr. SCHULTZ: Well, our engineers—and they have been accused of being optimistic—feel, and it is my feeling, that in five or six years we will see it operating to full capacity.

Mr. GREEN: Do you believe that your original plan for a pipe line, without branches to the United States, would be an economic proposition?

Mr. SCHULTZ: Yes.

Mr. GREEN: You have not changed your mind about that?

Mr. SCHULTZ: Not since I was here three years ago.

Mr. HOSKING: What size of line do you propose to build to Winnipeg?

Mr. SCHULTZ: We have applied for a 36-inch line, but we told the Conservation Board that when we have the final engineering done we may want to come back and alter that to 34. We were going to investigate whether a 36-inch pipe line can be built.

Mr. HOSKING: What size of line do you propose to build to Minneapolis.

Mr. SCHULTZ: 24.

Mr. HOSKING: What size of line do you propose to build to eastern Canada?

Mr. SCHULTZ: 30.

Mr. HOSKING: Will you increase the pressures in the 30 and 24, because they are much larger than the capacity of the 36?

Mr. SCHULTZ: No, the line from Alberta to Winnipeg will be one line, and then it will have a 24-inch to the border and a 30-inch coming on to the east.

Mr. HOSKING: Quite true. But, the capacity of a 36 inch line is, using figures of comparison, 13, and a 30 inch line is 9, and a 20 inch line is 4, so that if you have a 36 inch line coming to Winnipeg and a 30 inch line to eastern Canada you could not supply more than a 20 inch line down to the States unless you are going to put in thicker pipes and increase the pressure, but assuming you are using the same pressure the space of the 20 inch and 30 inch equals a 36 inch line. I do not intend to try to discourage this project, I want to encourage it.

Mr. SCHULTZ: I am not an engineer, but I would think that a 20 inch line would take about 110 million feet a day, and a 36 inch would take about 800 million feet a day and a 30 inch about 540 million feet a day.

Mr. HODGSON: The areas of the pipes are in the ratio of 13, 9 and 4. You might have a friction loss.

Mr. SCHULTZ: Apparently the friction loss causes the difference.

Mr. HOSKING: The thing that all of us are interested in particularly from Winnipeg east is that there is no danger of this branch line to Minneapolis—because you have told us previously it was a good market—getting more gas than we would once we need it and want it. You said that might be five years away. Five years is not a very long time.

Mr. SCHULTZ: There are two safeguards. We have to have an export permit for all gas that goes to the United States, and also have to have the approval of the Transport Board before we can export any gas from Alberta. In other words, once we have a certificate from the Transport Board as I visualize it—and remember I am not well versed—but I am assuming when we get a permit from the Board it will be for a specific number of million feet. I am assuming that the permit will be to move a certain number of million feet per day, and if we are able to get additional increments of gas from Alberta they would be subject to further hearings before the Transport Board before we could use them.

Mr. HOSKING: What would the Transport Board's position be if the Minneapolis market, which as you said was desirable because it is a steady load and not a heating load with large consumption in winter and less consumption in summer, what would their position be if Minneapolis Co., should draw off more than we wanted to see them have in five years time?

Mr. SCHULTZ: That is an awfully hard question for me to answer.

Mr. HOSKING: I think that most members in the committee and most Canadians would want to make especially certain that once Canada is developed to the stage that it can use all the gas that we can get through those 30 inch lines that it will come to us and will not be drained off to Minneapolis. Every company has to make money; if your company could not make money they never would build the line. But, this is something we should know. Is there anyone from the Transport Board, Mr. Chairman?

The CHAIRMAN: I think not.

Mr. HOSKING: Is there anyone who can give us a statement of what opposition would be five years from now to this pipe line?

The CHAIRMAN: I think that has been explained to you by the witness.

Mr. HOSKING: No. He does not say whether the Transport Board can cut off an agreement with the Minneapolis market.

Mr. SCHULTZ: I just do not know.

Mr. NICKLE: Following up the line of questioning with Mr. Schultz, there is a matter of availability of gas from western Canada and there was a statement that the approximate volume of gas required to service eastern Canada alone in the next 20 years is about 3500 billion cubic feet.

Mr. SCHULTZ: Not to service. That would make an economical project, 3½ trillion feet, but we would hope as additional gas is found in Alberta in excess of Alberta's requirements, that we would be able to get increasing increments.

Mr. NICKLE: You estimate that at the end of 10 years' operation you might be able to sell one billion cubic feet a day which would be 365 billion feet a year. Now, if we assume that figure as your cap, we would then require for the tenth or twentieth year, roughly 3.6 trillion feet. Is that right?

Mr. SCHULTZ: No. It would mean about 10 trillion feet to make the total project.

Mr. NICKLE: You expect to use over the first 20 years of operation of the pipe line for the eastern Canadian market alone just how much gas; how much can you sell in eastern Canada for the first ten years of operation?

Mr. SCHULTZ: We have never figured it that way. But, we can make the project stand on its feet with 350 billion feet a day. As gas is found in Alberta in excess of the province's requirements we would hope to get additional increments. That is not saying that we will be able to get from Alberta all the gas that we can use to build this market area.

Mr. HOSKING: You say that 3½ trillion would make the line economical to eastern Canada. So far as Minneapolis is concerned the present commitments would be approximately 100 million feet of gas a day or 36 billion a year, which over 20 years assuming there is no greater sale than that would account for only about 750 billion feet of gas. That is your understanding?

Mr. SCHULTZ: Yes.

Mr. NICKLE: Well now, in Alberta the Conservation Board concluded that the actual growth or increase in proved net gas reserves in one 18 month period which ended last June 30 was 4700 billion cubic feet of gas.

Mr. SCHULTZ: I do not recall the statement.

Mr. NICKLE: That is in the board's report.

Mr. SCHULTZ: 4·7 trillion was given as the growth in 18 months.

Mr. NICKLE: In your own testimony before the Alberta Board in recent days I believe it was indicated that since last June 30 there have been proved in Alberta another 2,000 trillion cubic feet of gas reserves?

Mr. SCHULTZ: Yes.

Mr. NICKLE: During the same period just over two years, 1952-54, taking in Alberta's proven reserves plus reserves found in the same period in Calgary possibly, and southern Saskatchewan, we have proven reserves for western Canada exceeding 8,000 billion cubic feet, or 4,000 billion cubic feet a year. Now I believe, and I am sure you do, but I would like to hear your comments, that provided that continues, the rate of gas reserve growth will continue at least within the current rate of 4,000 billion cubic feet per year.

Mr. SCHULTZ: I would hesitate to use that marginal figure, but I would think that the discovery of gas reserves is going to continue upward.

Mr. NICKLE: That is a good answer and that is the kind of answer I am glad to have from you. But I am trying to get back to the deduction of from 36 to 50 billion cubic feet a year for a specific American market, be it the Minneapolis or any other American market; we would actually be deducting but a very small percentage of the volume of new gas reserves being proved up in western Canada, so therefore there is actually no danger to eastern Canada or to western Canada or to any other part of Canada, no danger of any sort of western Canada running short of gas by diverting a portion of its existing reserves to American markets or in improving the economics of various west coast or trans-Canada projects.

Mr. SCHULTZ: That is the least of our worries. The availability of gas is increasing at a colossal rate; and as you say, this amount of reserves is infinitesimal in comparison with the total available reserves in western Canada.

Mr. NICKLE: Coming now to another point leading from that to the question of the line east of Winnipeg, to eastern Canada: The present plan is for a 30 inch line east of Winnipeg. Suppose an American market were to be tied on at the eastern end of this pipe line, either by sale of gas to Tennessee Transmission Company at Niagara or to the Panhandle Eastern at Windsor: would you not obtain during the early years of operation of this pipe line a sufficient load factor and total volume of through-put to justify a 36 inch or a 34 inch line rather than a 30 inch line east from Winnipeg?

Mr. SCHULTZ: No, I do not think so. Our valuation of what the Tennessee can afford to pay the company for gas is in their present level. They may have a different idea, but we say we see them having gas available at Buffalo for around 31 to 32 cents, in that range; and if this pipe line can sell gas for 31 or 32 cents, then it would mean that the interruptible industrial demand in eastern Canada would take over the whole thing.

Mr. NICKLE: It has been suggested I believe in print that Tennessee Transmission is actually prepared to start off paying 38 to 39 cents; that is taking it out of the territory of the consumer load, and taking it to eastern Canada.

Mr. SCHULTZ: We heard what we thought was just talk regarding that 38 cent price, but we have gone back and made a complete study of it and if our figures are correct, that their present price is 31 cents, then there would be no reason for them to pay us 36 or 38 cents.

Mr. NICKLE: Has Trans-Canada had any discussion recently with Tennessee Transmission as to a reverse flow or movement of gas into their system through Niagara?

Mr. SCHULTZ: I think that Mr. Milner has had some conversation with them but I do not know if that point was raised.

Mr. NICKLE: I wonder if Mr. Milner would have anything to add to the question?

Mr. MILNER: I had a great many talks with the Tennessee people but they never really produced anything. Tennessee's position is not very clear even to themselves and I would not think that any definite decision could be obtained from them for some time as to what they could do both as to dump-loading and a firm supply. As a matter of fact, on the other hand, the Minneapolis situation is perfectly clear. All you have to do is to build the line and turn the tap and the gas will flow. And in addition to the reasons which Mr. Schultz has given, we feel very strongly that a bird in the hand at the moment is very much more valuable than a bird which may not hatch for quite a considerable time, and that we should get along with this job as rapidly as possible. We want a market immediately to tie up to markets that are there and available.

Mr. NICKLE: Such as Minneapolis?

Mr. MILNER: Yes, where we can go down and make a contract with them at any time as soon as we get the permits and get busy.

Mr. NICKLE: Summarizing your answers to some of the questions I asked earlier today and again now: The Trans-Canada project from the answers which I have received seems to be this way: it is in the best interests to advance the Trans-Canada Pipe Line system for the following reasons: 1. to build up a market in advance of a high price level as fast as possible and before the delivery of Canadian gas into eastern Canada; 2. to improve greatly the economics by capturing the mid-west United States market; and 3.—I would like your agreement on these three points—that the problem is not one of a

shortage of gas for export from Canada but rather of where in the dickens are we going to market a rapidly growing surplus which, before the line would be completed to eastern Canada, would provide us with enough additional gas to service one or two more major pipe lines somewhere else. Are you in agreement with those three statements I have made?

Mr. Schultz: I will say, generally speaking, that I am, although I do not want to leave the idea that we cannot go ahead with an alternative pipe line if the Minneapolis market is denied to us, because I am of the firm opinion that we can build an alternative pipe line without Minneapolis. I agree that it would ease the way in helping out the national picture, but I do not think we are dependent on it.

Mr. Nickle: You are in agreement with these three statements, Mr. Milner?

Mr. Milner: Yes. I think those are fair statements.

Mr. Nickle: The only other thing I have to ask any questions about is this: I am really curious as to the capital stock of the company which I find is 10 million of common shares with a par value of $1 each; and 1 million of preferred shares with a par value of $50 each, plus the bond issue. As I understand it from press reports and the evidence before the Conservation Board in Alberta, it is the intention to raise approximately $297 million which would not include the gathering system in Alberta, of course, which is taken care of by another company; and of that money, $36 million would come from the sale of those preferred shares, and $36 million from the common shares and the bond issue. Could you give us any information as to the probable distribution of the common shares and preferred shares of the company when the financing is done?

Mr. Milner: No, I cannot give you anything firm at the moment. As you will understand, it is pretty difficult to set up your financial structure until you have crossed your t's and dotted your i's; and of course, as you all know, the fashion in securities changes very rapidly. Sometimes they want to sell debentures with or without convertible features, and sometimes they want to sell preferred with or without convertible features and so on.

We are anxious in getting this bill through. We are asking for the passage of this bill. In the first place the capital provided by the original Act is obviously now inadequate, and secondly, we want some degree of flexibility so that when it does come to the question of laying down our books we will have some freedom of movement. This amount is absolutely essential, as you know. Quite obviously any chartered company or joint stock company would merely have to file amended by-laws and get an increased capitalization.

Just what use we are going to make of it we do not know and I do not think there is any financial man in the country who could tell us about the distribution of the common stock. Naturally it would have to be marketed. We will do everything we can to see that as much of it is distributed in Canada as the Canadian public will take. But beyond that it is pretty hard to say anything.

Mr. Nickle: There will be a public issue, you would expect?

Mr. Milner: Yes.

Mr. Nickle: Of some portion of the common stock in Canada?

Mr. Milner: Yes.

Mr. Bell: I would just like to ask Mr. Milner one question. When you were speaking this morning about the financing of this project you said you probably would not want to ask the government to guarantee the bonds, but you did put a reservation on your statement that it might be necessary to ask for subsidies or concessions that similar companies in the industry have asked for?

Mr. MILNER: No, that was Mr. Schultz. What he was referring to, of course, are the concessions which are given to the gold mines and which were given to the oil pipe lines concerning sales tax and excise taxes.

Mr. BELL: Then we can assure ourselves that as far as you know, and I appreciate it has to be flexible, there will not be any actual drain on the taxpayer in Canada?

Mr. MILNER: Yes, but where the capital will come from I do not know, and no one else does.

Mr. JAMES: When do you expect to start the Niagara pipe line?

Mr. MILNER: As soon as this bill is passed. That job has to be finished up first, and then we have to go to the Transport Board and get various other permits, but we want to get under way at the earliest possible moment. You know that the construction season in this country is not very long.

Mr. JAMES: When do you hope to start the Trans-Canada pipe line?

Mr. MILNER: As soon as we can get the permits. It certainly will not be later than next spring, and perhaps before.

Mr. JAMES: Do you mean 1954 or 1955?

Mr. MILNER: 1955. If we get started in 1955, we anticipate completion by 1956.

Mr. DECORE: I would like to ask Mr. Schultz one question. I am not sure yet as to what benefit the diversion of this 100 million feet a day to Minneapolis would be to Trans-Canada or to the Consumer in eastern Canada? What would be the benefit to Trans-Canada and to the Consumer?

Mr. SCHULTZ: An immediate market.

The CHAIRMAN: And lower costs.

Mr. SCHULTZ: In the long run it would be lower cost gas to eastern Canada. The more gas we transmit and the higher note factor, the cheaper the cost of putting through the line.

Mr. DECORE: Could you explain to me the suggestion that was made that that there would be a 10 cent benefit over a period of three years?

Mr. MILNER: First of all, we get a real revenue in the first year of construction. That is, the year before we reach eastern Canada we have revenue coming in which is a very considerable help. Then we get a good price—an extremely good price—for the gas; or at least we hope to. That will be used in part for reducing the price down here. In other words, suppose it is this way: If we build a line to Winnipeg and Minneapolis only, and we could sell gas there and if we carried the burden of the line at 28 cents, and we could sell to that part west of the line at 33 or 34 cents there is obviously quite a spread there that can be applied to general purposes.

Mr. DECORE: What you are trying to say is that the diversion of this cost to Minneapolis would be a benefit of 10 cents over a period of time?

Mr. MILNER: In the early stages it would be 10 cents and later on it would be about 5 cents, a nickel.

Mr. DECORE: For what length of time?

Mr. MILNER: As the load increased the value of that would decrease, but in the early stages we would get great value from it.

Mr. DECORE: How did you arrive at 10 cents and 5 cents?

Mr. MILNER: I arrived at those figures—I have not seen them—but I got them on the telephone from the engineers, and I think myself they are accurate. It is a matter of working this thing out. You can realize that if we built a line to Winnipeg—30, 34 or 36 miles—then we have to stop for a season, and continue next year before going on to Toronto, and if we only have the sale of that year—let us look at it another way—the sale during that year when

we were building east from Winnipeg, we would only have the revenue from the sale of 3 billion cubic feet. That is very different from getting the revenue from an additional 36 billion.

Mr. DECORE: Therefore, for the first year we have a substantial revenue?

Mr. MILNER: Yes, which we would not have at all otherwise. It would be more in the second year, and more in the third and fourth and so on. I am not a mathematician, I cannot figure it out for you.

Mr. DECORE: Instead of a diversion of a 100 million feet a day to the Minneapolis market, suppose it was double that amount, would there be any corresponding increase of benefit?

Mr. MILNER: Certainly there would be.

Mr. DECORE: How much?

Mr. MILNER: Just double.

Mr. DECORE: And if it was four times as much?

Mr. MILNER: Four times as much.

Mr. DECORE: And then it will be nothing eventually, is that what you are trying to tell us?

Mr. MILNER: No. You see, the 100 million a day checks with perhaps 10 million a day as far as Winnipeg, then when you get 300 million a day in eastern Canada, and 100 million from Minneapolis the whole situation is reversed. The Minneapolis supply is one-quarter of the market whereas in the early stages it supplied 90 per cent. Relatively it becomes less valuable as the years go on in terms of relative value.

Mr. DECORE: How long does that continue?

Mr. MILNER: Three of four years, anyway.

Mr. DECORE: Eventually the consumer in eastern Canada will have the benefit of about 5 cents per thousand?

Mr. MILNER: Absolutely. It may mean the difference between a fairly sound proposition and one that is very difficult to operate.

Mr. DECORE: You said that at the start it would be 10 cents, and eventually it would go to 5 cents?

Mr. MILNER: Yes, and eventually it may go down to one cent as the years go on, because it becomes less valuable.

Mr. DECORE: How many years in your opinion?

Mr. MILNER: I don't know, but when we sell 500 million down here a day, you can see that the effect is not nearly so great.

The CHAIRMAN: Carried.

Mr. BARNETT: I would like to ask one question in connection with section 11 of this agreement. That section, as you will notice, deals with the agreement of Tennessee to a cancellation of their contract. I have been wondering under just what circumstances—and shall I put it this way—on what condition Tennessee has been willing to act so readily in the cancellation of a 20 year contract to supply gas to the Canadian market?

Mr. MILNER: I have no squawk with Tennessee, but I think Mr. Palmer could answer that.

The WITNESS: The matter has been fully canvassed by Tennessee, and they have come to the conclusion—I think I am stating their position accurately—that for two reasons they are prepared to agree to this cancellation. The first is that they are partners in the Niagara project, and they own 35 per cent of the stock, and are fully seized of the importance, from the Canadian point of view, of an all Canada line, and are willing to cooperate in making such a line possible. The second reason is, I think, that they feel they will have no difficulty themselves in disposing of the gas that is covered by our existing contracts.

By Mr. Barnett:

Q. Can you give me any indication in what direction they would anticipate disposing of that additional amount of gas in other markets?—A. I cannot tell but they have a tremendous distribution system throughout the United States, and it would be, I think, perhaps the New England market or somewhere along the line from the gulf, but I do not know.

Q. Do you think that the factor of a possible distribution in the Pacific northwest would enter into it in any way?—A. By Tennessee?

Q. Yes.—A. I have never heard that discussed by them or with them.

Q. You do not think there is any possible connection between their willingness to enter into this agreement and any plan to divert gas from that area in the States?—A. As far as I know, there is none. Tennessee has been a partner in this venture from its inception and has been very cooperative in doing everything possible in the early days to assist Consumers in negotiating for the procurement of the United States gas, and since the development of the Alberta reserves and the launching of the Trans-Canada project has been equally cooperative in saying to Consumers and to us that they will do nothing at all to interfere with the building of the Canadian line. They see the importance of it from a national point of view, from our national point of view, and they will cooperate in every way by procuring the cancellation of our gas purchase contracts and taking them off our hands. I have heard nothing in any of the discussions on which I have sat in that has given me any indication that they had any ulterior motive in adopting that idea. If they take the contract off our hands, they presumably would try to sell the gas. They would have to go back to the Federal Power Commission for a permit, but as far as those cancellations are concerned—I think I am safe in saying—at least as far as my own knowledge goes, it is not part of a pattern; it is purely an act of cooperation.

Q. You can readily understand that the question of this delay by the Federal Power Commission in the United States in regard to the question of gas in the northwest has already been raised by some of the other western members, and I think it is an important consideration for those who come from the west.—A. I should say that I cannot speak for Tennessee. I do not know their plans or what they have in contemplation for the next ten years or anything of that sort. All I can say is that I personally am quite satisfied that in making this agreement they did so with no ulterior motive that is known to us.

Mr. BARNETT: There are one or two other questions that I would like to ask while I am on my feet. Many references have been made to the question of a build-up of a market in eastern Canada for natural gas. I assume that that in large part will be not the actual creation of a new market for heating power but the replacement of existing fuels in use. I wonder if possibly Mr. Milner, if he is the correct person to answer such questions, can give the committee any indication as to what he expects would be the differential advantage in heating power cost in supplying it by natural gas as compared with other sources such as electricity and coal?

Mr. MILNER: Of course, I could make quite a long speech on that, but very briefly the population down here is growing rapidly, as you know. New areas are being built up, new industries are being set up, and I would think that in these new areas and in the case of new industries we would take a great bulk of the business. When you turn to the other fuels, I would think that, so far as competition with domestic coal is concerned, we would go ahead very rapidly. On the oil competition we will not go so rapidly, but we will make progress. The advantages of gas over any other fuel are so very great from a convenience point of view that you will have a good selling proposition as

long as your prices are not too much out of line, but to draw a pattern and say, "We are going to get so much this year and so much in another year," and so on, is rather difficult, because it depends on the activity of distributing companies in the various areas. They, I have no doubt, will force the sale of gas to the utmost of their ability, but selling gas is like selling a shirt. Unless the boys know it is the best shirt they can buy at the cheapest price they are not likely to buy it. It is just a matter of salesmanship. I myself think that we may be surprised at the progress we make in finding a market here. Then again we may be surprised the other way.

Mr. BARNETT: Could you give us any indication, as to what range you may expect, say, in the Montreal market, when you reach there, that is, the difference in terms of BTU'S., or in any terms of comparison with the present system?

Mr. MILNER: I cannot tell you that, but you must remember that in Montreal they already have 240,000 meters through which they are selling artificial gas at half the heat value of natural gas. That gives you an inlet immediately in that market. In Toronto, I think, they have something like 120,000 meters. That is a slightly different situation from where you have to go in cold and have to contact new people. These people are already accustomed to the use of gas and like it. If you can supply them with gas of twice the value at much lower cost, I think you will make rapid progress, but to draw a pattern and say that you can sell gas at so much less than oil and so much less than coal is difficult, particularly as in the past few months the price of oil has been varying fantastically. We face a problem, but I have no doubt that we will be successful. I am agraid it is a poor answer, but this is a situation where you cannot do anything about it.

Mr. HOSKING: Would the 36-inch pipe line to eastern Canada reach its capacity in five years? In other words it is not too long-range a policy that you have at the present time, that you think you will have to build another line to supplement the 30-inch line. From the standpoint of the company, I can quite visualize the requirement that you have there, that it would give you five years to make money with that 30-inch line and then you would have money, as you said, to build another line.

Mr. HARRISON: From the standpoint of the consumers though would not the consumer benefit more immediately because you would have the capital costs of the extra lines? Would not the consumer benefit more immediately if you build a bigger line in the first place?

Mr. SCHULTZ: In my opinion no, because of the limited amount of gas available to us from western Canada from the permits we expect to get from the Alberta Conservation Board. The larger the diameter of the pipe line, the greater you can put through it at cheaper cost, but if you have a large diameter line and cannot operate at full capacity, then your unit cost will go up.

Mr. HARRISON: There have been a lot of figures given as to servicing of the eastern market and I am thinking of the market down at this end because it is important. There have been quite a lot of analyses made by very competent analysts as to what the market in central Canada might be. I am of the understanding that if there is a certain market available, such as the Ontario Hydro Commission or the Polymer Corporation which I understand is a tough outfit to sell to, that it would be possible to capture their market if the price ran in the neighbourhood of 37 cents. Do you envisage a possibility of delivery at anything like that price here?

Mr. SCHULTZ: I think we will have some grades of gas that would possibly sell at that price which would be seller's option gas, but we have never included the Ontario Hydro in our picture because of the extremely low cost coal that they are able to get.

Mr. HARRISON: Would not that be a competitive figure, around 37 cents?

Mr. SCHULTZ: I do not think so. The figure we have heard was in the range of 32 cents.

Mr. HARRISON: Another question, following on what Mr. Wood asked you: I am rather interested in the comparative costs of gas in this country and in the United States, and the reflection that might make on industries on either side of the border in their production costs. This gas that is delivered to Minneapolis is to be turned over to Northern Natural Gas I understand, and would that give them such a supply that they could increase their off peak deliveries to the industrial users?

Mr. SCHULTZ: I do not know enough about their system to intellegently answer your question. But, if we are successful in selling this it will be less than 7 per cent of the total gas they handle daily. It would be just a small part. I do not know what effect it would have on their picture.

Mr. HARRISON: It may not have as much reflection as I thought. Their present delivery price, I am informed, off peak loads is 22·1 cents per thousand cubic feet, and your price likely at Winnipeg will run closer to 40 than 22·1.

Mr. SCHULTZ: We have thought we could sell gas at 34 cents at the border.

Mr. HARRISON: It would not be any less than that at Winnipeg?

Mr. SCHULTZ: Northern, if that materializes, and Winnipeg will be in the same zone.

Mr. HARRISON: On the figures you quoted this morning of about 34 cents and 22 cents for off peak loads across the border you would give manufacturing industries across the border quite an edge on Canadian industry and cut their fuel costs by over 50 per cent.

Mr. SCHULTZ: I do not know the off peak price you quote, but I do know this, when we get a contract made with them they still have to transport that gas some 350 miles to get it in their system. When they get it in their system that gas is going to be in the range of 38 cents, and I do not see how they could sell at 22 cents off peak.

Mr. HOSKING: What is the available gas? I thought we had an unlimited supply in Alberta. Is that not so?

Mr. SCHULTZ: The Conservation Board has control of how much gas is available to Trans-Canada.

Mr. HOSKING: How much have they allowed you?

Mr. SCHULTZ: We have asked for 540 million. The hearing has just been concluded, and we hope to have a decision within the next two weeks.

Mr. HOSKING: That disturbs me a little. Are you hoping you will get more gas released from Alberta?

Mr. SCHULTZ: Oh, yes, and Saskatchewan also.

Mr. HOSKING: You think there is some justification for hoping?

Mr. SCHULTZ: Yes. Gas is going to be continued to be discovered in Alberta and producers are going to want to sell, and the government of Alberta is going to want to get their royalty income.

Mr. HOSKING: Why are they holding it down?

Mr. SCHULTZ: That represents, in their opinion, the excess gas over Alberta's present requirements.

Mr. HOSKING: Then they have not got the supply of gas there apparently?

Mr. SCHULTZ: They have all that we say we will need to take care of this project for the future, and for this market in the east we fully intend to go back to Alberta and ask for increasing increments on occasion.

Mr. HAHN: Could you have had more if you had asked for more now?

Mr. SCHULTZ: I do not think so.

Mr. HOSKING: That kind of scares me. I do not like to think that it will take away almost all the gas you have, the gas going to Minneapolis, and the gas Alberta will get immediately.

Mr. SCHULTZ: Any gas we sell in that market will always have to be subject to the jurisdiction of a board.

Mr. HOSKING: Is there any opportunity of getting some competent official from the Transport Board here to say we can do something about this? I think they should be here. It is pretty serious now.

Mr. McILRAITH: The one who is concerned with that is the Minister of Trade and Commerce. They would have to get an export permit.

Mr. HOSKING: If he exports it, can he cut it off? It is a good thing, I am not criticizing it; they have to get the money in order to build. They want to export this gas to Minneapolis.

Mr. McILRAITH: We have the percentages of gas they export and the percentage of eastern gas.

Mr. HOSKING: I am talking about the availability of carrying it. You have 534 million for a 30 inch line; and 500 million.

Mr. McILRAITH: Yes.

Mr. HOSKING: If they are going to ship 500 million east and if the pipe line they are building is going to Minneapolis, if they start off with a good market in Minneapolis then when are they going to cut it off and supply the 500 million to the east?

Mr. McILRAITH: The Minneapolis proposition was 100 out of 540.

Mr. HOSKING: With a 34 inch line?

Mr. McILRAITH: Now there is no place for the gas to go in the east with a 36 inch line and that is the problem. The problem is to get orders up to the maximum for a 36 inch line. That is what is bothering them and that is what the evidence is here today.

Mr. HOSKING: I agree that you have an available gas supply of 540 million and your gas line will carry 500 to eastern Canada.

Mr. McILRAITH: That is right.

Mr. HOSKING: Now there will be two things happen when we are ready to take the 500 in eastern Canada; we will be all right if we have an unlimited supply from Alberta, but if Alberta won't increase it, then we are in this position: we have a 24 inch line which will carry some 300 odd million which will be used in Minneapolis because the market is already there.

Mr. McILRAITH: The Alberta authorities have legal authority over their own natural gas and they could, I presume—although I cannot imagine them ever taking such a position—but they could legally take the position that they would never grant a permit for any gas to be exported from Alberta. Legally that is their right, and that could be done. As rapidly as there is any prospect of having gas used in the east, the company can apply to the Alberta Conservation Board and seek their approval for export. Now the evidence is that the supply in Alberta will be much greater than any anticipated development or need or possible use in the east. There is nothing this committee can do or these firms can do at this stage that can bind the Alberta Conservation Board. I think I am right in that.

Mr. CAVERS: We have not any power.

Mr. HOSKING: This committee can be assured by the Board of Transport Commissioners that when we want 500 to go through our 30 inch line, it will be there. If the Alberta government is giving 500 million, once it goes out of their province they lose jurisdiction over it.

Mr. McILRAITH: I do not think that the Board of Transport Commissioners have any authority to give such an assurance to this committee. The Transport Board are a quasi-judicial body who can only deal with the applications which are brought before them. The Minister of Trade and Commerce is the one with jurisdiction over the point that I think is worrying you. I think you are concerned with the possibility of an export permit being granted for export to the United States for such large amounts as would prevent gas being available to eastern Canada as required. There are two checks on that: one is the Alberta board and the other is that the permission to export out of eastern Canada is on permit issued by the Minister of Trade and Commerce.

Mr. HOSKING: Could we not have the Minister of Trade and Commerce called before this committee?

Mr. McILRAITH: I think he would settle that point quickly for you because it is covered in his speech in the House.

The CHAIRMAN: We will call the Right Honourable Mr. Howe.

Mr. HOLOWACH: May I ask two or three short questions based on a great deal of concern and interest among the people of Canada. What will be the final cost of this venture as you visualize it at the present time?

Mr. MILNER: The cost of the pipe line?

Mr. HOLOWACH: Yes.

Mr. MILNER: It will be in the order of $300 million.

Mr. HOLOWACH: That will mean that it will probably be one of the largest undertakings financed by private capital of all time in this country?

Mr. MILNER: Yes.

Mr. HOLOWACH: You said that a great deal of provision was being made for the Canadian people to have an opportunity of participating in the investment and financing of this venture?

Mr. MILNER: Yes.

Mr. HOLOWACH: Can we take it that the statement is an assurance of priority and that such possibilities will prevail when it comes to the actual financing of the company?

Mr. MILNER: Oh, yes, there will be every opportunity for the Canadian public to participate to just as large an extent as they want.

Mr. BELL: I have one more question: I do not want to be suggestive about it, but is there any thought that special contracts would be made which would make a difference in a competitive industry?

Mr. MILNER: No.

Mr. HAHN: In connection with the bill on Trans-Canada, the purpose of the amendment is to increase the capital stock of the company but I do not think that has been discussed at all. I wonder if it is not desirable to have a discussion on it?

Mr. CAVERS: We could probably deal with it when we come to the sections.

Mr. McIVOR: Let us go on to the bill now.

Mr. GREEN: A statement was made I think by Mr. Milner when he was asked how long it would be before this program would be started and he said: when we get the permits; we hope to get those permits by not later than 1955. Did you mean by that that the project would not be started at all until you had the permits required to export gas to the United States?

Mr. MILNER: No, no. I said we were going ahead to get those necessary permits with all possible expedition, but I do not know whether the line could be started this year; it would certainly be started by spring of next

year and we would get to Winnipeg by the fall of next year, and we would get east by the fall of the following year. It is really a two-year construction job.

Mr. GREEN: What permits do you require to build the Trans-Canada line?

Mr. MILNER: I think I said permits and contracts. But as to the permits, we have to get authority of the Alberta Conservation Board which we hope to get within the next couple of weeks. Then we have to go to the Board of Transport Commissioners and present our case in some very considerable detail. We have no power of expropriation; we have no power to expropriate rights-of-way until we get the approval of the Board of Transport Commissioners. Those are two things. Then we have to enter into contracts with the people who are going to sell the gas, that is, with the people to whom we sell and who are going to distribute it. Then we have to enter into contracts with the people who are going to sell us the gas, that is, the Alberta producers. That is a major job because it is not only sitting down with them and making the contracts but without any exception there is not a single field in Alberta that could supply us even with the amount of gas that we want to go to Winnipeg and to Minneapolis, let alone to eastern Canada. They have all got to get busy and drill innumerable wells. Some fields, such as Pincher Creek, have to put in a processing plant to separate other products such as gasoline, and get the sulphur out; and they have to build their gathering system and one thing and another. In fact, they will not be in a position to deliver to us any reasonable amount of gas until some time late next year because they cannot get that work done within a matter of 3 or 4 months. It will take some time.

Mr. GREEN: There are only two permits you require for Trans-Canada?

Mr. MILNER: Yes. I think I said "permits and contracts".

Mr. GREEN: And for the line to the American boundary you require, in addition, a permit from the Federal Power Commission, and a permit from the Minister of Trade and Commerce?

Mr. MILNER: Yes.

Mr. GREEN: And you are prepared to go ahead with the Trans-Canada line when you get those permits without waiting until you get the permit from the government ?

Mr. MILNER: Yes, you can get the necessary permits when you have the contracts?

Mr. GREEN: Have you in mind building a 30 inch line instead of a 24 inch line from Winnipeg to Buffalo?

Mr. MILNER: A 30 inch line from where?

Mr. GREEN: I said "Have you in mind at all building a 30 inch line instead of a 24 inch line from Winnipeg to the boundary?

Mr. MILNER: No, it has not even been thought of.

Mr. GREEN: You would not be doing that; there would be no line larger than 24 inch?

Mr. MILNER: I am not sure it is 24 inches; it may be less than that, but it is not to be more than that.

Mr. GREEN: I think either you or Mr. Schultz gave the committee your estimated price at the Toronto gate?

Mr. MILNER: No, I did not. It is not possible to give it yet.

Mr. GREEN: You must have some estimate of this price, have you not?

Mr. MILNER: We have had at least a dozen estimates.

Mr. GREEN: I think it is most important. We were able to get a figure from Tennessee, what is your corresponding price?

Mr. MILNER: I do not know, but I do not think it will exceed the Tennessee figure.

Mr. GREEN: It will be at least as low as the Tennessee figure?

Mr. MILNER: Yes.

The CHAIRMAN: Gentlemen, the Right Hon. Mr. Howe has to leave to attend another meeting. I wonder if we could hear from him now.

Right Hon. Mr. HOWE: Mr. Chairman, the policy of the government has been laid down, that no gas can be exported from Canada unless the present and foreseeable needs of Canada are first taken care of. Now there is a certain capacity of pipe line to be built from the west to Toronto, and in order to finance that line there will have to be quantities of gas dedicated to that particular line, as I understand it. Is that correct, Mr. Milner?

Mr. MILNER: Yes sir.

Right Hon. Mr. HOWE: I think the figure that was being talked about may have been changed. When I last talked to Mr. Manning it was 3½ trillion feet dedicated to serve the eastern line, and that was then considered sufficient. The day may come when there is more gas available in Alberta, and when there is no particular outlet for that gas as far as Canada is concerned. If so, we will consider the matter of exportating, but only when we are assured that the pipe line will be built to eastern Canada. Until that pipe line is fully financed we are not going to discuss export with anyone. Mr. Manning has the desire to export fixed in his mind and believes that there is a great market for gas in Minneapolis. We have made no decision that we will give an export permit for gas to Minneapolis, but the policy of the government, as I have stated in the House of Commons and elsewhere, will be that if the needs of Canada are fully satisfied and if there is then additional gas, we will consider exporting. That is the policy: for example after the needs of British Columbia are taken care of we will permit export into the United States through the proposed western line. The situation in the east is exactly the same. After all our needs are taken care of as far as they are foreseeable, we will permit export to the United States.

Hon. MEMBERS: Hear, hear.

Mr. HOSKING: Could I ask a question? We have been led to believe that the company is proposing to build a line 34 inches or 36 inches in diameter from Alberta to Winnipeg, and then it will split into two lines one of either 24 inches or 20 inches to Minneapolis, and one 30 inches coming to eastern Canada. The point that is disturbing us is this; that if the 24 inch line is built to Minneapolis it will take about 450 million feet of gas and if it should be put into operation before the line was completed to eastern Canada, and then the British Columbia government which has limited the available supply—

Hon. MEMBERS: Alberta.

Mr. HOSKING: —Alberta, to 540 million, we would only have some 90 million cubic feet of gas coming to Ontario.

The CHAIRMAN: That could not happen under the explanation given by Mr. Howe.

Right Hon. Mr. HOWE: I did not say that exactly. I said certain gas would be committed to the line to Ontario and Quebec. That quantity I think is 3½ trillion feet, and it may be 4 trillion by now. Anyway, it will be sufficient gas to serve that line in perpetuity unless the whole project fails. It is a block of gas committed to eastern Canada. That block of gas or any portion thereof could not be diverted to Minneapolis. Any gas diverted there must be in addition to the commitment to the eastern area. You spoke of a 30 inch line and a 36 inch line as being ordinary lines. There has never been a 36 inch line built for gas. It will be the biggest diameter line ever built. I think

there is a 34 inch line out somewhere in the west, but the 36 inch line is a very big diameter line indeed, and a 30 inch line is also a big diameter line gauging by any standard. I do not think any of the lines moving out of Texas are any more than 30 inch lines, so we are not talking about small quantities of gas.

Mr. HOSKING: We only have 540 million cubic feet, and a 24 inch line will take some 430 million feet?

Right Hon. Mr. HOWE: It will not take any from the gas that has been committed to the line to eastern Canada.

Mr. HOSKING: We are assurred of that?

Right Hon. Mr. HOWE: Yes. Am I right, Mr. Milner?

Mr. MILNER: We are committing 350 to eastern Canada.

Right Hon. Mr. HOWE: You have to have sufficient gas committed so people will put up $300 million to complete the line, and they will see that nothing is diverted from that.

Mr. WOOD: Assuming the market is greater here than anticipated, would you be able to get some of the gas that is committed to Minneapolis to fill the requirements here later on?

Right Hon. Mr. HOWE: That depends on the nature of the contract. I do not think you would, because usually you have to enter into a contract of around 20 years. It depends on the need for continuity of supply. Some types of energy you can cut off, and therefore make an interruptible contract, but I do not think you could do so on this gas. If we allow export to Minneapolis, before we issued any permit for it we would have to be convinced that in addition to the amount committed to the eastern line, there was additional gas which needed an outlet, and which was entitled to an outlet.

Mr. GREEN: The total capacity of the eastern line is supposed to be 500 million, but they have only asked for 350 million?

Hon. MEMBER: Five hundred and forty million.

Hon. MEMBER: Three hundred and eighty million.

Mr. HOSKING: Then we are more or less assured that Minneapolis cannot touch what has been committed to eastern Canada?

Right Hon. Mr. HOWE: It cannot be touched by Minneapolis until we give them an export permit. We will see that our own line is well protected before we give any export permit. We have no commitment to give an export permit to Minneapolis.

Mr. McIVOR: I want to ask Mr. Howe, because I want to be especially sure—do we need an extra section to this bill in order to make certain that when the Trans-Canada comes to Toronto it will have the right of way?

Right Hon. Mr. HOWE: I think that has been protected by contract between Trans-Canada Pipe Lines and Consumers Gas. I assume that the contract has been signed and circulated.

Mr. MCILRAITH: Yes, it has been signed and copies were circulated here.

Right Hon. Mr. HOWE: After all, Dan, this is a private enterprise line, and if Trans-Canada are not smart enough to protect themselves, I am afraid the government could not do very much for them.

Mr. DECORE: During the debates in the House last fall in connection with the amendment to the bill, Mr. Chevrier made a statement. I think I am correct when I say this, that once an international-interprovincial line was approved by the Board of Transport Commissioners this body would have no jurisdiction over the volume of gas moved or whether the line should be looped or not. If my interpretation is correct, and if that is true, then we are concerned—

Right Hon. Mr. HOWE: The government must license every unit of gas that goes out. We can license an export for 100,000 units, 200,000 units; and if they take more than specified in the licence they are penalized. That authority is provided under the Electricity and Fluid Exportation Act originally passed in 1908—we always have had that control. Mr. Chevrier was talking about gas coming in to Canada, was he not?

The CHAIRMAN: Perhaps, I do not remember. In regard to this bill, does the preamble carry?

Mr. GREEN: I understand that someone is here representing the people who would be financing the Trans-Canada line.

Mr. DECORE: I think there are two men here from different financial institutions, one representing Lehmann Brothers, who was here before, Mr. Natelson, who was connected with the Trans-Canada Pipe Lines originally; also we have with us Mr. Baldwin, from Nesbitt Thomson and Company in Montreal.

Mr. MCILRAITH: Mr. Chairman I am quite happy to have these witnesses called, but I think, out of fairness to the committee, I must say that there is not much that they can tell us about Trans-Canada financing now, other than what Mr. Milner said a few minutes ago. If the committee wants to hear them, of course, I am quite happy to have them called.

Mr. GREEN: There have been statements made in the House that this line could not be financed unless such and such a thing were done. Apparently these are the men who are working out the details of financing the line, and I thought it would be very helpful if we could have confirmation from them that it could be done.

Mr. MCILRAITH: I will be happy to have them called.

Mr. GREEN: Which firm are you representing, Mr. Baldwin?

Mr. BALDWIN: I am from Nesbitt, Thomson and Company Limited, Montreal, representing not only our own firm but Wood Gundy and Company and another company with which we are associated.

Mr. GREEN: What is the name of your associate?

Mr. BALDWIN: Mr. Natelson of Lehmann Brothers, New York.

Mr. GREEN: You have heard the discussion today. Could you tell the committee what you consider it is possible to do or not to do in connection with financing this project?

Mr. BALDWIN: Obviously, we have followed this project from its early beginnings, feeling very definitely that one of the greatest responsibilities of the investment houses of Canada is to bend every effort to find the capital needed to develop our national resources. We have been very much intrigued with that, I will not attempt to say to you more than that my firm, the people we are associated with and I personally believe very strongly that the money can be raised on a favourable basis for this project. To ask me how we propose to do it, what form of securities we are going to use, I just could not answer.

Mr. GREEN: I am not asking it.

Mr. BALDWIN: Because we have to see contracts, we have to get estimates of earnings, and a thousand and one other things that the lenders of the security and buyers will want. It has certainly been our intention that, if and when the common stock money is required, as many Canadians as we can reach—and we will use available offices in every principle city in Canada—will be given the opportunity to come into this. We like distribution. Is there anything else, sir?

Mr. GREEN: Mr. Natelson, could you give us your opinion?

Mr. NATELSON: I think I have studied this proposition a little more than Mr. Baldwin has, because I do not know if Mr. Baldwin has been in such

close touch with the various financial institutions in the United States as I have. I think it would be a great thing to have the securities to sell at this minute. The market is extremely receptive. I think we could sell the mortgage bonds, the most difficult part of the sales job, with a good deal of ease at the present time and perhaps on a much better basis than we had reason to hope as little as six months ago. There is a great deal of interest created in this line throughout the various institutions. I have a list of about twenty institutions of all sizes in the United States, including pension funds, insurance companies and trust funds, which have asked that they be given an opportunity to look at these bonds, as soon as they are ready, and given an opportunity to buy them. We have spent at least two years keeping in touch with various institutions in the United States, where the bulk of the bonds are to be sold and there has been such a great deal of interest created that I think that when we are ready to sell the securities a great deal of the work will already be done, so that the actual job of selling them will be considerably expedited as to time. They have followed the gas reserve picture. They have followed the marketing picture. I want to say one thing, which is perhaps somewhat in contradiction to statements made by one of my associates, Mr. Schultz, who thought that the insurance companies would be very insistent upon full sources of supply. They will be, but I think they will shave their estimates of what supply is necessary because they all have tremendous confidence in the reserve picture which has been built up in Alberta and Saskatchewan, particularly in Alberta. I think that our major problem will be to determine the size of the market in the form of firm commitments to buy gas. I do not think we will have nearly as much question as to the size of the supply or even the size of the dedication, so that, while 3½ trillion feet may not look like so very much to support a 500 million a day capacity, I think that if we had contracts indicating that we could sell 500 million a day, we could sell the bonds even with a 3½ to 4 trillion dedication. The theory is that as time goes on and more gas is developed in Alberta there will be more dedications. I think the only difficulty there might be in the bonds would be the term of the bonds because they will be allowing the bonds to be paid off in the period determined from the dedication in relation to the sale, but I do not think there will be difficulty in selling the bonds if the market is bigger than the dedication would seem to warrant.

Mr. NATELSON: But, I think that is the most important part of the job to be done, to determine who is going to buy the gas and what amounts and on what terms.

The CHAIRMAN: Shall the preamble carry?

Carried.

Shall clause 1 carry?

Construction and operation of extra-provincial pipe line.

1. Niagara Gas Transmission Limited, a company incorporated by Letters Patent issued under and pursuant to the provisions of *The Companies Act* of the province of Ontario on the 19th day of September, 1950, is authorized to construct, own and operate an extra-provincial pipe line as defined in the *Pipe Lines Act*, chapter 211 of the Revised Statutes of Canada, 1952.

Mr. BARNETT: There is one point I would like to have cleared up in respect to clause 1. Clause 1 states that Niagara Gas Transmission Limited is authorized to construct, own and operate this particular pipe line. Now the agreement says that Trans-Canada Pipe Lines is going to construct and own two pipe lines. Under what authority is the authorization under this bill to Niagara Gas Transmission Company assigned to Trans-Canada Pipe Lines? It is a point that I would like to have cleared in my mind.

Mr. McILRAITH: The construction authority does not depend on the Niagara Transmission bill. It has plenty of authority to build in its existing charter. It does not depend on the bill you are now dealing with. This is a Niagara bill giving them authority to operate and own the line—you will notice the clause "in the event of the other gas not being available at the end of five years.

Mr. BARNETT: Under its existing charter Trans-Canada Pipe Lines also has the right to build?

Mr. McILRAITH: Any gas lines.

Mr. BARNETT: Then if we pass it it has the effect of making the agreement an effective one?

Mr. PALMER: The agreement is effective now. The situation is really comparable to that affecting Trans-Canada and Western Pipe Lines, and Western Pipe Lines was given authority to operate a pipe line, but Western by virtue of its agreement with Trans-Canada on assuming the authority that was confirmed by the bill is not exercising the authority which was conferred by the bill, and by the same token, Niagara, by virtue of this agreement will not be exercising the authority which on the strict letter of the bill it would be authorized to accept.

The CHAIRMAN: Shall clause 1 carry?
Carried.

Shall clause 2 carry?
Carried.

Shall the title carry?
Carried.

Shall the bill carry?
Carried.

Shall I report the bill?
Agreed.

Now, Bill 389. Shall the preamble carry?
Carried.

Shall clause 1 carry?

Repeal.

1. Section 3 of An Act to incorporate Trans-Canada Pipe Lines Limited, chapter 92 of the statutes of 1951, is repealed and the following substituted therefor:

Capital stock.

"3. (1) The capital stock of the Company shall consist of

(*a*) ten million common shares of the par value of one dollar per share, and

(*b*) one million preferred shares of the par value of fifty dollars per share.

(2) The Company may by by-law

Preferred shares conditions.

(*a*) provide for the creation of classes of preferred shares with such preferences, privileges or other special rights, restrictions, conditions or limitations whether with regard to dividends, capital or otherwise as in the by-law may be declared,

Alteration of unissued preferred shares.

(b) subdivide, consolidate into shares of larger par value or re-classify any of the unissued preferred shares and may amend, vary, alter or change any of the preferences, privileges, rights, restrictions, conditions or limitations attached to the unissued preferred shares:

Validation of by-law.

Provided that no such by-law shall be valid or acted upon until it has been sanctioned by at least two-thirds of the votes cast at a special general meeting of the common shareholders of the Company duly called for considering the same nor until such by-law has been approved by the Board of Transport Commissioners for Canada.

(3) The Directors may by resolution prescribe within the limits set forth in any by-law passed under subsection (2) the terms of issue and the precise preferrences, privileges, rights, restrictions, conditions or limitations whether with regard to dividends, capital or otherwise, of any class of preferred shares.

Preferred shares non-voting.

(4) Holders of any class of preferred shares shall not have any voting rights, other than those provided by by-law passed under subsection (2), nor shall they be entitled to receive any notice of or attend any meeting of the common shareholders of the Company except the right to attend and vote at general meetings on any question directly affecting any of the rights or privileges attached to such class of preferred shares, and then there shall be one vote per share, but no change adversely affecting the rights or privileges of any class of preferred shares shall be made unless sanctioned by at least two thirds of the votes cast at a special general meeting of the holders of such class of issued and outstanding preferred shares duly called for considering the same, and until the same has been approved by the Board of Transport Commissioners for Canada.

(5) Ownership of preferred shares shall not qualify any person to be a director of the Company."

Mr. HAHN: In connection with clause 1, "Capital stock", the capital stock of the company shall consist of . . . ." I wonder what percentage of this is owned by Western Pipe Lines Limited or by Canadian Delhi Limited? Is there any connection there at all?

Mr. MILNER: They have an equal interest.

Mr. HAHN: What percentage of the whole would that be?

Mr. MILNER: We do not know yet.

The CHAIRMAN: Shall clause 1 carry?

Carried.

Shall the title carry?

Carried.

Shall the bill carry?

Carried.

Shall I report the bill?

Agreed.

Mr. MCIVOR: I should like to express the thanks of the committee for the way in which the witnesses have conducted themselves and by the way they responded to the barrage of intelligent questions when we were seeking information.

HOUSE OF COMMONS

First Session—Twenty-second Parliament

1953-54

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman—H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

(Bill No. 394 (Letter J-13 of the Senate),

An Act respecting Eastern Telephone and Telegraph Company

FRIDAY, APRIL 9, 1954

WITNESSES:

Mr. W. G. Thompson, President, Eastern Telephone and Telegraph Company and Mr. R. C. Merriam, Counsel.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954.

STANDING COMMITTEE

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman: H. B. McCulloch, Esq.,

and

Barnett,
Batten,
Bell,
Bonnier,
Boucher (*Restigouche-Madawaska*),
Buchanan,
Byrne,
Campbell,
Carter,
Cauchon,
Cavers,
Chevrier,
Clark,
Conacher,
Decore,
Deschatelets,
Dupuis,
Ellis,
Eudes,
Ferguson,
Follwell,
Fulton,
Gagnon,
Garland,
Goode,
Gourd (*Chapleau*),
Green,
Habel,
Hahn,
Harrison,
Healy,
Herridge,
Hodgson,
Holowach,
Hosking,
Howe (*Wellington-Huron*),
James,
Johnston (*Bow River*),
Kickham,
Lafontaine,
Langlois (*Gaspé*),
Légaré,
McIvor,
Montgomery,
Murphy (*Westmorland*),
Murphy (*Lambton West*),
Nicholson,
Nickle,
Purdy,
Richard (*Saint-Maurice-Laflèche*),
Ross,
Roy,
Shaw,
Small,
Stanton,
Viau,
Villeneuve,
Wood—60.

(Quorum 20)

E. W. INNES,
Clerk of the Committee.

ORDER OF REFERENCE

TUESDAY, April 6, 1954.

Ordered,—That the following Bill be referred to the said Committee:

Bill No. 394 (Letter J-13 of the Senate), intituled: "An Act respecting Eastern Telephone and Telegraph Company".

Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORT TO THE HOUSE

FRIDAY, April 9, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

SIXTH REPORT

Your Committee has considered Bill No. 394 (Letter J-13 of the Senate), intituled: "An Act respecting Eastern Telephone and Telegraph Company", and has agreed to report it without amendment.

A copy of the evidence adduced in relation thereto is appended.

All of which is respectfully submitted.

H. B. McCulloch,
CHAIRMAN.

89770—1½

MINUTES OF PROCEEDINGS

FRIDAY, April 9, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines met at 11.00 o'clock a.m. this day. The Chairman, Mr. H. B. McCulloch, presided.

Members present: Messrs. Barnett, Batten, Bonnier, Byrne, Campbell, Carter, Ellis, Gourd (*Chapleau*), Green Hahn, Harrison, Herridge, Hodgson, Holowach, Kickham, Lafontaine, Légaré, McCulloch (*Pictou*), McIvor, Nicholson, Purdy, and Villeneuve.

In attendance: Mr. S. R. Balcom, M.P.; Mr. R. C. Merriam, representing Mr. D. K. MacTavish, Q.C., Parliamentary Agent; and Mr. W. G. Thompson, President, Eastern Telephone and Telegraph Company.

The Committee proceeded to the consideration of Bill No. 394, (Letter J-13 of the Senate), An Act respecting Eastern Telephone and Telegraph Company.

On motion of Mr. Harrison, seconded by Mr. Carter,

Ordered,—That the Committee print 500 copies in English and 200 copies in French of the Minutes of Proceedings and the Evidence adduced in respect of Bill No. 394.

Mr. Merriam was called, outlined the purposes of the Bill and was questioned thereon.

Mr. Thompson was called, supplemented Mr. Merriam's testimony and enlarged on the technical and financial aspects of the proposed project.

On motion of Mr. Green, seconded by Mr. Herridge,

Ordered,—That the "Transatlantic Cable Construction and Maintenance Contract" between the Postmaster-General of the United Kingdom, American Telephone and Telegraph Company, Canadian Overseas Telecommunication Corporation and Eastern Telephone and Telegraph Company, be printed as an Appendix to this day's evidence. (*See Apendix A*).

The Committee proceeded to a detailed consideration of the Bill.

The Preamble, clauses 1 and 2, and the title were adopted.

The Bill was adopted and the Chairman ordered to report it to the House without amendment.

The Chairman thanked the witnesses for their assistance.

At 11.45 o'clock a.m. the Committee adjourned to the call of the Chair.

E. W. INNES,
Clerk of the Committee.

EVIDENCE

APRIL 9, 1954
11:00 A.M.

The CHAIRMAN: Gentlemen, we have a quorum. We have before us this morning Bill No. 394 (Letter J-13 of the Senate), entitled: "An Act respecting Eastern Telephone and Telegraph Company."

I think it is customary to have a motion with respect to printing the report of the meeting.

Mr. HARRISON: Mr. Chairman I move that we print 500 copies of our report in English and 200 copies in French.

The CHAIRMAN: It is moved by Mr. Harrison and seconded by Mr. Carter.

Carried.

We have with us today Mr. W. G. Thompson, President of Eastern Telephone and Telegraph Company, who will answer any questions that are put to him. Will you come to the head table, please, Mr. Thompson.

Mr. W. G. Thompson, President, Eastern Telephone and Telegraph Company, called:

The CHAIRMAN: Before we go any further perhaps Mr. Merriam would like to say a few words by way of explanation.

Mr. MERRIAM (Parliamentary Agent): Mr. Chairman and gentlemen, as the chairman has indicated we have, this morning, Mr. W. G. Thompson, the President of Eastern Telephone and Telegraph Company, which company is the applicant for this bill. He is here to answer any question which members may wish to ask him concerning the details of this request.

However, possibly the members of the committee might like to have first at least a general explanation of the circumstances behind this bill.

Eastern Telephone and Telegraph Company is a company which was incorporated back in 1917 by private Act of the Parliament of Canada and was acquired as a wholly owned subsidiary by American Telephone and Telegraph Company in 1929.

At that time the intention was to build a transatlantic telephone cable linking the United Kingdom, Canada and the United States; and the purpose in acquiring Eastern Telephone and Telegraph Company which had not been too active was to provide a Canadian link in that chain. Of course, as members know, following 1929 the whole economic picture of the world changed with the result that the project was shelved but never forgotten.

Eastern Telephone lay idle for many years and because of that, in 1931 when it became apparent that it was not going to be feasible immediately to carry out this undertaking, the capitalization of Eastern Telephone and Telegraph was reduced to the comparatively nominal amount of $75,000.

Just during the past year 1953 an agreement has finally been consummated and signed, and this agreement provides for the final realization of this plan which had been under consideration for many years. The parties to the agreement are the Postmaster-General in Great Britain, Canadian Overseas Telecommunications Corporation which is a Canadian Crown Corporation

responsible to and operating under the direction of the Hon. Minister of Transport, Eastern Telephone and Telegraph Company and American Telephone and Telegraph Company.

The agreement provides for the construction of a multiple transatlantic telephone cable which, of course, will greatly enhance the present transatlantic communication facilities. As you know they are now carried out by radio and this will be the first transatlantic telephone cable as such whereby telephone communication may be made by cable as opposed to radio.

It involves, of course, considerable expenditure which will be somewhere in the nature of $35 million for the over-all project. Eastern's part in it will approximate somewhere from $5 million to $7 million, but the actual figures cannot at this moment be given with certainty. However, we can say to Hon. members that it will be in the nature of from $5 million to $7 million; and that of C.O.T.C. will be, roughly, $4 million, and the over-all picture will involve, roughly, $35 million.

With this investment required through Eastern—and I say "through" advisedly because the funds will be supplied, so far as Eastern is concerned, by its parent company, it became desirable to provide for a greater amount of authorized capital than the nominal amount presently standing. Consequently the company has come to Parliament with the request that an Act be passed increasing its authorized capital to $5 million.

At the same time it was felt desirable to change in a minor sense the quorum for the board which, as Hon. members will see, is stated to be not less than five and not more than nine. Previously it required a majority to constitute a quorum.

That was perfectly satisfactory when the company was not engaged in active operations, but it was felt that now the company is going to be involved in a rather important international undertaking which is going to require important decisions to be made from time to time at regular board meetings, that it might prove difficult to obtain the presence of a majority of the board. Therefore, in order to facilitate the operations of the company it was felt that it was in the interests of the company to request that the quorum be set at not less than one-third of the members.

So far as the board itself is concerned—and I think this also has some bearing on the situation in so far as New Brunswick and Nova Scotia are concerned, we are advised that the President of the Maritime Telephone and Telegraph Company, and the President of the New Brunswick Telephone and Telegraph Company have both been approached and have both consented to act on the board of Eastern Telephone and Telegraph Company. I give that information to you, gentlemen, as an indication that this is not a project which is going to be competitive with those two public utilities.

Another Canadian director is Mr. Stewart who is a lawyer in Halifax and probably known to many of you. Finally, the total number of members of the board has not as yet been determined to my knowledge, and I cannot give you the names of the other members of the Board. But I thought the members of the committee might be interested in at least knowing of those three gentlemen. Now, if there are any other questions that you would like to ask me, I shall be perfectly happy to try to answer them, or if not myself, Mr. Thompson who is here because he has been involved in the negotiations and in the consummation of this plan for a long time and is thoroughly familiar with all of its details. He will be happy to offer any explanation which the committee might wish to have.

Mr. CARTER: I wonder if the witness or Mr. Merriam could tell us when the project is planned to start and approximately the date when they hope to complete it.

Mr. MERRIAM: I understand that the plan is to start as soon as possible, almost immediately. But I think Mr. Thompson had better tell us about the completion date.

The WITNESS: As a matter of fact, the engineering for the project and the plans for the project are going forward now. They started last fall. The actual construction work will start within the next 60 days and it is hoped that it can be completed by December, 1956. It is a tremendous undertaking and we have a rather tight schedule. However, we are bending every effort to having it by December 1956.

Mr. CARTER: Will it be a multiple cable system?

The WITNESS: Yes, it will be a multiple cable system which will provide 36 circuits across the Atlantic. Mr. Merriam referred to the fact that economic conditions in 1929 caused it to be postponed. In a way it was a fortunate thing because technically we were not very far along; the three nations were not very far along and we would only have had a one-circuit system which would have been a very difficult economic factor. But with the advance of eletcronics over the years we now will have a system which will give us 36 circuits and will make it a much more practical proposition for all three nations.

By Mr. McIvor:

Q. Your construction work will be pretty extensive, will it not?—A. Yes, it will be quite extensive.

Q. Would there be any Canadians employed on it?—A. Yes. Any of the installation work which is Canadian will be done by Canadians, and after the system is completed the Eastern Company will have Canadians as its maintenance employees.

Q. Thank you.

By Mr. Carter:

Q. Where will the actual terminals of the cable be?—A. There are really three terminals. The terminal in the United Kingdom is at Oban, Scotland. I emphasize Scotland because before the Senate committee Senator Reid wanted to be sure that it was pointed out that it would be in Scotland. The cable then comes across and lands in at Trinity Bay, Newfoundland, and then goes across the peninsula for a distance of 60 miles to Terrenceville.

Q. That is in my riding, I know it.—A. Then across a little west of Sydney Mines and then goes by land—in microwave radio system—across Nova Scotia and New Brunswick and direct to Portland in the U.S.A. That is quite a stretch of over 3,000 miles.

By Mr. Byrne:

Q. Who is the prime mover in bringing forward this agreement? Your company has been dormant since 1917. Who has initiated this project now?—A. I would say that it was almost simultaneous between the three nations. It has been in each one's mind for many years, and when about three years ago radio conditions were particularly bad it became apparent something had to be done, and I would say that it originated in all three countries that we would try to do something about it.

Q. You have answered another question I had in mind. If we find now that radio communication is not satisfactory we will not have great difficulty?—A. Yes, sir. But in our opinion you need both radio and cable for strategic reasons and also for commercial reasons. It is well to have two strings to your bow. Radio has its virtues and its disadvantages. Due to atmospheric conditions there is an eleven year cycle and at the bottom of the cycle radio is

very bad because the disturbances from the magnetic pole come down and pass across the Atlantic and you will realize at times it is pretty bad. On the other hand radio has some advantages and I do not want to wipe it out of the picture completely. Your Canadian communication people feel the same way, and the post office feels the same way. We will strengthen and supplement what we now have.

Q. Is the Postmaster General of Great Britain the minister responsible for communications in Great Britain?—A. In Great Britain internal and external communications are under the post office.

By Mr. Carter:

Q. Will it be possible to utilize these cables for other than voice transmission? Will it be for Morse or television?—A. No. It will not be possible for television. They are generally laid for telephone. The Canadian Overseas Telecommunication Corporation is going to use some of it for telegraph. We do not propose to use any for telegraphy in the United States. We wish that it could be used for television, but nobody yet has invented the kind of repeater that will pass a wide enough band for television. The repeaters we have on land are spaced at relatively very short intervals and there can be maintained in them the tubes which are repeatable, and so on. The kind of tubes we have to design to go to the bottom of the ocean have many restrictions, and no one has invented one reliable enough. We hope some day, but not in this cable.

By Mr. Holowach:

Q. I take it that this is a private company?—A. Yes.

Q. With reference to the contract established on the 22 November, 1953, with the Canadian Overseas Telecommunication Corporation, the American Telephone and Telegraph Company, and the Postmaster General of the United Kingdom, do they hold any stock in the company?—A. No. No one holds any stock in the Eastern Telephone and Telegraph Company except the directors, and, of course, it is a wholly owned subsidiary of the American Telephone and Telegraph Company, but neither the C.O.T.C. or the Postmaster General hold any stock.

Q. Does your company anticipate requesting any financial aid from the federal authorities in the building of this communication?—A. I am sorry. I did not get your question.

Q. Do you anticipate a request to the federal authorities for a subsidy or financial assistance in the building of this line?—A. No, sir, I do not. There was an order in council of last November 26 which authorized the Minister of Transport and C.O.T.C., which is a Crown corporation, to participate, and that as far as I know will be the extent of the capital that the government will have in this project.

By Mr. Nicholson:

Q. You are to put in between 5 and 7 million and C.O.T.C. 4 million. What about the United Kingdom?—About 11½ million.

Q. And the balance?—A. It will be American.

Q. Will this have any effect on reducing the cost of transatlantic communication, or increase it?—A. It will not increase it. I fear it will not decrease it. It will make for better and faster service, but I do not think it will decrease the cost.

Mr. McIvor: There will be no cost to the dominion government?

The Witness: No, except as the dominion government provides the Crown corporation, C.O.T.C., with funds.

By Mr. Nicholson:

Q. This will not do anything to reduce the cost from this end? At the present time it costs a great deal more to send cables from this side to the other—than from the U.K. here. Is there any chance of changing that?—A. I would not know about that. I think somebody from C.O.T.C. would have to answer that. But, I think that that is due to the fact that the pound is off. I know the same situation exists between the United States and the U.K. due to the fact that sterling is off so much. The British government, when sterling went off, did not raise its rates, and the Canadians and Americans did not change their rates at all, so that made this discrepancy I think.

Q. I found that I could send a cable from London to my home in Saskatchewan for a lesser amount than I could send a telegram from Montreal to my home. How does that work out?—A. I am not really familiar with telegraphic matters, and I could not tell you.

By Mr. Carter:

Q. Is this the first transatlantic telephone cable?—A. It is not only the first transatlantic telephone cable, but the first submarine cable of any great length in the world with repeaters in it—that is a multiple channel cable. There is only one other, between the United States and Cuba, now going of any great length. There are a couple across the Irish Sea and the North Sea, which, as you know, are short distances.

By Mr. Herridge:

Q. Was consideration ever given by the government of Great Britain and the Canadian Overseas Telecommunication Corporation to owning this jointly and the American Telephone Company being a subsidiary? What is the reason for this being a subsidiary of the American Telephone Company? Obviously I would like to see Canada and Great Britain own it.—A. America's need as to the amount of circuits and so forth to the U.K. is even greater than the need for communication in volume between Canada and the U.K., and if we could pool our resources as we have done it makes it much better for all three countries. For example, of the total traffic that passes over there about 20 per cent is Anglo-Canadian, and about 80 per cent is Anglo-American. So, the countries benefit by pooling their resources and that was the reason. If we had separate cables for each of us we would pay more.

By Mr. Green:

Q. Why does the Eastern Telephone and Telegraph Company come into the picture at all? Why was it not a deal between the United Kingdom government and the Canadian Overseas Telecommunication Corporation? What is the advantage in having this company revived and put in as a fourth party?—A. We thought it was the fair and proper thing to do. The American Telephone and Telegraph Company does not do business in Canada. We thought the Eastern Telephone and Telegraph Company should do business in Canada.

Q. Why could not the Canadian Overseas Telephone Communication Corporation handle the business in Canada?—A. They are going to do any Canadian business that passes over this cable, but from the standpoint that part of the circuits extend into the United States we naturally wish to have an interest in those circuits.

Mr. McIvor: The Canadian shareholders are protected? They do not lose anything?

The Witness: Oh no.

By Mr. Green:

Q. There are no Canadian shareholders—the shares are all held by the American Telephone and Telegraph Company?—A. Except the directors shares.

Q. Have you any intention of any public issue of shares?—A. No sir, there will not be any public issue of shares.

Q. For Canada?—A. No.

Q. So this provision that the sale of shares to the public shall be subject to the Board of Transport Commissioners is in effect of no importance because there are to be no such shares?—A. No, but it is necessary to state that, sir, because telephone and telegraph companies are all subject to that provision. I might explain about the directors: we propose to have a majority of Canadian directors and in addition to the three gentlemen that Mr. Merriam spoke about we expect to have two other Canadian directors who have not been selected yet.

Q. These companies to which he referred then are both privately owned companies are they not?—A. Yes.

Q. He mentioned provincial utilities but they are not government utilities? —A. No, they are privately owned.

Q. And they are subsidiaries of the American Telephone and Telegraph Company?—A. No.

Q. Or the Bell Telephone Company?—A. I think the Bell has an interest in one of the companies—in the New Brunswick Company—but how much, I do not know.

Q. And Bell Telephone and the American Telephone and Telegraph Company are associated in some way?—A. The American Telephone and Telegraph Company owns a small percentage of Bell Telephone Company of Canada stock, and they have a license between them for services and patents.

By Mr. Carter:

Q. You said, Mr. Thompson, there are 36 circuits in your cable. How many parties will be able to use a circuit at one time?—A. Only one conversation at a time on each circuit, but you may have 36 simultaneous conversations.

Q. But you cannot superimpose on one circuit?—A. No, we have done that as much as possible now and have filled up the space of the 36 circuits already. I might add another thing which I think you gentlemen might be interested in because—and this refers to the question that you raised, Mr. Green,—it is going to be possible to have very much better service between Newfoundland and the rest of Canada. However, neither the Postmaster General or the Eastern Telephone and Telegraph Company or the American Telephone and Telegraph Company are directly concerned in that service. C.O.T.C. has asked if we will build a cable between Newfoundland and Nova Scotia in such a way that they can be furnished with good wire circuits between Newfoundland and Nova Scotia, and we do plan to do that. If that had to be done separately, it would have been a tremendously expensive undertaking for Canada. There is another advantage in this, speaking in general terms, from the standpoint of the country there is a military strategic value in the whole thing.

Q. You mean that there will be more circuits between Terrenceville and Sydney Mines then the rest of the cable?—A. Yes, sir.

Q. Can you tell me how many more?—A. We are not sure how many more we will be able to get, but it will be considerably more. You see, the distance is the controlling factor. The distance is not so large that we could not do some special things. The problem is when you have the 2,000 mile stretch you have to feed power to the vacuum tubes all that distance, and the power diminishes as it goes along and that is about the limit whereas on the 350 mile limit you can do things which you could not do on the 2,000 mile stretch.

Q. Is it not possible to boost that power between your terminals?—A. That is exactly what we can do in that case, but we have reached the limit of what

we can do in the way of putting power across the Atlantic and we are going to put in two extra repeater stops in order to supply Newfoundland with some service.

By Mr. Green:

Q. Would it be possible to have a copy of the contract filed with the minutes of the proceedings today?—A. I will be very glad to furnish you with copies. I think the contract is a matter of public record in the Ministry of Transport office, as it was approved by the Governor in Council last November, and therefore it is a part of the official record already.

Q. It will be very much easier for us if it is made part of the record. Is there any control over the rates that can be charged?—A. The rates are not concerned in this cable at all. This cable is purely a facility cable. All the arrangements for traffic and rates between the United Kingdom and Canada and the United Kingdom and the United States are covered in existing agreements. They will have nothing to do with this cable.

Q. Is there any governmental control over the rates in Canada?—A. I am not able to answer that, sir, I do not know. I do not know enough about Canadian law.

Q. You do not know if the Board of Transport Commissioners has any control over the rates?—A. I could not answer that because I do not know enough about Canadian law, sir.

The CHAIRMAN: Would it be satisfactory if this contract is put in the record as an appendix?

Mr. GREEN: As an appendix to today's proceedings, yes.

By Mr. Green:

Q. Would there have been any serious objection to the Canadian Overseas Telecommunication Corporation handling the whole Canadian end of this business rather than bringing in this branch company?—A. When you say "the Canadian end of the business" do you mean the actual Canadian traffic? They are going to do that.

Q. I do not understand why it was necessary to bring in the Eastern Telephone and Telegraph Company when we already have a company known as the Canadian Overseas Telecommunication Corporation which we understand was going to do all this sort of thing for Canada.—A. For Canada, yes, but you see the Americans were not willing to put their money in a cable running from Oban to Newfoundland and not have some interest in the connecting link which brought it to the United States. Frankly, neither financially nor politically would we have been happy with the arrangement if we did not have a say in this thing.

Mr. HERRIDGE: What is the total cost?

The WITNESS: About $35 million.

Mr. HERRIDGE: Canada could have done it very easily.

The WITNESS: I do not mean to say that Canada is not a wealthy country and could not have done it, but I feel that by combining the interest everyone is better off.

Mr. HOLOWACH: Have you any figures available as to the amount of stock in this company which is held by the American Telephone and Telegraph Company?

The WITNESS: We will own 100 per cent of it.

Mr. HOLOWACH: I suppose you have already received the approval of the United States government in connection with your plans?

The WITNESS: We have received the approval of the United States government to the project, yes. We also have received the approval of the British government and Canadian government.

Mr. HOLOWACH: I wonder if you could give us a bit of clarification on the provision contained in paragraph one on page two:

> Provided that the company shall not make any public issue or sale of its capital stock or any part thereof without first obtaining the approval of the Board of Transport Commissioners for Canada of the amount, terms and conditions of such public issue or sale—

Could you clarify that for us?

The WITNESS: I think perhaps Mr. Merriam should answer your question.

Mr. MERRIAM: The answer to that is that under the Railway Act no telegraph or telephone company may sell its securities to the public without first obtaining the approval of the Board of Transport Commissioners as to the price and the number of shares which may be sold, and that really is writing into this Act a provision that is already contained in the Railway Act and to which the company is subject in any event.

By Mr. Herridge:

Q. I should like to ask the witness a question. Would it not have been acceptable to the United States or your company for the government of Great Britain and the government of Canada to have owned this cable completely and then leased 80 per cent of the services to the United States?—A. No, sir.

Q. Why would it not?—A. It would be politically unacceptable to the United States, I am sure, and financially unacceptable to us. In the first place, 80 per cent of the use of the cable is going to the United States, and we would have a very difficult time proving to our government that we should not have an interest in that cable. In the second place, the art was developed by us. We have developed the art of doing this.

Q. That is, you have the patents?—A. We have not only the patents; we have spent 30 years developing this cable system.

Q. Does that mean that if the government of Great Britain and the government of Canada through this Canadian corporation had decided to build it themselves, they would not have been able to do so without the patents held by the American Telephone and Telegraph Company?—A. I would not say that they could not in time, but they could not at this time, I feel sure. By that I would not like the hon. member to think that we made a bargain on that basis. We did not. If Canada and the United Kingdom wished to have a separate cable, I am sure that arrangements could be made by which we could have allowed them to have our patents, because we certainly would not want to stand in the way of any link of that kind. We would like to help. For our part, however, we did not feel that we should build a separate cable without inviting Canada in, and that is exactly what happened. That, I believe, is what the Governor in Council deliberated on and passed when they saw the whole situation.

Q. That is, you invited Canada to participate in a cable landing on Canadian soil?—. No, we invited them to participate in a cable across the Atlantic. There can be a cable across the Atlantic that does not land on Canadian soil. It will not be as good a cable, but there can be such a cable.

Mr. ELLIS: This particular cable could not have been built without the co-operation of Canada.

The WITNESS: Obviously. I say that it is a joint Canadian enterprise in the interests of all three countries.

By Mr. Holowach:

Q. What is the name of the company that will be actually constructing the cable?—A. There will not be a separate company. This is a common enterprise, and we are all in it.

Q. I suppose you have made allowance—?—A. We have made allocations, as you can see, in the contract as to which one will be responsible for building which pieces.

Q. I suppose that arrangements have been made to employ as many Canadians as possible on the Canadian piece of the cable, is that right?—A. Absolutely. All the installation work to be done on Canadian soil will be done by Canadians. Buildings that are necessary will be built by Canadians. All the work that can possibly be done in Canada by Canadians will be done by Canadians.

Mr. CARTER: Do you plan to start from the east and work towards the other end?

The WITNESS: We probably will not do it that way. We will probably lay a shore end, for a few hundred miles, and buoy it, and then we will start from England and meet that. The reason for that is that laying operations are limited by what the ship can carry. There is only one ship in the world that can carry this heavy cable, and that is the "Monarch", which belongs to the British Post Office. Even that ship is not big enough to carry the whole thing. It will have to be done in pieces. It will not meet in mid-ocean. It will probably go across and meet that shore end.

By Mr. Hahn:

Q. You spoke about the magnetic influences that interfere with radio communication today. Have you any figures to indicate what percentage of influence this has on the efficiency of radio communication between continents?—A. No, sir. It varies from time to time.

Q. You have nothing to indicate an over-all yearly percentage?—A. No, it varies from year to year. It has not only a seasonal effect within the year, but it has an effect varying over a period of 11 years.

Q. It is on a cyclical basis?—A. Yes.

Q. Do those magnetic influences have an effect on all frequencies of radio?—A. All shortwave frequencies used across the Atlantic are affected by those.

Q. Will the building of this line mean that we will not have radio communications?—A. No, sir. I thought that I mentioned before that we expect to keep—at least the United States does, and I assume that Canada expects to do the same—a certain number of the radio circuits in service.

Q. I am sorry. I was not here for that, as I was giving a radio address.—A. As I mentioned before, it is of great importance stragetically to have both means, from the standpoint of the defence of Canada, the United States and the United Kingdom. If the cable was cut, you would have the radio to fall back on.

Q. There may be other frequencies with which you are not familiar, that would not be affected by magnetic influences. —A. There may be. I have been at this overseas telecommunications business—and I do not want to be too foreseeing—and I have been looking for this for at least 25 years.

Q. There are none, to the best of our knowledge, that are available today?—A. That is right. Someday there may be found some way to do it by radio that will not be subject to radio storms, but the art does not indicate that it is likely.

Q. I was thinking particularly of some of the equipment that we have available today, such as in our walkie-talkie sets, that we never thought of in our early radio days.—A. Yes, and I would hope that something may one day be possible, because we are still in the growing stages of radio and electronics.

By Mr. Holowach:

Q. You mentioned the military value of this cable. I suppose that you have consulted or are consulting with the American military authorities, as well as the Canadian military authorities, in the building of this cable?—A. I can speak from the American end. We consulted with our military, and I assume that C.O.T.C. and the Department of Transport consulted with theirs. I happen to know that the British did consult with theirs; so I assume that Canada did.

Q. You have their approval?—A. Yes; in fact, I would say, enthusiastic approval.

The CHAIRMAN: Any further questions? Shall the preamble carry?

Carried.

Shall clause 1 carry?

Carried.

Shall clause 2 carry?

Carried.

Shall the title carry?

Carried.

Shall the bill carry?

Carried.

Shall I report the bill?

Agreed.

The WITNESS: Mr. Chairman, may I just say one word? I just want to say to the hon. members that I am sure that this is going to be a great undertaking for all three nations. It has been a dream of all communications people in the three nations for many years, and I am sure that it will strengthen greatly all the ties that we have together. I appreciate the opportunity of being able to come here this morning and tell you about the project. Thank you, Mr. Chairman.

The CHAIRMAN: I am sure the committee wish to thank Mr. Thompson and Mr. Merriam for the clear-cut evidence they have given.

APPENDIX "A"

TRANSATLANTIC CABLE CONSTRUCTION AND MAINTENANCE CONTRACT

Dated November 27, 1953

BETWEEN AND AMONG

HER MAJESTY'S POSTMASTER-GENERAL IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

and

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

and

CANADIAN OVERSEAS TELECOMMUNICATION CORPORATION

and

EASTERN TELEPHONE AND TELEGRAPH COMPANY

MEMORANDUM OF AGREEMENT made and entered into this 27th day of November, 1953, between and among the Right Honourable Herbrand Edward Dundonald Brassey, Earl De La Warr, Her Majesty's Postmaster-General in the United Kingdom of Great Britain and Northern Ireland (hereinafter called "the Postmaster-General" which expression shall include his successors in that office) on behalf of Her Britannic Majesty in right of the United Kingdom, party of the first part, and American Telephone and Telegraph Company, a corporation organized and existing under the laws of the State of New York in the United States of America and having its principal office at 195 Broadway in the City of New York (hereinafter called "the Company" which expression shall include its successors), party of the second part, and Canadian Overseas Telecommunication Corporation, a corporation organized and existing under the laws of Canada and having its principal office at 211 St. Sacrament Street in the City of Montreal (hereinafter called "C.O.T.C." which expression shall include its successors), party of the third part, and Eastern Telephone and Telegraph Company, a corporation organized and existing under the laws of Canada and having its principal office at 435 Barrington Street in the City of Halifax (hereinafter called "Eastern" which expression shall include its successors), party of the fourth part, all the outstanding capital stock of which is owned by the Company.

WITNESSETH:

Whereas by means of transatlantic radio facilities the Postmaster-General and the Company are providing a telephone service between the United Kingdom and the United States and the Postmaster-General and C.O.T.C. are providing a similar service between the United Kingdom and Canada;

And Whereas it is desired to provide a submarine telephone cable system for transatlantic telephone service between the United States and Canada on the west, and the United Kingdom on the east;

And Whereas it is now desired to define the terms and conditions under which said cable system shall be provided, constructed and maintained,

Now, Therefore, the said Parties, in Consideration of the Mutual Covenants Herein Expressed, Covenant and Agree with Each Other as Follows:

1. In accordance with the arrangements contained in this Agreement, a cable system shall be provided, constructed and maintained which, for the purposes of this Agreement, shall be regarded as consisting of the following segments, to wit:

SEGMENT A: Submarine cable, equipped with intermediate submarine cable repeaters, connecting Oban, Scotland, with Sydney Mines, Nova Scotia, via Clarenville, Newfoundland, together with associated cable station equipment at Oban, Clarenville and Sydney Mines. The term "submarine cable" includes any cable of the submarine type laid on land; the term "cable station equipment" means terminal equipment (including power equipment) and maintenance and testing apparatus associated with such equipment and with submarine cable and submarine cable repeaters, but excludes the land and buildings in which such equipment and apparatus is housed.

SEGMENT B: Land and buildings appropriate for the cable landing and for the cable station equipment at Oban.

SEGMENT C: Land and buildings appropriate for the cable landing and for the cable station equipment at Clarenville and Sydney Mines and for radio relay terminal apparatus at Sydney Mines and for the radio relay repeater equipment and circuit terminal equipment at the point in segment D where the Canada/United Kingdom circuits branch off to connect with the Canadian domestic communication facilities in accordance with paragraph 4 (which point is in this Agreement referred to as the "junction point").

SEGMENT D: A micro-wave radio relay system between the Sydney Mines cable station and the Canada/United States boundary, excluding the land and buildings forming part of segment C. Segment D comprises two parts: (1) Segment D (north) being the equipment appropriate to the radio relay system at Sydney Mines, the land, buildings, towers and equipment appropriate to the radio relay system between Sydney Mines and the junction point and the radio relay repeater equipment and circuit terminal equipment at the junction point; and (2) Segment D (south) being the remainder of segment D.

Each segment shall be regarded as including its related spare and standby components (for example, submarine cable repeaters and lengths of submarine cable).

2. (*a*) Segment B shall be of the Postmaster-General's design and shall be provided and constructed, or caused to be provided and constructed, by and at the cost of the Postmaster-General, in agreement with C.O.T.C. and the Company so far as these parties may require.

(*b*) Segment C shall be of the Company's design and shall be provided and constructed, or caused to be provided and constructed, by Eastern, in agreement with C.O.T.C., the Company and the Postmaster-General so far as these parties may require. Segment D shall be of the Company's design and shall be provided and constructed, or caused to be provided and constructed, by Eastern and, as regards segment D (south), at the cost of Eastern.

(*c*) In that part of segment A from Oban to the limit of the territorial waters of Canada east of Clarenville, the associated cable station equipment and repeaters shall be provided and constructed, or caused to be provided and constructed, by the Company; in that part of segment A from Clarenville to Sydney Mines, the associated cable station equipment and repeaters shall be provided and constructed, or caused to be provided and constructed, by the

Postmaster-General; and in the remaining part of segment A the associated cable station equipment and repeaters shall be provided and constructed, or caused to be provided and constructed, by Eastern.

(*d*) The Postmaster-General shall provide and construct, or cause to be provided and constructed, so much of the submarine cable in segment A (including the spare length of similar cable which the Postmaster-General and the Company and Eastern may agree to provide) as will serve to secure that, upon final computation of the payments to be made by the parties in respect of the provision, construction, installation and laying of the cable system, the sum of the payments made and falling to be made by the Postmaster-General to the Company and Eastern under sub-paragraph 5(*c*) and the permissive lump sum rental payments by the Postmaster-General to the Company and Eastern under paragraph 8 shall not exceed the sum of such payments made and falling to be made by the Company and Eastern and C.O.T.C. to the Postmaster-General, the intention of the parties being that no balance of such payments shall fall to be paid by either the Postmaster-General to the Company and Eastern or by the Company and Eastern and C.O.T.C. to the Postmaster-General, unless otherwise agreed between the parties.

(*e*) Eastern shall provide and construct, or cause to be provided and constructed, any part of the submarine cable in segment A between Sydney Mines and the limit of Canadian territorial waters east of Clarenville which is not provided and constructed, or caused to be provided and constructed, by the Postmaster-General.

(*f*) The Company shall provide and construct, or cause to be provided and constructed, any part of the submarine cable in segment A (including the said spare length of cable) which is not provided under sub-paragraphs 2(*d*) and 2(*e*).

3. (*a*) That part of segment A from Oban to Clarenville shall be of the Company's design and that part of segment A from Clarenville to Sydney Mines shall be of the Postmaster-General's design. The Postmaster-General and the Company shall agree upon specifications for performance of both parts of segment A operating together and shall also agree upon specifications consistent therewith for performance of each part operating individually and separately. The performance of each part of segment A operating individually and separately shall meet the specifications thus agreed upon for such performance. The party responsible for designing a part of segment A shall prepare the specifications of the components of that part in such detail as the Company and the Postmaster-General shall agree, and such specifications shall be agreed between the two parties.

(*b*) The party responsible for providing and constructing a part of segment A shall let the contracts for the supply of that part and all such contracts shall, before being entered into, be approved by both the Postmaster-General and the Company.

(*c*) Every such contract (except any as to which the Postmaster-General and the Company may otherwise agree) shall contain such terms as will ensure.

(i) that the Postmaster-General and the Company shall jointly be responsible for the inspection and acceptance of the articles to be supplied and the services to be rendered under the contract;

(ii) the right of access by the Postmaster-General and the Company to the books and records of the contractor in so far as such books and records are relevant to the said articles and services, or to the charges to be made therefor to the parties, including overhead costs;

(iii) the right of access by the Company and C.O.T.C. through their employees, and the Postmaster-General through officers of the Post Office, to the factories and other places of business of such contractors for the purpose of inspecting the articles to be supplied and the services to be rendered under the contract, including raw material, parts, manufacturing processes, testing procedures, and testing and inspection records relating to the manufacture, inspection and testing of such articles and services.

The foregoing provisions of this sub-paragraph shall apply to any sub-contract and sub-contractor if, and to the extent, requested by either the Postmaster-General or the Company. The Company or the Postmaster-General shall, before any sub-contract is concluded, secure for the other of them a reasonable opportunity to make such a request if desired.

(*d*) The arrangements made for the installation or laying of every part of segment A shall be such as are satisfactory to all the parties which are responsible for providing and constructing segment A.

(*e*) Each of the parties to this Agreement shall be entitled upon request to receive a copy of every specification as to which agreement is required under sub-paragraph (*a*) above and of every contract and particulars of every arrangement to which sub-paragraph (*a*), (*b*), (*c*) or (*d*) refers.

(*f*) The Postmaster-General, C.O.T.C. (except as to segment D (south)), and the Company and Eastern shall agree upon the facilities to be provided in and the specifications for performance of segment D. The performance of segment D when completed shall be such as to meet with the acceptance of all parties.

4. The Postmaster-General, C.O.T.C. and the Company, each at his or its own expense, on or before the completion of the cable system shall do or cause to be done all such acts and things as may be necessary within his or its country to provide suitable connection of the cable system, at the respective points of connection, with appropriate communication facilities within his or its country, i.e., the Postmaster-General in the United Kingdom, with connection at Oban; C.O.T.C. in Canada, with connection at a radio relay station in segment D to be selected by C.O.T.C.; the Company in the United States with connection at the Canada/United States boundary The parties responsible for the provision and construction of the various segments will use their best endeavours to complete the cable system and to place it in operation on or before December 1, 1956.

5. (*a*) Segments A, C and D (north) shall be owned by the parties, in common, in undivided shares, as follows: the Postmaster-General 50% less the share of C.O.T.C.; C.O.T.C. 9.028% if the initial capacity of those segments is 36 through telephone circuits or more (or if the initial capacity is less than 36 telephone circuits, then a percentage equal to 325 divided by the total telephone circuit capacity; and if the total telephone circuit capacity is subsequently increased but is less than 36 circuits then the percentage shall be 325 divided by the new total telephone circuit capacity and so on from time to time; and if the total telephone circuit capacity is subsequently increased to 36 circuits or more the percentage shall be 9.028%; and upon every such subsequent increase up to 36 circuits the parties shall make appropriate adjustments with respect to the payments theretofore made under paragraphs 5 (*c*) and 8); the Company 50% of that part of segment A from and including the associated cable station equipment at Oban to the limit of the territorial waters of Canada east of Clarenville; and Eastern 50% of the balance of segment A, 50% of segment C, and 50% of segment D (north) Segment B shall be owned by the Postmaster-General. Segment D (south) shall be owned by Eastern. Upon every such subsequent increase as aforesaid in the capacity of segments A,

C and D (north) the parties shall execute such documents and do all such things as they or any of them may reasonably require for the purpose of vesting title in common in segments A, C and D (north) in the altered undivided shares.

(*b*) All the rights constituting the ownership of segments A, C and D (north) and all decisions made or acts done in the exercise thereof shall, except as otherwise provided in this Agreement, be exercised, made or done by the parties acting together on the basis of majority voting, the Company, or Eastern, according as their respective ownerships may be concerned, having 50 votes, the Postmaster-General 41 votes and C.O.T.C. 9 votes.

(*c*) The cost of providing, constructing, installing and laying segment A, and providing and constructing segments C and D (north), shall be shared by the parties in the proportions in which they share ownership of those segments under sub-paragraph 5 (*a*). As the Postmaster-General and the Company and Eastern provide and construct, or cause to be provided and constructed, segments A, C and D (north) and install and lay or cause to be installed and laid segment A, he or it will bill the other party, or parties, and the other party or parties shall pay its, his or their share, based on ownership as set forth in sub-paragraph 5 (*a*), of the cost incurred in so doing. Bills may be rendered as costs are incurred during the course of provision, construction, installation and laying, but not more often than quarterly, and whenever rendered, shall be payable by the party to whom rendered unless that party takes objection thereto in writing before the end of the calendar month immediately succeeding the calendar month in which the bill is rendered. If objection is not so taken, amounts due from one party to another shall be paid within one calendar month from the end of the month in which billed. Payments made by a party before the cable system begins operation shall be on account of that party's share of the cost. When the cable system begins to operate, the amount of each party's share of the cost shall be finally computed and any necessary payments and repayments shall be made between the parties by way of final settlement in order that each party may bear its proper share of the cost as specified in this sub-paragraph. At any time before the final settlement, the interest of each party in the property applicable to segments A, C and D (north) severally shall correspond to the proportion between the total payments made by that party at that time (including cost incurred by that party in providing and constructing and also in the case of segment A in installing and laying such property, to the extent that that party has to be reimbursed) and the total cost incurred by all parties at that time with respect to segment A or, as the case may be, segment C or D (north). As soon as may be after the final settlement, the parties shall execute such documents and do all such things as they or any of them may reasonably require for the purpose of vesting title in common in the undivided shares stated in sub-paragraph 5 (*a*) and any expenses incurred shall be borne by the parties concerned in the same proportions.

(*d*) Where subsequent to the completion of the cable system under this Agreement additional property is incorporated in segment A, C or D (north) of this system, the parties shall, upon payment of their appropriate shares of the capital cost thereof in the proportions then applicable under sub-paragraph 5(*a*), own the additional property in those proportions. Additional property so incorporated in segment B shall be owned by the Postmaster-General and additional property so incorporated in segment D (south) shall be owned by Eastern. In this Agreement, references to any segment, however expressed, shall include references to additional property incorporated therein, unless the context otherwise requires.

6. Costs, or capital cost, as used herein with reference to providing and constructing facilities for the cable system, including land and buildings, or

to causing them to be provided and constructed or to laying or causing to be laid cables and repeaters or to installing or causing to be installed cable station equipment and micro-wave radio relay equipment shall embrace all expenditures incurred which shall be agreed by the parties to be fair and reasonable in amount and either to have been directly and reasonably incurred for the purpose of, or to be property chargeable in respect of, such provision and construction or laying or installation, including, but not limited to, the purchase price and purchase costs of land, building costs, amounts incurerd for development, engineering, design, materials, manufacturing, procurement and inspection, testing associated with laying or installation, taxes (except income tax imposed upon the net income of a party hereto), supervision, overheads and insurance or a reasonable allowance in lieu of insurance if any party elects to carry a risk himself or itself, being a risk which is similar to one against which another party hereto has insured or against which insurance is usual or recognized or would have been reasonable.

7. (*a*) Six and one half through telephone circuits or 18·056% of the total number of such circuits, whichever is the greater, in segments A and D (north) shall be assigned to C.O.T.C. and the Postmaster-General for United Kingdom/Canada communications, including transiting communications over such circuits, subject to the following provisions:—

(1) One half circuit so assigned shall be available to furnish six telegraph circuits (or such larger number as may from time to time be obtainable therefrom) and the other circuits shall be available for telephone service. The terms and conditions upon which such telegraph and telephone services shall be rendered shall be such as may be agreed between C.O.T.C. and the Postmaster-General.

(2) In addition to other transit use, circuits so assigned may be utilized for telephone service between Canada and points on the Continent of Europe by direct connection in the United Kingdom with suitable facilities furnished by the Postmaster-General and the appropriate European agency or agencies to complete the termination in Europe, subject to agreement between the Postmaster-General and C.O.T.C. as to availability of circuits and as to the terms and conditions upon which such circuits shall be used.

(3) If the Governmet of the United Kingdom or the Government of Canada requests the use of telephone or telegraph circuits for the purposes of a Government Department, other than for public communication service, they shall be leased if available; and, if the Postmaster-General and C.O.T.C. so decide, such circuits may, if available, be leased for private line use. Every such lease shall be upon such terms and conditions as may be agreed upon by the Postmaster-General and C.O.T.C.

(*b*) Except for the through circuits assigned for United Kingdom/Canada communications as provided in sub-paragraphs 7(*a*) and (*c*), all through circuits in the cable system shall be assigned to the Company and the Postmaster-General for United States/United Kingdom communications, including transiting communications over such circuits, subject to the following provisions:—

(1) Circuits so assigned shall be utilized for United States/United Kingdom telephone service subject to agreement between the Postmaster-General and the Company as to the terms and conditions upon which such service shall be rendered.

(2) In addition to other transit use, circuits so assigned may be utilized for telephone service between the United States and points on the Continent of Europe by direct connection in the United Kingdom

with suitable facilities furnished by the Postmaster-General and the appropriate European agency or agencies to complete the termination in Europe, subject to agreement between the Postmaster-General and the Company as to availability of circuits and as to the terms and conditions upon which such circuits shall be used.

(3) If the Government of the United Kingdom or the Government of the United States requests the use of telephone or telegraph circuits for the purposes of a Government Department, other than for public communication service, they shall be leased if available; and, if the Postmaster-General and the Company so decide, telephone circuits may, if available, be leased for private line use. Every such lease shall be upôn such terms and conditions as may be agreed upon by the Postmaster-General and the Company.

(4) Any other telegraph use or leasing for telegraph purposes between the United Kingdom and the United States of circuits so assigned shall be subject to approval by governmental authorities concerned, and to agreement between the Postmaster-General and the Company upon such use or leasing and upon the terms and conditions thereof.

(c) Where, subsequent to the original assignment of telephone circuits pursuant to this paragraph, the number of such circuits in the cable system is increased, the additional circuits shall, upon payment by the parties to this Agreement of their respective shares of any capital cost relating thereto in the proportions then applicable under sub-paragraph 5(a) and of any appropriate lump sum rental or periodic rental under paragraph 8, be assigned for use between the parties as they would have been assigned under sub-paragraph (a) and (b) of this paragraph had such additional circuits been included in the intial capacity of the cable system.

(d) Where two of the parties have been assigned a telephone circuit or part thereof that is not for the time being required for their use, such parties may by an appropriate lease arrangement make such circuit or part available for telephone use by any two of the three parties to which circuits have been assigned. A circuit or part so leased shall be leased on an annual basis of rental at a rate or charge to be agreed at the time.

(e) Circuit capacity in any part of segment A or in segment D (north) in excess of that required for through circuits may be used or leased for purposes other than those specified in sub-paragraphs 7(a) and (b), subject to agreement between the three parties to whom through circuits are assigned as to such use or leasing and the terms and conditions thereof.

(f) The Company and Eastern covenant that segment D (south) will be confined to use for United States transatlantic communications (including transatlantic communications normally routed via the United States) over the cable system as provided for in this Agreement.

8. C.O.T.C. and the Company shall acquire the right of rental (that is to say, the indefeasible right of user) during the currency of this Agreement, in segment B and the Postmaster-General the right of rental (that is to say, the indefeasible right of user), during the currency of this Agreement, in segment C and of the circuits assigned to him in excess of those representing his share of ownership in segments A and D, by payment of rental as follows:

(i) by C.O.T.C. to the Postmaster-General, a lump sum bearing the same proportion to the capital cost of segment B as the C.O.T.C. share of ownership in segments A, C and D (north) under sub-paragraph 5(a) bears to the whole; or, at C.O.T.C.'s option, periodic rental at such rate and in such instalments as may be agreed between them.

(ii) by the Company to the Postmaster-General, a lump sum equal to one half of the capital cost of segment B, less an amount equal to C.O.T.C.'s permissive lump sum rental referred to in provision (i) above; or, at the Company's option, periodic rental at such rate and in such instalments as may be agreed between them.

(iii) by the Postmaster-General to the Company and Eastern, according as their respective ownerships may be concerned, a lump sum equal to one half of the capital cost of segment D (south) and a lump sum equal to the contribution of C.O.T.C. in respect of the capital cost of segments A, C and D (north); or, at the Postmaster-General's option, periodic rental at such rate and in such instalments as may be agreed between them.

Any such lump sum rental payments shall be made at the time of completion of the respective segments (or, as the case may be, of any additions thereto) to the satisfaction of the parties concerned.

9. (a) The Postmaster-General, the Company and Eastern shall jointly use their best endeavours to maintain segment A of the cable system in efficient working order in accordance with specific co-operative procedures to be agreed upon hereafter and designed with the objective of achieving speedy and effective repairs. The Postmaster-General shall use his best endeavours to maintain segment B and Eastern shall use its best endeavours to maintain segment C in efficient working order. Eastern shall use its best endeavours to maintain in efficient working order and shall operate segment D. The Postmaster-General shall be responsible for operating at the Oban cable station and Eastern, save as in this sub-paragraph provided, shall be responsible for operating at the cable stations at Clarenville and Sydney Mines. Each party shall give full information relating to the operation of equipment of that party's design to each other party by whom that equipment is, by reason of the provisions of this sub-paragraph, to be operated. Each party to this Agreement may from time to time or continuously attend and inspect the operation and maintenance of any portion of the cable system in which circuits are assigned to the said party and may consult with each other party responsible for such maintenance and operation. At Clarenville and Sydney Mines the cable station equipment, and at the junction point the equipment, shall be such and so housed that

(i) all apparatus individual to the Canada/United Kingdom through circuits shall be under the exclusive and independent maintenance, operation and control of C.O.T.C., which (unless otherwise agreed between the parties) shall do the operating with respect to this apparatus, and

(ii) all apparatus individual to the United States/United Kingdom through circuits shall be under the exclusive and independent maintenance, operation and control of Eastern, which (unless otherwise agreed between the parties) shall do the operating with respect to this apparatus.

(b) None of the parties shall be liable to the others for any loss or damage sustained by reason of any failure in or breakdown of the facilities or any interruption of service, whatsoever shall be the cause of such failure, breakdown or interruption, and however long it shall last, but if the party responsible for maintaining and operating a segment or any part thereof fails to maintain that segment or part in efficient working order and operation after having been called upon to do so by any other party to whom circuits are assigned in that segment, that other party may place the segment or part in efficient working order and operation and charge the other parties who are assigned circuits in that segment their appropriate shares of the cost reasonably incurred in so doing.

(*c*) The provisions of the two last preceding sub-paragraphs shall be so performed as to minimise net dollar payments by the Postmaster-General under this paragraph so far as shall be consistent with the speedy and effective performance thereof.

(*d*) The costs of maintaining segments A, B, C and D (north) and of operating segments A and D (north) shall be shared by

(i) the Postmaster-General and the Company and Eastern (equally between the Postmaster-General on the one side and the Company and Eastern, as their respective interests may appear, on the other side) and

(ii) the Postmaster-General and C.O.T.C. (equally between them) in proportion to the through circuits assigned in segments A and D (north) for the United Kingdom/United States service and for the United Kingdom/Canada service, respectively, and the costs of maintaining and operating segment D (south) shall be shared equally by the Postmaster-General and Eastern. The costs to which this sub-paragraph relates are the costs reasonably incurred in maintaining and operating such segments, including, but not limited to, the cost of attendance, testing, adjustment, repairs and replacements, taxes (except income tax imposed upon the net income of a party hereto) paid in respect of the said segments, and costs and expenses reasonably incurred on account of claims made by or against other persons in respect of such segments or any part thereof and damages or compensation payable by the parties concerned on account of such claims. Costs and expenses and damages or compensation payable to the parties on account of such claims shall be shared by them in the same proportions. Each party shall render to the other quarterly accounts of the expenditures and receipts herein referred to and shall from time to time furnish such further details and particulars as the others reasonably may require. The provisions of sub-paragraph 5 (*c*) relating to acceptance and payment shall apply to such accounts when rendered.

(*e*) The terms "operate" and "operating" as used in this Agreement refer to the technical preparation and supervision of equipment and circuit facilities as distinguished from traffic operating and the term "through circuits" as used in this Agreement means either circuits between Oban and the junction point or circuits between Oban and the Canada/United States boundary, as the context may require.

10. Each party shall keep such books, records, vouchers and accounts of all of his or its costs with respect to the provision and construction, installation and laying, maintenance and operation of facilities in the cable system as may be appropriate to support his or its billing of any such costs to the other parties and shall at all reasonable times make them available for the inspection of the other parties.

11. Amounts due under this Agreement from one party to another shall be payable at the principal office of the payee and in the currency of the country in which such office is located; provided, however, that the parties, in making payments and settlements in the performance of this Agreement, will endeavour, in so far as is practicable, to avoid the exchange of the currency of one country into the currency of another country.

12. The Company shall grant, and secure that its subsidiaries shall grant, to the Postmaster-General and (if required by him so to do at any time) to any other Department of Her Britannic Majesty's Government in the United Kingdom who may so desire, and the Postmaster-General on behalf of Her Britannic Majesty shall grant to the Company, non-exclusive unrestricted licences free of any royalty or other payment, to make or have made, and to use, lease or sell by themselves or by their agents coaxial type submarine cable, submarine repeaters utilising thermionic tubes (thermionic valves) as the

ampliflying function element, and terminal equipment, power equipment and maintenance and testing equipment associated with such cable or repeaters and cable laying equipment, under patents for inventions made, between the date hereof and the end of one year from the date on which the cable system begins to operate, by employees of the Company or its subsidiaries or by officers or servants of Her Britannic Majesty in right of the United Kingdom, or by such employees and officers or servants jointly, in the performance of work undertaken specifically for the purposes of this Agreement. The grant to the Company shall include the right to grant sublicences to its subsidiaries in the United States and to Eastern. Such licences shall continue for the lives of such patents. In the case of any invention jointly made by an employee of the Company or its subsidiaries and by an officer or servant of Her Britannic Majesty in right of the United Kingdom, the parties shall consult as to the country in which any application for Letters Patent in respect thereof shall first be filed before making such application. This paragraph and any matter or thing falling therein in relation to any Letters Patent or patent application shall be construed and determined according to the laws of the country in which such Letters Patent or patent application are granted or filed.

13. The Company, having entered into this Agreement for the provision of a transatlantic telephone cable between the United States, Canada and the United Kingdom as the first stage in the development of transatlantic cable telephony between these countries, hereby declares it to be its intention that:—

(a) It will co-operate fully with the Postmaster-General in planning for provision of additional capacity for growth in telephone communications between the United States and the United Kingdom as soon as it is economically desirable.

(b) If, prior to the establishment of a second cable between the United States and the United Kingdom, the Company proposes a cable between the United States and the Continent of Europe, it will, subject to this not being contrary to the public interest of the United States, enter into discussions with the Postmaster-General in order to determine whether such a cable can be so planned, with any necessary branches and extensions, as to include provision for capacity requirements between the United States and United Kingdom without their being routed through continental Europe.

(c) Similarly, it will (subject as stated in sub-paragraph (b)), enter into discussions with C.O.T.C. and the Postmaster-General to consider whether provision should be made for capacity requirements between Canada and the United Kingdom.

(d) If such an arrangement proves feasible and desirable the Company will enter into negotiations with the party or parties desiring to participate therein to formulate the plan in detail and to settle the arrangement therefor.

The parties jointly and severally recognize that in planning for additional capacity under the foregoing provisions, due consideration should be given to the possibility of eliminating payments from one party to another for capital and annual costs.

14. (*a*) This Agreement shall (subject to paragraph 22) have effect on the day and year first above written and shall continue in operation for at least an initial period of twenty-five years and shall be terminable by the Company of the Postmaster-General by not less than two years' notice in writing to the other parties expiring at the end of the initial period or at any time thereafter; provided that C.O.T.C. may terminate its participation in this Agreement by

the like notice expiring as aforesaid. Termination by any means of this Agreement shall not determine sub-paragraphs (b) and (c) of this paragraph or prejudice the operation or effect thereof.

(*b*) The interest of the parties in any part of the cable system which come to an end by reason of the termination by any means of this Agreement shall be deemed to continue for as long as is necessary for effectuating the purposes of sub-paragraph (c) of this paragraph, and the parts of the cable system in which such interests existed shall accordingly thereafter be held as respects such interests upon the appropriate trusts by the parties who are the owners thereof.

(*c*) On the termination of this Agreement the parties shall use their best endeavours to liquidate every part of the cable system within a reasonable time by sale or other disposition between the parties or any of them or by sale to other bodies or persons, but no sale or disposition shall be effected except by agreement between the parties who have or are deemed to have interests in the subject thereof. The net proceeds of every sale or disposition shall be divided between the parties who had or were deemed to have interests in the subject thereof (other than the parties or party, if any, paying the proceeds) in the proportions in which the parties receiving the net proceeds contributed to the capital cost of the subject of said sale or disposition. For this purpose the contribution of a party shall be the net total of payments made less payments received, pursuant to the provisions of sub-paragraph 5(*a*), (*c*) and (*d*), plus any lump sum rental payments made pursuant to the provisions of Paragraph 8 (or, in the case of periodic rental payments pursuant to Paragraph 8, the portion thereof which represents contribution to capital cost) less any such lump sum rental payments (or portion of said periodic rental payments) received.

(*d*) If C.O.T.C. shall terminate its participation in this Agreement as aforesaid, C.O.T.C. shall sell and the other parties, or such one or more of them as they shall decide, shall purchase each of C.O.T.C.'s interests in or in respect of the cable system (other than its voting rights under sub-pargraph 5(*b*)) at such price and on such terms as shall be agreed between C.O.T.C. and the purchasing party or parties in respect of that interest. The purchases of all such interests shall be completed on, or as soon as may be after, the date of such termination; and thereafter obligations in respect of such interests imposed on C.O.T.C. by this Agreement, so far as they continue, shall be binding on and performed by the purchasing party or parties. C.O.T.C. and the other parties or those of them concerned shall execute such documents and do all such things as shall be necessary for the purpose of vesting title in the purchasing party or parties. Immediately on completion of the purchases and delivery of all documents as aforesaid, the voting rights of C.O.T.C. under sub-paragraph 5(*b*) shall without further assurance vest in and thereafter be exercisable by the Postmaster-General.

15. The relationship between or among the parties hereto shall not be that of partners and nothing herein contained shall be deemed to constitute a partnership between them, and the common enterprise among the parties shall be limited to the express provisions of this Agreement. In making available for the purposes of the cable system facilities in which it has an interest and in rendering services and in otherwise acting as provided in this Agreement, Eastern will act as an independent contractor and not as the agent of any other party. The Company shall be responsible to the Postmaster-General and C.O.T.C. for the proper performance by Eastern of its obligations under the provisions of this Agreement.

16. The performance of this Agreement by the parties is contingent upon the obtaining and continuance of such approvals, consents, governmental

authorizations, licences and permits as may be required or be deemed necessary by the parties and be satisfactory to them and the parties shall use their best endeavours to obtain and continue such approvals, consents, authorizations, licences and permits. A party applying for any such approval, consent, authorization, licence or permit in respect of any part of the cable system shall permit and afford every facility to any other party that has or will have an ownership share in that part under paragraph 5 to join in the application and become a joint recipient of the grant.

17. Each of the parties hereto hereby specifically reserves, and is granted by each of the other parties, in any action, arbitration or other proceeding between the parties or any of them in a country other than that party's own country, the right of privilege, in accordance with the laws of that party's own country, with respect to any document or communication as respects which privilege could be claimed or asserted by that party in accordance with those laws, and such privilege, whatever may be its nature and whenever it be claimed or asserted, shall be allowed to that party as it would be allowed if the action, arbitration or other proceeding had been brought in a court of, or before an arbitrator in, the United Kingdom of Great Britain and Northern Ireland where that party is the Postmaster-General, or, where that party is not the Postmaster-General, the country to which that party owes allegiance.

18. The marginal titles do not form part of this Agreement and shall not have any effect on the interpretation thereof.

19. (*a*) This Agreement shall be executed in quadruplicate and each part thereof when so executed and delivered shall be an original; and such parts shall together (as well as separately) constitute one and the same instrument.

(*b*) If any difference (not being a difference under paragraph 12) shall arise between the parties or any of them respecting the interpretation or effect of this Agreement or any part or provision thereof or their rights and liabilities thereunder, and by reason thereof the question shall require to be decided by what municipal or national law this Agreement or such part or provision thereof is governed, the following facts shall be excluded from consideration, namely, that this Agreement contains paragraph 22 thereof, that it was made in a particular country and that it may appear by reason of its form, style, language or otherwise to have been drawn preponderantly with reference to a particular system of municipal or national law; the intention of the parties being that the said facts shall be regarded by the parties and in all courts and tribunals wherever situate as irrelevant to the question aforesaid and to the decision thereof.

20. This Agreement and any of the provisions hereof may be altered or added to by any other agreement in writing signed by a duly authorized person on behalf of each party.

21. No member of the United Kingdom House of Commons or of the Senate or the House of Commons of Northern Ireland or of the House of Commons of Canada shall be admitted to any share or part of this contract or to any benefit to arise therefrom (see House of Commons (Disqualification) Acts, 1782 and 1801, Government of Ireland Act, 1920, and House of Commons Disqualification (Declaration of Law) Act, 1931; see also revised Statutes of Canada, 1952, Chapter 249).

22. (*a*) It is a condition of this contract that it shall not be binding until it has been approved of by a resolution of the United Kingdom House of Commons.

(*b*) Until such approval shall have been given, any party hereto is free to withdraw from this Agreement without any obligation hereunder to any other party or parties.

IN WITNESS WHEREOF the Postmaster-General has hereunto set his hand and seal and in his corporate capacity his official seal and the Company, C.O.T.C. and Eastern have severally caused these presents to be subscribed in their names and behalf by their respective officers thereunto duly authorized.

SIGNED, SEALED AND DELIVERED by Her Majesty's Postmaster-General in his corporate and ministerial non-corporate capacities in the presence of

(Sgd) D. E. MITCHELL
General Post Office,
Headquarters,
London
Civil Servant.

(Sgd) DE LA WARR (SEAL)

Her Majesty's
Postmaster-General (SEAL)

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

(SEAL)

By (Sgd) CELO F. CRAIG
President.

Witness:
(Sgd) S. WHITNEY LANDON
Secretary.

CANADIAN OVERSEAS TELECOMMUNICATION CORPORATION

(SEAL)

By (Sgd) D. F. BOWIE
President.

Witness:
(Sgd) B. E. BERINI

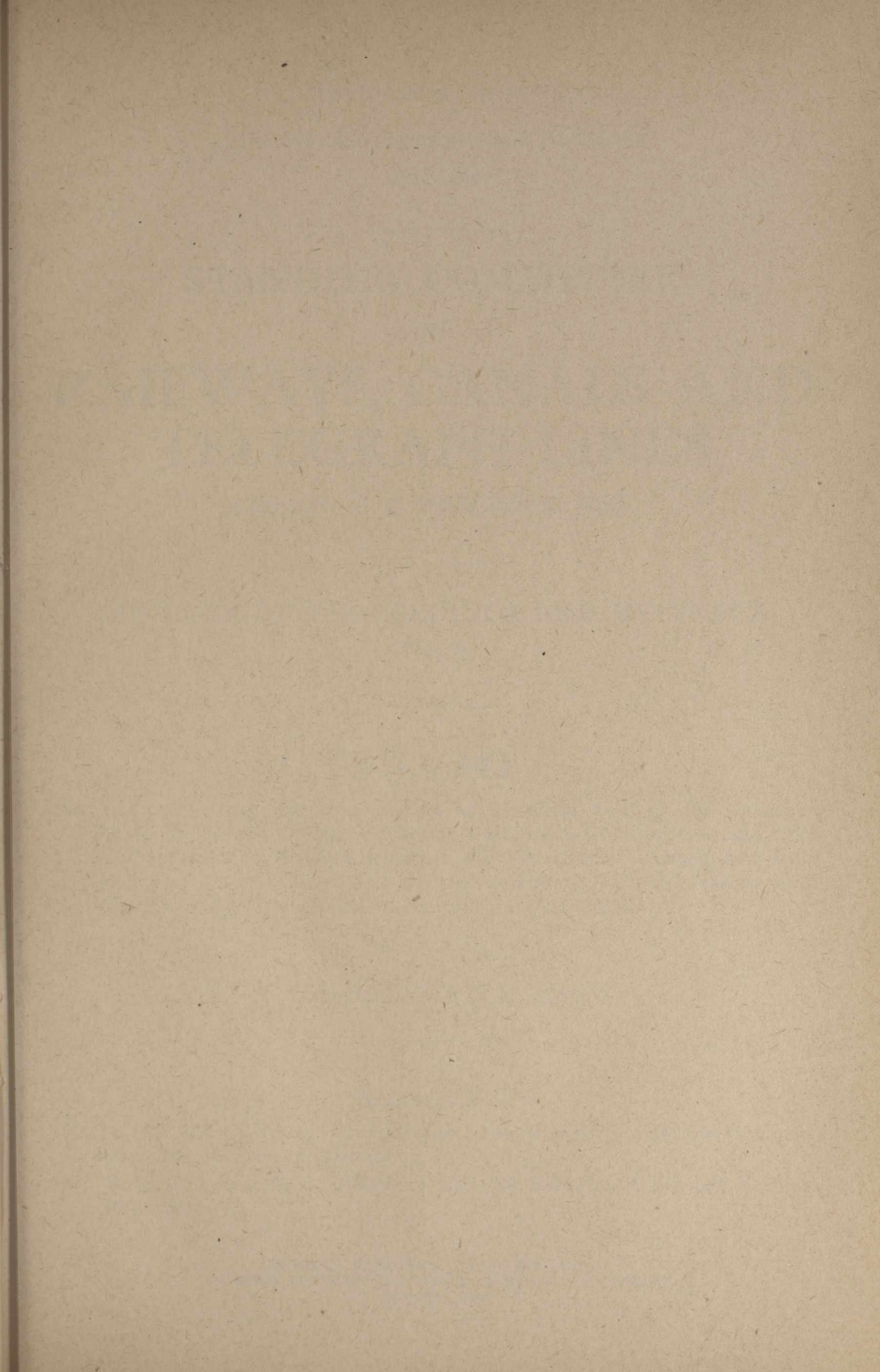
By (Sgd) R. J. CASSIDY
Secretary-Treasurer.

EASTERN TELEPHONE AND TELEGRAPH COMPANY

(SEAL)

By (Sgd) W. G. THOMPSON
President.

Witness:
(Sgd) ERNEST D. NORTH
Secretary.



HOUSE OF COMMONS

First Session—Twenty-second Parliament

1953-1954

STANDING COMMITTEE
ON
RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman—H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 4

BILL 442

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.

FRIDAY, MAY 21, 1954

WITNESSES:

Mr. S. W. Fairweather, Vice-president of Research and Development, Canadian National Railways.

Mr. A. B. Rosevear, Q.C., Assistant General Solicitor, Canadian National Railways.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954.

ORDERS OF REFERENCE

WEDNESDAY, May 12, 1954.

Ordered. That the name of Mr. Dumas be substituted for that of Mr. Legare; and

That the name of Mr. Gauthier (*Lac Saint-Jean*) be substituted for that of Mr. Cauchon on the said Committee.

WEDNESDAY, May 19, 1954.

Ordered, That the following Bill be referred to the said Committee:

Bill No. 442, 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.

Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORT TO THE HOUSE

MONDAY, May 24, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

SEVENTH REPORT

Your Committee has considered Bill No. 442, 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, and has agreed to report the said Bill with amendments.

A copy of the evidence adduced is appended.

All of which is respectfully submitted.

H. B. McCULLOCH,
Chairman.

MINUTES OF PROCEEDINGS

FRIDAY, May 21, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 o'clock a.m. this day. Mr. H. B. McCulloch, Chairman, presided.

Members present: Messrs. Barnett, Batten, Bell, Bonnier, Boucher (*Restigouche-Madawaska*), Buchanan, Byrne, Carter, Chevrier, Deschatelets, Dumas, Ellis, Gagnon, Gauthier (*Lac St. Jean*), Goode, Gourd (*Chapleau*), Green, Habel, Hahn, Hamilton, Holowach, James, Lafontaine, Langlois (*Gaspe*), McIvor, Montgomery, Nicholson, Purdy, Stanton, Villeneuve and Wood.

In attendance: Mr. S. W. Fairweather, Vice-President, Mr. K. M. Ralston, Mining Engineer, and Mr. G. H. Hoganson, Office Engineer, all of Research and Development, Canadian National Railways; Mr. A. B. Rosevear, Q.C., Assistant General Solicitor, Canadian National Railways, and Mr. W. J. Matthews, Director of Administration and Legal Services, Transport Department.

The Committee commenced consideration of Bill No. 442, 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.

On Motion of Mr. Bryne:

Ordered, That the Committee print 500 copies in English and 500 in French of the Minutes of Proceedings and the Evidence adduced in respect of Bill No. 442.

Mr. Fairweather was called, made a statement on the project contemplated in the Bill and was examined thereon.

During the course of the examination of Mr. Fairweather, Mr. Rosevear answered questions specifically referred to him.

The Commtitee commenced a clause by clause consideration of Bill No. 442.

On Clause 1,

Mr. Gagnon moved,

That Clause 1 of Bill No. 442 be amended by changing the period at the end of the said Clause to a comma and adding thereafter the words:

Provided, however, that the construction of Sections A and B of Branch Line No. 1 shall be undertaken at the same time.

At 1.05 o'clock p.m., discussion on the said amendment still continuing, the Committee adjourned to meet again at 3.00 o'clock p.m. this day.

AFTERNOON SITTING

FRIDAY, May 21, 1954.

The Committee resumed at 3.00 o'clock p.m. Mr. H. B. McCulloch, Chairmain, presided.

Members present: Messrs. Barnett, Bell, Bonnier, Boucher (*Restigouche-Madawaska*), Byrne, Campbell, Carter, Chevrier, Deschatelets, Dumas, Ellis, Gagnon, Gauthier (*Lac St. Jean*), Gourd (Chapleau), Green, Habel, Hahn, Hamilton, Holowach, James, Lafontaine, Langlois (*Gaspe*), McIvor, Montgomery, Nicholson, Purdy, Villeneuve and Wood.

90505—1½

In attendance: Same as at the morning sitting.

The examination of Mr. Fairweather was resumed.

Clause 1 and the proposed amendment thereto by Mr. Gagnon were called.

Thereupon Mr. Chevrier, on a point of order, raised the question as to whether the said amendment was in order.

After a lengthy discussion, the Chairman ruled the said amendment out of order.

Thereupon Mr. Gauthier (*Lac St. Jean*) moved,

That Clause 1 of Bill No. 442 be amended by deleting the words "or in part" where they appear in line 2 of the said Clause.

After discussion, and the question having been put, the said amendment was resolved in the negative.

Thereupon Mr. Nicholson moved,

That Clause 1 of Bill No. 442 be amended by deleting the words "or such later date as the Governor in Council may fix" where they appear in lines 4 and 5 of the said Clause.

After discussion, and the question having been put, the said amendment was resolved in the negative.

Clause 1 was adopted.

Clauses 2 and 3 were considered and adopted.

On Clause 4,

Mr. Green moved,

That the words forty-four million five hundred and sixty-two thousand five hundred dollars where they appear in lines 10 and 11 of the said Clause be deleted and the following substituted therefor: *thirty-eight million seven hundred and fifty thousand dollars.*

After discussion, and the question having been put, the said amendment was resolved in the affirmative.

Clause 4 as amended was considered and adopted.

On Clause 5,

Mr. Green moved,

That the words forty-four million five hundred and sixty-two thousand five hundred dollars where they appear in lines 7 and 8 of the said Clause be deleted and the following substituted therefor: *thirty-eight million seven hundred and fifty thousand dollars.*

After discussion, and the question having been put, the said amendment was resolved in the affirmative.

Clause 5 as amended was considered and adopted.

Clauses 6, 7, 8 and the Schedule were severally considered and adopted.

The Title was considered and adopted.

The Bill, as amended, was adopted and the Chairman ordered to report it forthwith to the House.

At 4.00 o'clock p.m., the Committee adjourned to meet again at the call of the Chair.

R. J. GRATRIX,
Clerk of the Committee.

EVIDENCE

MAY 21, 1954.
10.30 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. This is bill 442, an Act respecting the construction of a line of railway and perhaps the minister would say a few words.

Hon. Mr. CHEVRIER: Mr. Chairman and gentlemen, this bill was referred from the House of Commons to the Standing Committee on Railways, Canals and Telegraph Lines following second reading given by the House. As a rule the object of these meetings is to consider the bill clause by clause and also it is to get any information that the committee may wish to obtain from the officers responsible for the preparation of this legislation.

There are here this morning Mr. S. W. Fairweather, K. M. Ralston and A. B. Rosevear, all officers of the Canadian National Railways and there is Mr. G. H. Hoganson, who is office engineer in research and development, in case these gentlemen may be required. It may not be necessary to call them all, but that will be up to the committee to determine.

If it is the wish of the committee we can have Mr. Fairweather give evidence at this stage.

The CHAIRMAN: Gentlemen, it is customary to have the evidence printed. I would like to know how many copies you would like.

Mr. BYRNE: I should like to move that we have 500 in English and 200 in French.

Mr. LAFONTAINE: We might want more than that in French.

Mr. GAUTHIER (*Lac-St. Jean*): Maybe 500 in French.

The CHAIRMAN: 500 in English and 500 in French.

Carried.

Now, the meeting is open if you want to ask Mr. Fairweather some questions.

Mr. S. W. Fairweather, Vice-President in charge of Research and Development, Canadian National Railways, called:

The WITNESS: Mr. Chairman and gentlemen, I think perhaps if I could be allowed a few words of an introductory nature it would put this project in perspective.

The Canadian National has for at least twenty-five years had in mind the development of the area north of the National Transcontinental and at various times we have made studies to see whether the stage of development had been reached that would justify the Canadian National in embarking upon railway projects in the Abitibi and in the Lake St. John country.

Just after World War II we came to the conclusion that the time had arrived when a start should be made and we requested authority to build a line from Barraute to Kiask Falls at the crossing of the Bell river. Now, at that time we had projected studies for the line all the way from Barraute around into St. Felicien. We did not submit a request to construct the line at that time because there was not at that time in prospect sufficient development to lead

us to the conclusion that we could prudently ask for that railway construction and actually when authority was given as far as Kiask Falls we only exercised it as far as Beattyville.

Then, subsequent to that time we continued to watch this territory very carefully—the territory between Beattyville and St. Felicien—because we felt that both from the standpoint of mineral resources and from the standpoint of forest resources it was a very important section of the country.

Moreover, in our large over-all plan we had always thought that the port of Chicoutimi at the head of navigation on the Saguenay river was a natural port for the development of the country lying to the west and we have had, I might say, conversations with prominent citizens of Chicoutimi telling them broadly speaking what our plans were to improve the situation in and around Chicoutimi which at the present time is far from ideal. That was all part and parcel of the plan of development spread over a period of years.

This year after having made further exhaustive studies, we came to the conclusion that the time had arrived when we should ask permission to build the route from Beattyville through to St. Felicien. We went to all people who had shown practical evidence of development in that territory and we said to them: "Now, we are thinking of building a railway line. What can you do in the way of giving us an assurance of traffic? Where do you want to ship your traffic and how much are you going to ship?" We asked these questions because we knew that this venture represented a very considerable outlay of capital, somewhere in the neighbourhood of $35 million, and as prudent administrators we had to take into account that when we put money like that on the line we had to have a reasonable assurance of getting traffic. Otherwise, we would be creating deficits on the Canadian National Railway and that is something that we do not want to do. We want to develop certainly, and we want to develop in such a manner that there will not be deficits and, of course, that means that there must be prudence in our planning. Well, when we approached the industries, we found that the industries that had an actual stake in the country, in the sense that they were putting their own money into it, were confined to the mining industry in Chibougamau, and to the pulp and paper interests in the Lake St. John country and the Howard Smith interests as represented by certain timber limits lying to the east of Beattyville. We went to these people and said: "Now, what can you do for us? We want to build a line of railway. We think it is a good line. We think it will fit into the broad planning of the future development of Canada and we would like to know what you will put on the line?"

We spoke to the Campbell Chibougamau Mines who are developing a mine at Chibougamau and who have a fairly substantial property with, I think, about three or four million tons of ore proven and a contract with the United States. We found that they were very eager to get a railway and we said: "All right, how much are you going to ship, and where are you going to ship it?" And they said: "We want to ship our concentrates to Noranda."

We went then to Opemiska copper mines, another property lying just on the route of our railway a few miles to the west of Chibougamau and we said the same thing to them; "Are you interested in a railway?" They, of course, said, "Yes, decidedly," They said: "It is costing us an extortionate amount of money to get our concentrates trucked from Opemiska to railhead at St. Felicien and they said it would be a Godsend to them if they had a railway.

We said: "What can you do to make it possible?" And they said, "Well, we will ship so many tons of concentrates a year" and we said, "Where are you going to send them"? And they said "We want to send them to Noranda."

Well, we went to the other people in the country. We went to the pulp and paper interests that have limits lying between St. Felicien and Chibougamau; the big companies, the ones that had substantial interests there. We said: "What about it? Do you need a railway?" And they said "A railway is not essential to us; it would be a convenience, however, and if you will quote a rate on the shipment of our pulpwood cheaper than it costs to stream drive it we will ship traffic." Well, we took out some figures and we found out that to quote a rate on such terms as that meant there was no money in our coffers because stream driving—once you put the wood in the water—is a pretty cheap way of getting pulpwood down to St. Felicien. In any event, that is what we learned from the pulp and paper interests there. They said, "Sure, we would like a railroad, but we are all set up for stream driving. All our limits are served by the Ashuapmuchuan river and other rivers, and we would use your railway in large measure only if you gave us a rate that made it cheaper for us to move our wood by rail than by stream drive." Then we went to the Howard Smith Company, with limits to the east of the Bell river, and said, "How about you?" They said, "Well, we are very much interested in a railway. We have the problem of developing the wood resources, and we are very much interested in a railway." We said, "Where would you ship your wood?" They said, "This pulpwood that we would be shipping would be all going down into the province of Quebec to Windsor Mills and Crabtree Mills," which gave us a nice long haul on the pulpwood and gave us an opportunity to make an honest dollar. So we put all these figures together, and we found out that we could justifiably at this time build a line from Chibougamau to Beattyville on the basis of the traffic that these people said they would ship. Then we went back, after having determined that, and said: "It is not enough that you tell us that you would like to have a railway; it is not enough that you would say that this is the amount of traffic you figure on shipping. We want to have something better than that. Will you back your opinions with a contract? Will you give us a contract? Will you guarantee to ship a certain quantity of traffic?" And they did. With those guarantees, we felt that we were solidly justified in building a line from Beattyville to Chibougamau.

We might have stopped at that point, and if we had done so we would have still had in our mind's eye the thought that we would subsequently come and ask for a line from Chibougamau to St. Felicien. That was given considerable thought, but when one took a look at the over-all developmental picture of the whole area it was realized that even though we did not at this time succeed in getting a sufficient assurance of traffic to warrant the construction at this time of the Chibougamau-St. Felicien branch, nevertheless it was thought that we should at this time announce our intention as a development project of building the line in its entirety from Beattyville to St. Felicien. Now, the reason for that, from our development point of view, was that with the certainty that we have the authority to build this line, parliament having authorized it and given us a reasonable time in which to work up enough traffic to justify it, we could go to industry, and if any industry had in mind developments that require this railway we could say to them across the negotiating table: "you put your money into the plant and we will put our money into the railway extension." Moreover we felt—and we honestly feel—that if we are granted the authority to construct the line from Chibougamau to St. Felicien as part of the whole project that it is a reasonable expectation that we will be able to find enough traffic to justify the construction of the line. But as prudent administrators of the Canadian National as things stand we just cannot give you a certificate that the portion of the line from Chibougamau to St. Felicien would be self-supporting on the basis of things we know. Therefore, we have come to you

with the whole project of which we say the portion from Beattyville to Chibougamau is sound and it is what industry wants. After all the Canadian National Railways lives to serve industry and we have to have regard to what industry wants. If we build lines of railway where industry is not actively interested we run the risk of getting into serious trouble. So industry wanting the line from Beattyville to Chibougamau and having backed their opinion with their signature on contracts of traffic, and having our development prospects in mind with regard to the line from Chibougamau to St. Felicien we, the Canadian National, decided to ask the government for permission to build the whole line.

I think that is about the general outline of the background of this particular proposal. There are a great many details in regard to natural resources and things of that character that I would be pleased to speak to if anyone desires.

The CHAIRMAN: Are there any questions that you would like to ask Mr. Fairweather?

By Mr. Wood:

Q. The witness mentioned in his remarks that we went to the business and mining interests and said to them that he was going to build the railway and asked them what about it. In other words, it appears that their minds were made up to build the railway before they knew whether they were going to get any business or not. I would like an explanation of that.—A. Just what is the question?

Q. You stated that you went to these mining interests and other interests in the area where you were going to build the railway and told them we are going to build a railway and now we want to know what you are going to give in regard to business on the railway.

Hon. Mr. CHEVRIER: He did not say that. He said we are thinking of building a railroad.

Mr. WOOD: No. He did not say that.

The WITNESS: We certainly did not go to these people and say we are building a railroad. We went to them not once but a dozen times and said to them—

By Mr. Wood:

Q. You used the remark: on these occasions we went to the firms and said how about it—talking about business?—A. That is right.

Q. Did you not know before how about it?—A. We knew what we needed. We did not know whether they could supply it or not.

Q. You gave me the impression that you decided to build the railroad and then went out to find out if there was any business.—A. No. This business of exploring the possibility of a railway consist of a very careful appraisal of the natural resources, and also the state of development of these natural resources as represented by what private capital is willing to do. We have to find all that out; that is what we were doing. We had exploratory talks, but we certainly did not say to them first that we were going to build a railway, and what could they give us. We said: "How interested are you in a railway, and what are you willing to do to make that railway a feasible project".

By Mr. Hahn:

Q. Are there no mines from Chibougamau to St. Felicien?—A. That touches on the natural resources of the country. Answering your question specifically, Mr. Hahn, once you get over the height of land between Chibougamau and Lac St. Jean, you get into a territory where as yet no prospect of a mine has ever been found.

The geology of the country changes abruptly when you get to the height of land which runs just to the east of Chibougamau.

West of that line you have quite a different type of geology and the area from Lac Mistassini down through Chibougamau, along through Beattyville and on down through Noranda, and after that into Ontario constitutes a huge mineral area.

Now, this is a technical point, but right through this territory there is a gigantic fault which is a break in the earth's crust and which is usually associated, in the pre-Cambrian with mineralization and that runs just about parallel to our railway.

It is not an accident that our railway is parallel to that fault. We laid out the route so that the railway would parallel the fault, because it is along that fault that mines are likely to be found.

You will find here, at a place called Bachelor Lake, that there is a fairly substantial showing of a zinc-silver mine which is controlled by Dome Mines. They developed it up to a point and they said that they would leave it until transportation was available. They told us that with a railway going in there they would take another look at the property; but they were not, at the moment, in a position to guarantee shipments.

There are, between Beattyville and Chibougamau—I do not know, Keith, just how many prospects there would be. It would be a matter of 100 or more prospects in that area and of course, there are literally thousands of mining claims, and I would say there are perhaps in the neighbourhood of 100 properties worth looking at in the prospecting stage.

Q. The reason for my question was this: I am not opposed to the line, but I wondered about the economics of it, and I wondered if the terrain from Chibougamau to St. Felicien might not be a highly agricultural one.—A. No. We looked at that possibility. I know there have been statements made both as regards the line from Beattyville and Chibougamau, and between St. Felicien and Chibougamau, to the effect that they would open up agricultural land. But in my opinion, and after having made a personal examination of the territory, I think that those views are false.

I think that we must recognize that we have, in this area, vast wealth in the form of forest wealth, and vast wealth in minerals from Chibougamau west. But insofar as agriculture is concerned, I would say that except for patches here and there, there is no large area suitable for agriculture.

Q. That would be a wood pulp area, would it not?—A. That would be a pulp wood and lumber area.

Mr. HAHN: After the pulpwood is removed, would it be useful for, let us say, dairying purposes?

The WITNESS: No, but I am glad you raised that point. If you look at this map—I guess the sustained yield is not shown here—but in order to explain I must say there has been a revolution taking place in the question of forest management in Canada. It used to be that you would treat forests as you would treat a mine. You cut it over and then forget it. That day has gone and at the present time every important interest that is engaged in forestry in Canada is thinking in terms of sustained cut and they treat the forest as if it were a gigantic farm and they consider that instead of having a crop cycle once a year as on an ordinary farm the forest crop cycle is based on about 50 years but it is farming of a kind. Always, in areas like this which are permanent forests, the figures that we use are sustained annual cut. Now, the sustained annual cut in the area between Chibougamau and Beattyville—that is, in the watershed of the Hudson Bay—is somewhere in the neighbourhood of 700,000 cords. To be exact, it is 671,000

cords a year. That is the potential cut sustained which is going on and on and on year after year after year—the perpetual yield of the forest. The figure for the area lying between Chibougamau and St. Felicien is about 366,000 cords. To reach those figures you have to consider this whole gigantic area as one vast forest farm.

Mr. HAHN: What caused you to make the statement that you contemplated building the railway from Chibougamau to St. Felicien if there is nothing but reforestation in that area?

The WITNESS: Gentlemen; one of the most valuable assets Canada has is her forests. In a large part of Canada you cannot exploit them without railways. You must have this in mind: The line we built from Barraute to Beattyville was built practically for nothing else except to give access to the forests surrounding the line so that pulpwood could be cut and shipped down to pulp mills in the St. Lawrence valley which it would turn into newsprint, writing paper, cellulose and rayon and things like that.

Mr. HAHN: Why not follow immediately through the full circle line I proposed a moment ago?

The WITNESS: You have touched again on a very interesting point. I do not know whether we have a big enough map to illustrate what I mean. You have touched on a very interesting point. I will now illustrate my point on a development map of the area.

I do not know if you gentlemen can see this new map clearly or not, but this is a picture of the pulpwood and paper industries of the province of Quebec and you can at least see that down in the St. Lawrence valley there is a great cluster of pulp and paper mills. Now, they have historically drawn their sources of pulpwood from the areas that were originally fairly adjacent to those mills, but as our pulp and paper industry expanded they had to reach out further and further and further to get pulpwood and you can generalize by saying that, thinking in terms of this perpetual yield that I spoke of, the areas lying south of our national trans-continental are being over-exploited at the present time in the sense that they are cutting more than the annual yield. The surplus areas consist of the north-shore pulpwood, which can be waterborne down the St. Lawrence, and the Abitibi area. Now, the Lake St. John area has a cluster of its own in the Saguenay. You will see each of these points on the map—each one represents a pulp and paper mill in the Lake St. John area and they draw their pulpwood from the watershed of the rivers that flow into Lake St. John and very little of that pulpwood gets down into the St. Lawrence valley. As a matter of fact, of all the pulpwood in the Lake St. John basin, less than 8 per cent gets down into this area. That means that these mills in the St. Lawrence valley area will depend in the future more and more upon rail borne pulpwood from the Abitibi. That is about the only source. They have exploited the north shore.

Now, it was because of that knowledge that we said that this line was a fundamental necessity in the development of the pulp and paper industry of Canada. We cannot say the same of the line from St. Felicien to Chibougamau because they can develop their pulpwood resources by stream driving so that we find ourselves in that position.

Well, Lake St. John has fairly ample reserves. They are a surplus area too, but they are not exporting their pulpwood from the Lake St. John basin.

Mr. HAHN: Why do you propose to build that railway later?

The WITNESS: That is another story of broad development purposes. When one takes a look at the wealth of this country—that is, the northern Quebec area, and including, if I may be so bold, northern Ontario—

Hon. MEMBER: Hear, hear.

The WITNESS: You find that it consists partly of agriculture, because there is a substantial area in the clay belt suitable for agriculture, but mostly it is forest wealth and mining wealth. Now, there is one broad objective we have been aiming at for many years and development work, I might say, does take a long time and you have to be patient if you are going to get results. We produced in this area I am speaking of, large quantities of copper and associated zinc. The copper is pretty well provided for by a smelter located at Noranda and with a refinery in Montreal. There is also a copper smelter and refinery at Sudbury but it is pretty well confined to its own business and does not go into customs operations. Noranda, on the other hand, is a customs smelter and the existence of Noranda as a customs smelter has had a tremendous influence on the development of the mining area of the north. I am proud to say that on a previous occasion it was the Canadian National Railway which spearheaded a railway service into Noranda to make that development possible. It was the Canadian National Railway which did that.

An Hon. MEMBER: Hear, hear.

The WITNESS: As it became apparent there was a large quantity of zinc in this country and we, thinking in terms of broad development, tried to interest private capital in putting in a customs zinc smelter and we suggested the logical place for that zinc smelter is Chicoutimi. Now, why did we say Chicoutimi? Because, after all, Chicoutimi apparently was on a very round about route and located up in a corner of the province. Well, we said Chicoutimi for these reasons: It is on deep water which gives access to the markets of the world and most of our zinc, gentlemen, has to be exported. Secondly, we said there are large blocks of electric power available in the Chicoutimi area. Next, we said it is a thriving industrial area. The people have been industrialized—they know what it is all about—and their attitude with regard to industry is favourable. We said it is a "natural" that you should put your zinc refinery at Chicoutimi.

We said, too, that with a big industrial area like that the sulphuric acid which would be a by-product of zinc smelting would be useful in that area and for those of you who go into industrial economics you will know that the measure of any country's industrial progress is really its consumption of sulphuric acid. Therefore, we have endeavoured to get a zinc smelter at Chicoutimi. If we could get a zinc smelter we would be justified in building the line from St. Felicien to Chibougamau.

Mr. NICHOLSON: How many miles is that?

The WITNESS: 149 miles.

And then we would have a direct line connecting every one of these zinc mines that are located in northern Quebec and Ontario; a direct line to a smelter in Canada on the Saguenay river.

Mr. NICHOLSON: Where do the zinc concentrates go now?

The WITNESS: Every ton goes out of this country and is shipped long distances down to zinc smelters in the United States. Some of it actually goes overseas to Europe but it has been our plan to try and build a custom zinc smelter in the St. Lawrence Valley and we know that we have the zinc reserves. I have talked personally to industrialists and this I can say is their general reaction—a customs zinc smelter in the St. Lawrence valley is a certainty. The only thing is the question of timing—I did not mention this matter in my introductory remarks—but what we want to do is to be in a position to say to anyone building a zinc smelter in Chicoutimi: "We will build that link pronto so that when you get your refinery up you will have your rail service."

Mr. HAHN: Doubtless the committee will wonder why a man from British Columbia should be interested in this particular line. It so happens that I lived on the prairies for some years and in 1923 they were supposed to give us a spur line from Hilda to be extended sixty miles to Medicine Hat. We are still waiting for it and the people there still have to travel 700 miles to get to Medicine Hat because the line, which would be a sixty mile spur, did not go through.

The same thing occurred in British Columbia. The P.G.E. starts from one place and goes to another place and they are still trying to finish the end of it.

There is one further question I would like to pose and it is this: in the proposed building of this railway from Beattyville to Chicoutimi would it be actuarily sound at this time to build it, let us say, from Beattyville to Chicoutimi through Chibougamau with the contracts that you have signed?

The WITNESS: The answer is "no". There is not enough fat in it.

Mr. GREEN: I am very much interested in the mining picture as disclosed by Mr. Fairweather and I wonder if he could tell the committee where the zinc deposits are situated.

The WITNESS: Where they are situated?

Mr. GREEN: Yes.

The WITNESS: Actually, sir, they are distributed along a belt that runs all the way from Chibougamau right through Quebec, through Noranda and through to the west of that again, and there has been recently a large discovery at a place called Manitouwadge.

Hon. Mr. CHEVRIER: That is on the same parallel of latitude?

The WITNESS: Yes. All the zinc mines are strung like beads along the line of the national transcontinental railway within a distance, let us say, of 60 or 70 miles one side or the other of the national transcontinental railway. Some of the big projects that are in production would be the Amulet, Quemont, Barvue, Normetal, the Golden Manitou and East Sullivan. There are simply enormous reserves of zinc and for the most part the zinc that is produced in this territory is a by-product of copper mining and makes for a very cheap zinc concentrate, because if you are going to get the copper you have to take the zinc and then it is a simple matter to obtain the zinc concentrate.

By Mr. Green:

Q. Are you planning in the future to take the zinc from as far west as Lake Manitouwadge down through Quebec to Chicoutimi?—A. We are prepared to do it, sir, if industry wants to do it. After all, we are just a service. We carry goods. However, I can tell you this: that the zinc concentrates that are being mined now in that territory for the most part are being hauled by railway all the way through to East St. Louis so I do not think it is too much to contempltae moving it one-third of that distance, to places like Chicoutimi.

Q. You have in mind that zinc from as far west as Port Arthur in Ontario will go to Chicoutimi?—A. It might.

Q. And that the copper, on the other hand, would go the other way? The copper in Quebec, I mean, would go to Noranda?—A. Yes, but also the copper in Ontario. I would think it would be a very logical move for the copper from Manitouwadge to go to Noranda.

Q. The plan for zinc is that it will be carried to Chicoutimi?—A. That is what we are trying to point out to industry as a desirable thing.

Q. And yet the line you are going to build is to go from Beattyville to Chibougamau and the ore from that area will go down to Noranda?—A. The copper ore?

Q. Yes?—A. Yes.

Q. Now, you want to get the zinc ore separated from the copper ore and have the zinc ore taken down from Chicoutimi?—A. Yes.

Q. That is your plan?—A. You spoke of it as being my plan and I would like to correct that.

Q. You look far ahead and I have great respect for your judgment and I am simply asking you whether that is the plan that you suggest as an official of the Canadian National Railway in charge of development and that is what they have in mind?

Hon. Mr. CHEVRIER: May I interrupt? Mr. Green, I am sure you do not want to be unfair. The witness has already explained he is there to serve industry.

Mr. GREEN: Pardon?

Hon. Mr. CHEVRIER: I am sure you do not want to be unfair. The witness has already explained he is there to serve industry. The Canadian National Railway first and foremost is there to serve industry and when you use the words "your plan" I think you should qualify them. After all, you are putting words in the witness' mouth and I do not know whether he appreciates what you are indicating. Perhaps you should say, it is the hope of the Canadian National Railway—

Mr. GREEN: I will put it this way: the Canadian National Railways is hoping that the zinc from this whole northern area will go through St. Felicien to Chicoutimi.

The WITNESS: That is one possible solution, and that is the solution which we think would be a satisfactory one but just to clear up this point we feel that a zinc smelter in the St. Lawrence valley is so important that if we could convince industry that they wanted—let me back up—if industry has convinced itself that a zinc smelter located, let us say at some other point—maybe in Montreal or Valleyfield or Quebec City, the Canadian National Railways would cooperate with industry 100 per cent to get that zinc smelter established. What we say, from a development point of view, is that it is desirable that there be a custom zinc smelter in the St. Lawrence valley. Our appraisal of it indicates that the logical location would be Chicoutimi, but we do not say it is the only possible location. You do not get very far in development work if you start being dogmatic about what you are going to do. You adjust yourself to what industries want and I wish to make it perfectly clear that the Canadian National Railways is only a servant. We do not direct the development here, there or the other place. We find out where development is taking place and where industry wants to venture its money and then we go in and make it possible by furnishing the required transportation.

Mr. GREEN: Am I fair in putting it this way: that the Canadian National Railways would very much prefer to see a zinc smelter established at Chicoutimi?

The WITNESS: Yes, we would like to see it established there, certainly.

Mr. GREEN: That is your first choice from the point of view of the development of the country, and railway traffic?

The WITNESS: Yes.

Mr. GREEN: Well, Mr. Fairweather, how do you expect a zinc smelting firm to establish a smelter at Chicoutimi if there is no rail transportation between Chibougamau and St. Felicien?

The WITNESS: You cannot build a zinc smelter with a snap of your fingers. It involves an expenditure of $25 million.

Mr. GREEN: That is what I say.

The WITNESS: But as a businessman,—and on this ground I know what I am talking about because I have done this time and time again,—when some industry comes along and says it is prepared to spend "X" millions of dollars and needs transportation, we have to say: "Show us that you have the money,

show us that you have the plan, and show us that you have a reasonable market for the products you are talking about and then we will give you the railway facilities as soon as you are in a position to need them. We have done that time and time again, and that is exactly what we are proposing to do at Manitouwadge. In other words, sir, it is not necessary to establish the zinc smelter before this line is built. It could be built at the same time the zinc smelter is being built. We can build that line between a year and two years—perhaps two years would be the safer bet—and you could not get a zinc smelter built in less than three years.

Mr. GREEN: You are waiting for some private firm to come along and tell you that they will build the zinc smelter at Chicoutimi before you will complete this line from Chibougamau to St. Felicien?

The WITNESS: That is not correct, sir. I said in an explanation of the situation that as part of our broad planning this line between St. Felicien and Chibougamau fitted into the broad development picture of the Lake St. John basin. I said that one of the possibilities would be a zinc smelter. It is not the only possibility by a long way, but we stand in this position that if private industry in sufficient amount puts sufficient capital into any form of development and shows us that we can, as prudent railway managers and as trustees of the Canadian National Railways, build that link between Chibougamau and St. Felicien, we will build it.

Mr. GREEN: I would just like to take another look at the zinc smelter. Who would make a proposition of that kind? Who would pay out $25 million for the construction of a zinc smelter when there is no railway from Chibougamau to St. Felicien? There may be some people like that in the world, but I have never seen any in western Canada?

The WITNESS: I think the word of the Canadian National Railways is worth something and when we sit across a table and say we have the authority to build the railway and we have the finances to build it, and all we need from you is the promise to build the smelter, then I think you have the elements of a deal.

Mr. GREEN: But in the meantime these zinc concentrates are going in another direction, are they not? You said that yourself.

The WITNESS: Certainly, because there is no zinc smelter.

Mr. GREEN: And they will continue to go in the other direction, will they not?

The WITNESS: Until there is a zinc smelter.

Mr. GREEN: And any zinc concentrates which go out of the Chibougamau area will be going off to east St. Louis eventually?

The WITNESS: They might go to east St. Louis or overseas or to Montana.

Mr. GREEN: Where do they go now?

The WITNESS: They are not shipping zinc from the Chibougamau area at the moment.

Mr. GREEN: And you said the pre-cambrian shield runs parallel to the western end of this proposed line?

The WITNESS: I do not want to be too technical but the Laurentian shield is a term that applies to the whole area. It applies to a complex of a great many geological ages. The Laurentian shield includes all of the area around Lake St. John and all Labrador. I think what you are talking about is a statement I made earlier in which I said that within the Laurentian shield there is a mineralized belt which traversed by a fault running between Barraute and Chibougamau. It is only a section of the pre-cambrian shield.

Mr. GREEN: Does that belt continue to the north-east?

The WITNESS: As far as lake Mistassini.

Mr. GREEN: And the history of development in the pre-cambrian shield has been that as one district has opened up other discoveries are made in the new territories beyond?

The WITNESS: Yes.

Mr. GREEN: And it is your hope that there will be minerals found further along beyond where you are building this western branch?

The WITNESS: Well, it gets rather speculative and I would prefer to wait until some prospector comes along.

By Mr. Green:

Q. But you have geologists who give you geological advice. Have you not been advised by your geologists that in all probability this mineralized area continues out beyond Chibougamau?—A. Well, it is heading out, but it is very speculative. When you get beyond Chibougamau it is very speculative and I would not want to be hung with statements. Let me make it plain. I made a definite statement that so far as I was aware, between Chibougamau and St. Felicien, once you get over the height of land, so far as we know there are no substantial prospects of mineral developments. The geology of the country changes. But when you talk about Lac Mistassini, that is in a quite different direction; it is away up to the north of Chibougamau.

Q. That is the area I have in mind. I suggest your information is that this mineralized area continues over to the north east from Chibougamau?—A. No, I did not say that. I do not know what is up there. But I do know that between Chibougamau and Beattyville there is excellent prospecting territory in which mines have already been developed.

Q. If the western branch of the line is the only one completed, the result would be that any new mine in this mineralized fault will be served by the western branch of that line?—A. I think you are putting a question to me and asking me to say that the Canadian National Railways, having applied to parliament for permission to construct a line from Beattyville to Chibougamau, does not intend to do it, and that is not true.

Hon. Mr. CHEVRIER: Just a moment.

Mr. GREEN: I asked the witness a perfectly plain and straightforward question.

Hon. Mr. CHEVRIER: You did, and I was going to raise a point of order a moment ago to say that your question looked as if you were coming to the point where you were stating, in effect, that the Canadian National Railways was not sincere in its application to parliament to build the east end of this line, and I think that is really the effect of your last question.

Mr. GREEN: You are not the chairman of this committee. I am not questioning the sincerity of the railway for one minute. I am asking a question about mineral development or prospects over to the northeast. I did not say a word about the sincerity of the Canadian National Railways. I have understood from the witnesses' own evidence that this mineral area runs over to the northeast and I asked if the result of building the western branch of the line is not likely to be that that mineralized area will be served by the western branch of the line in other words, that the minerals will come down the western branch of the line through Noranda.

The WITNESS: My answer is this: I am a professional man and I must have regard to all the circumstances. If mineral development was found in the Lac Mistassini area, at the moment I do not know how it would be served by the railways.

It might be served in the way of which you speak, or it might be served by such means as to justify a line direct down into the Lac St. Jean country; or it might be served so as to justify a line straight down to the Gulf of St. Lawrence. I do not know. But what I do know is that I have stated the plans of the Canadian National Railways.

By Mr. Green:

Q. Your hope is that the copper will flow down to Noranda, and that the zinc will flow to Chicoutimi?—A. I think you are twisting things. I beg your pardon. I did not mean to say that. But I think you have not properly understood just exactly what I said. Noranda is already in existence.

Q. That is right.—A. Now, what smelters are going to be in existence at some other period of time, I do not know. But I know there is a smelter being promoted in Chicoutimi, that is, a copper and nickel smelter.

It is quite possible that ores will flow to that smelter if that smelter is a success; and it is possible that you may have other smelters in the province of Quebec and in the province of Ontario.

I am one who has a tremendous faith in the mineral resources of the Pre-Cambrian shield, particularly in the area in which we are concerned. And it does not surpass my imagination that we might, in the future, find quite a different pattern for smelters, and quite a different pattern for refineries.

But what I do feel very strongly is: that it is the function of the Canadian National Railways to see that wherever industry is putting private capital to work, it is the job of the Canadian National Railways to see that it fits into the transportation picture. We do not try to force development this way, that way, or the other way. We simply are content to say that we will give you that type of transportation which is the most suitable thing in a given set of circumstances.

Q. Perhaps I might put it this way: that under existing conditions it is the hope of the railways that the copper would go to Noranda and that the zinc would go to Chicoutimi?—A. No sir, it is not the hope of the railways that they would go that way; it is the certain knowledge from these mines that it is going that way, and we have contracts to that effect.

Q. The hope is—the Canadian National Railways' hopes—the hope is that the zinc would go to Chicoutimi?—A. Our hope is, if you put it that way—but I prefer to say this: that we see as a development possibility—a pretty advantageous possibility—the construction of a zinc smelter somewhere in the St. Lawrence valley to serve this great mineral empire and we have been trying to get it working; we have tried at various places. I shall not mention the names of other communities; but Chicoutimi is not the only one.

Actually, one must admit that our "size-up" of the situation is limited by our own ability to take cognizance of all the factors involved. We think that Chicoutimi is a good bet for a zinc smelter and we hope to get private capital interested in it, and if we do, we will be "Johnny on the spot" to give them service.

The CHAIRMAN: Now, Mr. Dumas.

By Mr. Dumas:

Q. Mr. Fairweather, we have been told that the government wanted parliament to authorize the construction of the whole line from Beattyville to St. Felicien because the Canadian National Railways felt that the whole of that line should be built eventually, and that it was in the best interest not only of the district of Lac St. Jean, but in the best interest of northwestern Quebec, the whole province of Quebec, and of Canada as a whole. In other words, the Canadian National Railways feels that it should have a charter

which would permit it to complete the whole circuit from Beattyville to Chibougamau and from Chibougamau to St. Felicien whenever they think that it will be a sound project economically.

Now, you stress this question in assuming a smelter in Chicoutimi. But actually, in northwestern Quebec we have the mines which you have already mentioned which produce zinc, and that zinc is being shipped to St. Louis and to Europe.

Now, is it a fact that these companies which are producing zinc are getting only about 35 per cent of their concentrates, due to the fact that they are shipping those concentrates to the States by railroad?—A. I would not be too precise about the percentage, but it is, undoubtedly, a fact that when you have to transport zinc concentrates—and they ordinarily carry from 52 to 60 per cent zinc—and you have to transport them for long distances, it is perfectly obvious that to transport 1 pound of zinc, you have got to transport 2 pounds of material, and it costs money. Naturally, there comes a limit when it does not pay to produce zinc.

You have touched on a point which is very important. That is fundamentally why we are thinking of a zinc customs smelter in the St. Lawrence valley, because it would raise the marginal utility of all these minerals there, so that instead of a lot of stuff being left in the ground, it would pay the mine to get it out and process it.

Q. Is it not a fact that if the Canadian National Railways have a charter to build the complete circuit, is it not a fact that it will provide an incentive to many of our industrialists to think more seriously of putting a smelter somewhere in the St. Lawrence valley, it may be at Chicoutimi, Quebec, Three Rivers, or Valleyfield?—A. Speaking as development officer, I would say that the knowledge that this railway, as between Chibougamau and St. Felicien, has been authorized, and that the Canadian National Railways have the financing of it arranged so that they are in a position to build the line promptly upon request, that it would be a very valuable developmental feature.

Q. Now, what is the present population of Chibougamau and the surrounding district?—A. The last time I was up there I suppose that Opemiska had about 100 men, and that the camp at Chibougamau might have had 150; and I suppose there might have been altogther, in the area, let us say, 500 or 600 men. It would be about that.

Q. I am told that in Opemiska now there are about 400 people, counting women and children, and that in the surrounding area there are about 1,000 people.—A. Yes.

Q. From your experience of the past, when districts as promising as that of Chibougamau, Opemiska and Bachelor Lake are guaranteed the facilities of a railway, is it not true that it creates a great amount of activity and incentive and that the population grows very fast?—A. Providing that the natural resources are there, yes.

Q. And it is your experience of the past that that is so. Now then, is it possible that within a short time new development and an increase of population may justify the construction of the east branch towards St. Felicien? —A. If we did not think so, we would not be asking for the authority.

Q. Very well. Now, coming to this branch line from Senneterre to Noranda, to my mind it is quite a good example; is it not a fact that when the Canadian National Railways started to build that line, while it had a charter to build the complete line from Senneterre to Rouyn and Noranda, it started with the section from Senneterre to Val d'Or, because Val d'Or was developing very fast and the population was growing fast, and you had assurance of good tonnage for transportation, so that you built that line first, or that part of the line?

If I remember correctly, it was inaugurated between Senneterre and Val d'Or in 1938, and that it was only in 1940 that it was inaugurated to Malartic and that in 1935-36 Malartic had only one mine and prospects were not too good; nevertheless the Canadian National Railways went ahead with the line between Senneterre and Val d'Or before they went ahead with the line between Val d'Or and Malartic, or Val d'Or and Rouyn. On a smaller scale, it may be comparable to what will happen in the Beattyville-Chibougamau-Lac St. Jean district.—A. If the tenor of your question is that we honestly believe that this line will be built within a reasonable period of time, the answer is yes.

The CHAIRMAN: Have you any further questions, Mr. Dumas?

By Mr. Dumas:

Q. Yes, Mr. Chairman. We have been told in the House that the government was wrong in turning away from the seaport of Chicoutimi, and that no such ludicrous instance could be found than that of a government building a very costly railroad to bring mineral ore which lies scarcely 220 miles away from one of the best seaports of the country to blast furnaces established in Noranda, many hundred miles away.

Now, if the branch from Chibougamau to St. Felicien was built first, and if the branch from Beattyville to Chibougamau was left out, where would the copper concentrate shipments go?—A. All I can say to you is to repeat what I said at the beginning. We went to the producing mines and said to them: where are you proposing to ship your concentrates? And they said: we propose to ship them to Noranda, and that is where they are going.

As to whether they would ship them to Noranda if only the line between Chibougamau and St. Felicien were built, I do not know. I do know that if the line Beattyville to Chibougamau is built the concentrates definitely will go to Noranda; but I cannot say what the mining companies would do under different circumstances. I do not want to put words into the mouths of other people.

If we did leave out the section between Beattyville and Chibougamau and if we built the line from Chibougamau to St. Felicien, we would create another pattern, and frankly, I do not know what the result would be. But I do know, of course, that we would not have had our guarantee of pulpwood from the Howard Smith people.

Whether those people at Opemiska and Chibougamau would have been content with the movement around this route down to Hervey junction and back into Noranda, I do not know. I cannot answer that question. But I do know what they wanted, and they wanted very definitely, a line from Chibougamau to Beattyville and they were prepared to guarantee it. But that is all. I do not want to be avoiding your question, but I do not want to speak for something which I do not know.

Q. That is fair enough. I am told by the officials of this company that actually the shipping of their concentrates costs them $21 a ton, or roughly around that.—A. That is right.

Q. And if that line is built from Chibougamau to Noranda through Beattyville, it will reduce that cost quite substantially.—A. That is right.

Q. In fact, it will then only cost them around $7 a ton. But if that part of the railroad was not built to join them with the Noranda smelter, there would be a tendency for those companies to ship their concentrates to the States.—A. Again, you see, I do not want to be caught putting words into other peoples mouths; but quite frankly, if I were advising the industry, that would be a possibility which I would look at very hard.

Q. So, after the Canadian National Railways has said: Well, we are looking forward to building that line to Beattyville in order to permit those companies

to ship their concentrates to Noranda, the said companies went ahead and signed contracts with Noranda.—A. Yes, and I might say this, just to show you the degree of partnership there is between the railways and industry: Noranda, in order to take care of the copper which would be produced in the Chibougamau area, found it necessary to enlarge their Montreal refinery, and they had to spend quite a lot of money on the enlargement of that refinery.

They came to us—and I am not disclosing any secret in this—they came to us and said: Our decision is to enlarge our refinery in Montreal East, and it is based on our expectation that we will receive concentrates from Opemiska and from Campbell-Chibougamau via Beattyville. And they spent a lot of money on the refinery on that basis.

Q. Now then, those concentrates will come from Chibougamau and it will give work to a Canadian smelter, the Noranda smelter?—A. That is right.

Q. Now, those concentrates will be transformed into what are called "copper anodes"?—A. That is right.

Q. And they would be shipped from Noranda to the refinery?—A. At Montreal East.

Q. Do you not think that it gives more work to more Canadians?—A. That is right.

Q. And after those anodes have been transformed into refined copper, the product is processed further into manufactured copper products also in Montreal and in other parts of Canada, with the result that we keep our natural resources in this country until they are completely transformed. Otherwise, from a business point of view, if those companies have to pay $21 a ton, and if they have to look forward to paying $21 a ton, would they not try to ship them where it would cost them less? They would be shipped to the United States with the result that all those concentrates would be transformed there.—A. In our talks with the industry, they made it perfectly plain that they were shipping their concentrates at a high cost, and that they wanted them to go to Noranda because that was the cheapest place for them to go.

The CHAIRMAN: Mr. Gagnon.

By Mr. Gagnon:

Q. Did the government ask the Canadian National Railways to make a survey for the purpose of locating a line between Chibougamau and St. Felicien?—A. Not to my knowledge. As I explained earlier, the Canadian National Railways have had this matter under study over the last 25 or 30 years.

Q. Did the government bring pressure to bear on the Canadian National Railways to build section "B" before building section "A", from Chibougamau to Beattyville?—A. You are talking now in terms that I do not recognize. I cannot understand them because in all my life in the Canadian National Railways I have been accustomed to looking at these things from the point of view of the Canadian National Railways and I do not recognize your question.

Q. Is it not a fact that the officials of the Canadian National Railways have turned down an order of the government to build the two sections at the same time?—A. I have never heard of such a thing.

Q. Has the Canadian National Railways ever received subsidies to build a new railroad?—A. Oh my, yes, in the past, certainly. And I have very strong views on the question of subsidies. I am in favour of them.

Q. If the government agreed to give a subsidy to the Canadian National Railways for the purpose of building a section of the line from Chibougamau to St. Felicien within a reasonable time, would you agree to the immediate

start of the project?—A. If anybody will come in and say that he will aid in the construction of this line, either by guaranteeing traffic or by giving a subsidy, we would look at the problem in the light of how big is the subsidy and how big is the traffic.

Q. What would be the cost of maintaining the track and road-bed of the railroad line?—A. It depends on the volume over the line. I imagine it would be about $2,500 or $2,000. I am advised by our technical men that it would be about $2,000 a mile per year.

Q. And what is the distance between Chibougamau and Noranda?—A. 315 miles.

Q. And between Chibougamau and Chicoutimi?—A. I am afraid he will have to work that out for us. Have you got another question in the meantime?

Q. Could you tell me where the native sulphur and sulphur gas would be refined?—A. You are referring to the by-product of sulphur and perhaps of sulphur dioxide from the pyrites; is that what you are talking about?

Q. Yes.—A. That is a very complex subject. Noranda has spent I do not know how much money, and how many years in developing a process to produce elemental sulphur from pyrites as a by-product. I do know the economics of it; in order to make it go, you have to salvage the iron ore, and you have to salvage the sulphur, that is, either the elemental sulphur or the sulphur dioxide, and it is a very complex marketing problem.

There have been scores—yes, literally scores—of people who have come to us with schemes for producing elemental sulphur and iron ore from the huge pyrite deposits that are available in the north, but none has as yet ever come to fruition. It is something that perhaps sooner or later will be worked out, but it has not been worked out yet.

Q. The minister said in the House that the Canadian National Railways will proceed to assist and encourage further developments in the Lake St. John-Saguenay region as a means for building up potential traffic for these new lines. Will you tell the committee what your plans are in this connection?—A. I am not certain that I get what you mean.

Q. Have you something to add to what you have already said.—A. You want to know what we are doing to encourage traffic?

Q. Yes.—A. Well, we have a development organization.

Q. I am speaking of these branch lines.—A. Yes, we have a development organization. We study potential markets. We study natural resources. We try to find instances where private capital might be interested in establishing industry, and we put a reasoned case together, with all the information. Then we do exactly the same as any other "drummer", we put all that information in a briefcase and put a man out and he starts ringing bells and goes here, there and everywhere. We have men in New York, Detroit, Chicago, London, to interest foreign capital, and we have representatives in every important city in Canada. When we get one of these things that we think is what we call a blind spot in the economy, where there is an opportunity for something, we never cease pushing it until we come through with success. We have had quite a measure of success. I cannot give you any more specific answer than that. We are eager to develop the country; we are trying to approach our problem intelligently, and within our own field we, let us say, advertise opportunity for industry and point out that the Canadian National Railways will co-operate. That is as far as we can go.

Q. How big and how important are the timber limits of the Howard Smith Paper Mills in the area?—A. They are very large. I believe you can

see them outlined on this map. They are located to the east of the Bell river, and I think in total—I have forgotten how many square miles are involved, but it is a very substantial limit.

Q. How important is the operation of Consolidated Paper Corporation?—A. The Consolidated Paper is over in the Lake St. John basin. The Consolidated Paper is 34A. It is a huge area in here on the upper waters of the Ashuapmuchuan river. Then they have other areas. They have an area down here to the south of Lake St. John.

Q. Where is the head office of the Howard Smith company?—A. Montreal.

Q. Where is the head office of the Opemiska mine?—A. I really do not know where their head office is.

Q. Do you know where the directors are?—A. I know the men I dealt with, but I do not know the directors.

Mr. GAGNON: Thank you.

Mr. NICHOLSON: I merely want to ask this: What is the extent of the Howard Smith limits and what sort of guarantee is there that there would be a sustained yield coming? For how long a period are you assured of the cutting?

The WITNESS: We asked them to give us a guarantee of 30,000 cords a year over a period of six years, cut in the limits of the line east of the Bell river. We felt that if they got going on a basis as substantial as that over a period of six years they would be thoroughly established, and we did not ask them for any more than that.

The CHAIRMAN: That was given by the minister the other day.

By Mr. Gagnon:

Q. Do you have the figures that I asked on Chibougamau?—A. From Chibougamau to Noranda was 314 miles, and from Chibougamau to Chicoutimi was 226 miles.

Q. Nearly 100 miles shorter from Chibougamau to Chicoutimi than from Chibougamau to Noranda?—A. Well, it is 88 miles shorter.

Q. You admitted it is cheaper to ship products by C.O.A. than by your railway?—A. It depends on the product but, generally speaking, water transport is cheaper.

Q. The production in which we are interested now—mines?—A. Speaking as a railroad man, we are always in competition with water transport.

Q. But water transportation is cheaper than rail?

Mr. DUMAS: But it would go to the United States. Is that what you want?

The WITNESS: Water transport ordinarily is cheaper than rail transport.

Mr. GAGNON: Thank you very much.

By Mr. Hamilton:

Q. Mr. Chairman, the first thing I would like to ask the witness is this. I was very much interested in his observation regarding the attitude of the paper companies, particularly Consolidated, in the area between Chibougamau and Chicoutimi, for this reason. It seems to me that in recent years there has been a steady trend away from the stream drive to either truck or rail transportation. In other words, the stream drive in many parts of Canada where it used to be a good proposition is not nearly so common, and I was wondering why in this particular area they would feel that, even with a railroad there, there was no possibility of using the railroad?—A. They did not say that.

They said, "If you make it cheaper for us to ship by rail, we will ship by rail." What I said was that we looked at the problem in that light and we came to the conclusion that if we had to quote a rate that would make it cheaper for them to ship by rail we would not be making any money.

Q. Would you be losing any money?—A. If we quoted a rate such as that, it would be such that we would not make any money.

Q. I am trying to be fair to you, Mr. Fairweather, and I am sure that you want to be fair to me. Obviously, if you quote a rate at which you will not make any money, you have two other possibilities. Either it will be a rate on which you break even or a rate on which you lose money. If it is a fact that you are not going to make any money, I am asking you which of the other two possibilities it is. Is it a break-even proposition or a loss proposition?—A. You may say this. It is my honest opinion that it would be a loss, but I qualify my answer by saying that before I could say it with complete objectivity I would have to make a more detailed analysis. The analysis we made simply established the point that there would not be anything in it to help carry the overhead of the line. At that time we said, "We cannot give you a credit".

Q. I think you realize, Mr. Chairman, that that information would be just a little disturbing to anybody who was interested in the possible construction of the remaining end of this line, because we are interested. In other words, if it is even a "break-even" proposition, in which the railroad would neither lose nor gain, it puts a totally different complexion on it than if it is a proposition where the railway is definitely going to lose. There are just one or two more questions.—A. May I interrupt at this point? I think we are a little at cross purposes. We know that we are going to take an overhead cost on the line from Chibougamau to St. Felicien, an overhead cost representing the interest on cost of construction and the fixed maintenance on the property. I suppose these will be somewhere in the neighbourhood of about $1½ million, or something of that nature. Now, you will have to find somewhere traffic, not just "break-even" traffic, but traffic that does something more than "break-even" to allow us to absorb that $1½ million or a large proportion of it on overhead. I think we are a little at cross purposes. You were speaking of breaking even on the project as a whole. I was speaking at the level of a particular traffic, and I said that it would not contribute anything to the overhead. And because it would not contribute anything to the overhead, we could not give it credit.

Q. I am sorry that I do not know more about railroad operation, Mr. Fairweather. However, to get my own thinking straight on this: When you think in terms of a rate for the transit of pulp from the Consolidated Paper Mills that would be competitive with the current cost to Consolidated, when you calculate that rate, so to speak, are you purely allowing for such things as the actual transit cost, when you say there would be no profit in it, or are you allowing there for a certain loading, you might say, of a portion of this million-odd dollars of which you speak?—A. No, what we call the "bare bones" out-of-pocket.

Q. Assuming that the line was built, assuming that you carried all the pulp of Consolidated, you would probably recapture about the cost of operating those trains, including coal, wages and things like that, and at the moment you would feel that there would be no surplus whatever over the direct costs?—A. As competition with stream driving in that area, I think that is a fair statement.

Q. Is there any reason to assume that in the immediate future—and let us define immediate future as the next five years—it would become advisable for Consolidated to ship by rail instead of continuing the stream drive?—A. You mean that if that should arise?

Q. Is there any reason to assume that that might arise?—A. I do not know. That would be something for Consolidated to decide. If Consolidated got tired of stream driving and offered us a rate that would enable us to make some money, we would build a railroad.

Q. The next line of questioning I would like to ask the witness, Mr. Chairman, is this: What studies has the railroad made regarding incoming traffic into the area, on the assumption that the entire line was completed? In other words, obviously we have concentrated our attention this morning on traffic which originates in Chibougamau and along the line which goes out. Also to be considered is the reverse direction of the traffic on this line. Presumably, should it originate at St. Felicien and therefore tie in with Chicoutimi, there is the possibility that there would be a considerable flow of traffic which would come up the Saguenay and be transshipped at Chicoutimi, and go over the line servicing all that area, into Noranda and other parts of Canada. What studies have been made in that connection?—A. We made the best study we could on the situation as you have envisaged it. Of course, man is fallible, and we may be wrong, but our analysis indicated that we would have an over-all loss to be absorbed in our income account of about $1,100,000 a year.

Q. That $1,100,000 a year, as I remember, is the same figure that you quoted me as being what we might call the carrying charges on the line from St. Felicien to Chibougamau?—A. No, the carrying charges would be a little more. I think the carrying charges—let us get our terms straight. Our fixed maintenance plus our interest on construction plus what we call the normal setup expenses of a railway, all the things we find ourselves committed to when we build a railway, I said I thought was about $1 million or $1½ million a year.

Q. For the— —A. For the line from Chibougamau to St. Felicien and our income loss would be about $1,100,000. You take the difference between those—$400,000 and you get the figure perhaps you want.

Q. In other words, your calculations have led you to the conclusion that incoming traffic would yield some $400,000 towards the upkeep of that particular section of line?—A. Yes, from all traffic.

Q. Now, here is another question, sir. Obviously that traffic is not going to all go into Chibougamau; a great deal is going to carry on from Chibougamau around the other way?—A. If you are talking about the p feeder value, we always take the p feeder value into account. We don't just credit the earnings on the line. As long as one end of it is on the line in question we take the whole revenue. For instance, let us take a piece of mining machinery that is made down in St. Hyacinth and is shipped up to Chibougamau. We would credit to this line the whole of the revenue on that piece of machinery.

Q. So that your $400,000 takes into account the p feeder value as well?—A. Oh, yes.

Q. A third question which perhaps is rather hypothetical at this point—let us hope so—has any thought or consideration been given as to the value of such a line, that is, the Chibougamau to St. Felicien section as useful in the event shall we say of hostilities or anything like that, almost a national defence measure. After all, there are not too many ways right now into the heart of the country. The major one goes to Montreal, which is a very sizeable seaport. If, for any reason, that seaport were out of action would this line be of any value in that connection?—A. That was never given any consideration by us.

Q. Now, another question, just to make sure that again I understood this. Would I be correct in drawing from the information you have previously given us that upon a definite plan being established by private industry for the

erection of a zinc smelter at Chicoutimi the line would automatically be built?—A. I would say under those circumstances our shoulders would be to the wheel immediately.

Q. The only thing I would add about that is that if you ever want to give up the railroad business and go into banking you can certainly have my money to look after because I gather the impression that you are doing nothing here except that which is a certainty and which is a certainty to at least break even. I don't say that in a critical manner.—A. I am glad you raised the point here and it is not correct. It just is not correct. The Canadian National—and I can speak in saying this as to policy—the policy of the company is that it will assist industry in providing transportation; it will take an enterpreneur risk. It does not want to be put in the position where it is "heads I win, tails you lose." It is quite prepared to take a reasonable risk.

Many, many times we find ourselves in the position of spending capital for railway facilities where we have to take a very decided loss, where we have to take an initial loss in the hope of a future gain and we do that as any other sound business enterprise would do it. But being prudent administrators you have to have some sort of a guide; otherwise, we would be building railways all over Canada on everybody's wishful thinking and we would create a railway problem for the committee that would take a century to clear up.

What we are trying to do is to take a prudent position and a prudent position certainly does not extend to a position where we would incur an estimated loss of $1,100,000 a year on a project of this size.

Now, we would not wait until that had been whittled down to a certainty before we would proceed to the building of the line. It would have to be whittled down to somewhere where it was manageable, somewhere where looking into the future losses could be recouped because we have to have regard to the little figure that comes out at the bottom of our income account.

Q. You are saying that from the picture you have given us this morning a prudent railroad administrator would commence immediately to build the line from Beattyville to Chibougamau, that he would not commence now to build the line from Chibougamau to St. Felicien?—A. Unless he got assistance from somebody.

Q. The picture you have given us of the economics of the area indicate that. At the same time you come to us through the Minister of Transport and you ask for authorization for both ends of the line. A prudent administrator would not come to us and ask for authorization to build that second section of the line unless he could foresee within the stated period, which here is ten years, that something would arise that necessitated the building of that line or advised the building of that line and what factors do you see, what factors dictate that it is wise for you to ask for authorization for both sections at this time?—A. Well, the first thing I would refer to is the whole weight of my evidence before the committee but if you would like me to supplement it I would be glad to do so. I could talk for quite a time on it because I am very development minded. I am one of those people who has the firm conviction that Canada is growing. I know the population is growing at the rate of 1½ per cent per year. I know that her output per capita is growing at the rate of about 3 per cent per year. You add those together and you get pretty close to 4½ per cent per year of growth trend in Canada and it is the highest growth trend for any country in the world. I know that the Chicoutimi area and the Lake St. John area is one of the bright spots in the national picture. I know there are vast natural resources lying to the west and I have every confidence that within the period asked for in this bill that conditions will arise that will bring the deficit figure that I spoke of within manageable proportions. That is why I

individually recommended this to the management of the Canadian National and it is why the Canadian National has requested the line.

Q. But this is the point I was trying to make. There is nothing that we can pinpoint in that area between Chibougamau and St. Felicien at this particular time—there is nothing we can pinpoint that might change in that particular area within the ensuing ten years to decide this. Your argument in favour of asking for this at this particular time is that the general growth of Canada will make this line advisable. I am just trying to find out whether you can see anything happening between Chibougamau and St. Felicien and Chicoutimi specifically—not this 4½ per cent general growth year by year?—A. Well, I can't add to the evidence I have already given.

Q. Thank you very much.

By Mr. Gauthier (Lac-St. Jean):

Q. Mr. Chairman, I have some questions to put before the committee and before going further I want to say this, that some of these questions have been spoken to by Mr. Fairweather before, but I want to keep my record clear and straight and if I will be permitted I will ask my questions.

The first one is this: we are told that your decision to build first the western section of the proposed line is based on traffic guarantees which you have obtained from different mining companies and other concerns. Would you tell the committee the nature of those guarantees?—A. The nature of the guarantee is this. As regards the mines they guarantee to ship 325 tons a day of ore concentrates for a period of six years and they also agree that in the event that they do not ship that, if they fall down on their job, that they will pay to the Canadian National an amount equal to one-third of the freight rate which Canadian National would have normally had had the goods been shipped.

Now, in the case of the Howard Smith people, they made a contract to ship 30,000 cords of pulpwood a year from east of the Bell river with the proviso that if they failed to do so they would pay a penalty, I think it was, of $2 a cord on the shortage.

There is also a proviso that if they have suffered a penalty and have subsequently recouped their position in a period beyond the six years—for aonther four years I think it was—if they recouped the position, the penalty would be refunded to them. You will see, contrary to those who accuse me of being a hard-boiled banker, we do not ask anything more than a reasonable deal.

Q. Did you try to secure similar guarantees regarding possible tonnage which would be transported from Chibougamau to St. Felicien or other points in the Lake St. John area?—A. We had exploratory talks with the people who were in position to ship large quantities but in view of the statements made there was not any prospect of making a guarantee.

Q. Would you indicate, Mr. Fairweather, the names of the companies which were contacted?—A. Well, east of Chibougamau we got in touch definitely with Consolidated Paper and the St. Lawrence Corporation. They are the two big shippers.

Q. Do you have any information of the possible tonnage which will be transported from the present terminus in St. Felicien to the Chibougamau mining area?—A. Just what do you mean by that—supplies going in?

Q. Yes.—A. At the present time they go in by truck. They are trucked in from St. Felicien.

Q. The total tonnage in the future?—A. Well, the area around Chibougamau is going to engender some inbound supplies because everything the people eat

and wear and a large part of their fuel wll have to be carried in there. There is about 25,000 tons of inbound traffic a year.

Q. Can you tell the committee if Le Conseil d'Orientation economique du Saguenay or other public bodies in the Lake St. John area in their representations to the Canadian National Railways have mentioned the names of companies which will be ready to give similar traffic guarantees as those given by companies interested in the western section?—A. I don't know that.

Q. Mr. Fairweather, my last question is this: I want to put a straight question and I want too a straight answer.

Hon. Mr. CHEVRIER: Well, you will get that.

By Mr. Gauthier (Lac-St. Jean):

Q. If the Canadian National Railways was to obtain comparable tonnage guarantees for the St. Felicien-Chibougamau branch to those already obtained for the Beattyville-Chibougamau branch of the proposed railroad, can the vice-president tell me if his company would then be prepared to start the construction of the St. Felicien-Chibougamau branch immediately?—A. The answer to that would be in the affirmative. If we could get enough traffic guaranteed by responsible people—now, let me make this clear because you wanted a straight answer; we are not talking in generalities, we are talking in particularities—it would mean that people of means whose word was enforceable at law against any default—if they will put their names to a contract saying that they will do thus and so at rates that will yield us commensurate returns to the rates that we obtain on the Beattyville section, in other words, if we could see a guarantee of traffic at such volume and at such rates as will reduce the large deficit position to controllable proportions then under those conditions we would build the line.

Q. In other words, Mr. Fairweather, your answer is yes, is it?—A. It is yes in the form I gave it.

Mr. MCIVOR: Mr. Chairman, I don't want to hurry you, but we have heard today just what has proved the statement of the minister in the House that the Canadian National Railways is willing to build a railroad from Beattyville to Chibougamau because it will pay. They are not ready to build the other railroad because they think it will not pay until it gets more industries or until the zinc smelter is built. I don't know what the other members think, but I think I have all the information I need to vote.

The CHAIRMAN: Shall clause 1 carry?

Mr. GAGNON: I move, seconded by the member for Notre Dame de Grace, that this clause be amended by changing the period at the end thereof to a comma and by adding thereafter the following words:

> provided, however, that the construction of sections A and B of Branch Line Number 1 shall be undertaken at the same time.

The CHAIRMAN: You have heard the motion.

By Mr. Hahn:

Q. Mr. Chairman, Mr. Fairweather's statement in answer to one or two of these questions causes me to ask this question. Did I understand this correctly, Mr. Fairweather, that a copper smelter is being built at Chicoutimi at the present time?—A. It is under development.

Q. How long do you suppose it will be before it is fully developed?—A. I couldn't say, but I think the promoters say they anticipate having it in operation in 1957.

Q. You have not approached the firm?—A. Oh, yes, we have had talks with them. I think I can be safe in saying this, that any industry anywhere in Canada that has any plans talks to the Canadian National if they are served by the Canadian National.

Q. Then, further to that and in the light of all the evidence that has been given would it now not appear that since there is a smelter going to be a reality that there should be some guarantee given that this rail line will be built because certainly if you have a smelter there they could develop the Chibougamau minerals in that area at Chicoutimi?—A. You see, the only mines that are producing at the present time have given a guarantee based on Noranda.

Mr. ELLIS: Mr. Chairman, with respect to the—held by construction of the—branch—

The CHAIRMAN: Order, gentlemen, we cannot hear the question.

Mr. ELLIS: I was just asking whether the passage of this amendment would have the effect of holding up or delaying the construction of the Beattyville-Chibougamau branch?

Hon. Mr. CHEVRIER: If that question is directed at me the answer I would have to make is this: that the economics have been clearly explained by the vice-president for industrial research of the Canadian National Railways and they have been equally accepted by the government and the position of the government has been made clear in the House by the minister. In other words, I do not think I can change the position. I would have to indicate that this amendment could not pass so far as we are concerned and I would have to oppose it.

Mr. HAHN: Mr. Chairman, following through my earlier question, where would this copper smelter in Chicoutimi expect to gets its materials from if this branch line is built to Beattyville?

Hon. Mr. CHEVRIER: Do you want to deal with this on the amendment? I understood that the questions were completed on this and perhaps we should get this over with and go on to something else.

Mr. HAHN: I think it has a definite bearing on the amendments and that is what I am speaking to. Since actually this plant that is being built in Chicoutimi is going to depend on minerals that come from the Chibougamau area. Where does that plant expect to get its materials from unless the branch line from Chibougamau to Lake St. John is built?

The WITNESS: May I answer, Mr. Chairman?

Mr. HAHN: Surely.

The CHAIRMAN: Yes.

The WITNESS: The question is where will this smelter get its concentrates from if the branch from St. Felicien to Chibougamau is not built; is that the question?

Mr. HAHN: Yes.

The WITNESS: Well now, in the first place, the people who are interested in developing this smelter also have a nickel-copper prospect which is being developed into a mine and it is located about forty miles from Montmagny on the south shore of the St. Lawrence. They propose to take these concentrates and either rail haul them into Chicoutimi or take them by water into Chicoutimi. In addition to that, they propose to operate a customs smelter and they would expect to draw nickel concentrates from wherever they could get them. There are various nickel properties in Canada that are not controlled by either the International Nickel Company or the Falconbridge mines or by Sherritt-Gordon and they would anticipate getting some of those concentrates. Moreover, an associated company of theirs has a nickel prospect

which is located out in northwestern Ontario in back of Minaki and they feel they will possibly get concentrates from there.

Mr. HAHN: The reason I ask the question is that I want to make it perfectly clear that I am not opposed to building a line from Beattyville to Chibougamau. I realize that is a necessity, but I do not like these dead end lines. I have had two unfortunate experiences with them. Incidentally, they were not Canadian National Railway lines, but it is not good business and I feel if there is a chance to finish the circle that it should be finished.

Mr. BYRNE: I think the over-all development plan is excellent for this particular area and Mr. Fairweather has mentioned that there are possibilities of large flows of zinc concentrates to the St. Lawrence, but do you not think at the present time, Mr. Fairweather, that due to the depressed marketing conditions of zinc there would not be any immediate urge to develop a zinc smelter at that point? That is, there would be no immediate necessity for a continuation of this line so far as zinc is concerned?

Mr. GAUTHIER (*Lac-St.-Jean*): Mr. Chairman, before going to vote I want to clarify my position on this motion. I will vote for the motion because I want to be consistent. Twice in the House of Commons I asked for the immediate construction of that part of the line and I want to say that I have great confidence in the policy of the government and I am sure that this line will begin within a year. I am sure of that.

Mr. GREEN: Could we have an answer to Mr. Byrne's question? He asked a question in which I am very much interested.

Mr. BYRNE: My question was this: does Mr. Fairweather feel there is any immediate need for the development of a zinc smelter at this time due to the present depressed conditions?

The WITNESS: Well now, if you can look at this thing from the point of view of need, the lower the price of zinc goes the more important it is you have a zinc smelter because you will see, if you think it through that the transportation component in transporting the zinc concentrates to the smelter assumes greater proportions as the zinc goes down so if we are to keep the zinc industry alive in Canada it is more important than ever in a period of depressed zinc prices that we have a smelter. Now, we must not confuse that picture, which is a development picture, with the ability to interest private capital at a time when the price of zinc is down, but from the point of view of development the lower the price of zinc goes the more important it is to Canada that we have a zinc smelter.

Mr. BYRNE: I understand that, Mr. Chairman, but I do know at the present time there are large quantities of zinc that have been refined right here in Canada and I do not think a $25 million development would be anticipated at this time so there is no immediate need for a continuation of the railway having full regard to the overall development picture.

The WITNESS: I do not know if I would agree.

Mr. CARTER: I wonder if the Board of Transport Commissioners could tell us where they come into this picture. If we authorize the construction of the full line at both ends will the Board of Transport Commissioners have to authorize it?

The Hon. Mr. CHEVRIER: No, parliament alone authorizes the construction of new lines but once they are discharged they come under the jurisdiction of the Board of Transport Commissioners.

Mr. VILLENEUVE: What annual wood transport would the Canadian National Railways require to justify the building of the section from St. Felicien to Chibougamau immediately?

The Hon. Mr. CHEVRIER: The witness has answered that so often!

The WITNESS: I think I have answered that question and I believe it is very clearly stated in the record. I have stated quite clearly our appraisal of the present situation and all we ask is that our estimated results keep within manageable proportions. That is all we ask.

Mr. BOUCHER (*Restigouche-Madawaska*): There is so much emphasis on the great possibility of the construction of a zinc smelter at Chicoutimi and you said your personal opinion was that the "natural" place to build the zinc smelter was at Chicoutimi. You did not mention any other place; for instance New Brunswick or Gaspe Bay where there is a lot of mining. Would that mean that if you were consulted you would still recommend Chicoutimi in preference to any other place in Canada?

The WITNESS: You know that I am a new Brunswicker by birth!

By Mr. Green:

Q. I am not quite clear concerning Mr. Fairweather's explanation of this potential copper smelter in Chicoutimi. Has that got any further than the talk stage?—A. I of course only have what the interests have told me and what I have read in the press. I would say it has gotten quite a distance beyond the talking stage. I think they are actually laying their plans to build nickel-copper smelter or refinery I guess would be more correct—in Chicoutimi. The location is the old Price Brothers factory right in the centre of Chicoutimi.

Q. In this section there is a provision that the Governor in Council may provide for the construction and completion "in whole or in part" by the Canadian National Railway in this Act called the company prior to the 31st of December, 1964 or such later date as the Governor in Council may fix. Now, have you any other enabling bill which contains those words "in whole or in part"?

Hon. Mr. CHEVRIER: I think that question would be more properly directed at counsel for the Canadian National Railway, Mr. Rosevear.

Mr. ROSEVEAR: Do I understand that you want to know if there is any other legislation using that expression?

Mr. GREEN: Yes.

Mr. ROSEVEAR: That expression is used in the Railway Act and I think I can give you the reference to it. Perhaps you should proceed and I will endeavour to locate it in a moment.

Mr. GREEN: I have here the statutes authorizing the building of the Terrace-Kitimat line, the Sherridon-Lynn Lake line and the line from Barraute to Kiask Falls and in none of those statutes do we find this provision "in whole or in part". I would like to know whether there is any other reference to it in any bill?

Mr. ROSEVEAR: It is referred to in section 153 of the Railway Act. I would have to give you the Act in order to show you the exact wording but the expression "in whole or in part" is used in that section.

Mr. GREEN: What has the Railway Act got to do with this?

Mr. ROSEVEAR: I thought you wanted to know if the expression was used anywhere else in legislation. I looked it up myself when the bill was being drafted and I found that the expression was used in the Railway Act.

Mr. GREEN: But this has to do with authorizing the construction of a railway and has nothing to do whatever with the Railway Act. That is, it sets out that the Governor in Council may authorize the construction of the whole of this line or any part of it. Now, I would like to know whether there is any other enabling statute providing for the building of a branch line which contains that provision?

Mr. ROSEVEAR: At the moment I do not know of any other. I suppose parliament in its wisdom can authorize either the whole or part of the branch line in the same bill, but I do not know of any other branch line bill at the moment where that expression does occur, but I do know it occurs in the Railway Act.

Mr. GREEN: The effect of including that provision in this section is that the Governor in Council need not authorize the construction of the whole of this line? He can authorize construction of only part, is that not correct?

Mr. ROSEVEAR: I think that is correct, and I think that is the point that was made, that the western end would be built first and then the eastern end.

Mr. GREEN: Let us go a step further. Under the terms of this section, the eastern end need not be built at all?

Mr. ROSEVEAR: It need not be built at all.

Mr. GREEN: There would be a compliance with this section 1 if the eastern end of the line were not built at all?

Mr. ROSEVEAR: I would not say that. I would say that is a matter of policy. I would not like to get into that. I am sure that there is every intention to build that part of the line.

Mr. GREEN: I am not asking about the intention. I am asking you whether the government would not be in full compliance with the terms of section 1 if it never authorized the building of this part of the line?

Mr. ROSEVEAR: I think that the answer to that is "Yes", because if no order in council was issued to build it, it would not be built.

Mr. GREEN: And the government would be acting under the terms of this section?

Mr. ROSEVEAR: That is right.

Mr. GREEN: And then there is this provision that the date by which it must be built is set 10 years from this December; in other words, 31st December, 1964. Have you had any other enabling statute which set a time so far ahead as that?

Mr. ROSEVEAR: I do not know of one.

Mr. GREEN: Going back to the Terrace-Kitimat line, I notice it had to be finished by the 1st November, 1954, which meant construction right away.

Hon. Mr. CHEVRIER: It was a short line, about 45 miles, was it not?

Mr. GREEN: The Sherridon-Lynn Lake line had to be built by 1st November, 1953.

Mr. ROSEVEAR: Might I interrupt? The Lynn Lake line had to be built in accordance with the contract made by Sheritt Gordon Mines Limited. It had to be finished by a certain time.

Mr. GREEN: The Lynn Lake statute did not refer to any contract.

Mr. ROSEVEAR: There is a contract by which we had to build the line.

Mr. GREEN: In addition to that it is set out in the statute when the line had to be built?

Mr. ROSEVEAR: That was the date that they undertook to finish it.

Mr. GREEN: The Barraute-Kiask Falls branch line construction had to be finished by 31st December, 1950. I do not suppose the C.N.R. officials are contending that it is going to take 10 years to build this line ?

Hon. Mr. CHEVRIER: But they do not want to come back to parliament.

Mr. GREEN: How long will it take to construct these two—the eastern section and the western?

Hon. Mr. CHEVRIER: Five years?

By Mr. Green:

Q. If the construction were under normal conditions?—A. It is a question as to whether they were built concurrently.

Q. Yes.—A. Then I would think a reasonable prospect would be three years.

Q. That is, if you started to build from both ends. How long would it take to build the western end?—A. About 2½ years.

Hon. Mr. CHEVRIER: May I ask a question?

Mr. GREEN: Yes.

By Hon. Mr. Chevrier:

Q. How long would it take to build the eastern part if you continued from Chibougamau to St. Felicien after that?—A. Adding it to the other?

Q. Yes.—A. About two years.

Q. About 5½ years altogether?

By Mr. Green:

Q. The actual construction of the eastern branch would take how long?—A. About two years.

Q. It could be built more quickly than the western?—A. No, I would not say that. If you were to build it de novo. I realize it is easier to build a railway when you have access at both ends rather than if you have access only at one end, and I allowed in my answer for that condition. If you built them de novo, it would take about the same time, about 2½ years in either case.

Q. That would be the normal time required?—A. That would be accelerated, I would say. Two years and six months, I think, would see a line built, either of them.

Q. So if these were being done in the way in which the other branches were provided by legislation, the year set in the first section of the Act would be, say, 1956 or 1957?—A. Was that a question for me, sir?

Q. Yes.—A. What was your question again?

Q. If this line were to be built in the ordinary way such as the others I have mentioned, the year set in the first section would be 1956 or 1957 rather than 1964?—A. Now, I will have to qualify a little in my answer. The Canadian National Railway is tied up to the construction of the line from Beattyville to Chibougamau by contract. We are under obligation to build that as fast as we can. If we try at the same time to build the line from St. Felicien to Chibougamau, we are going to overstrain our resources and we will delay the construction of the line from Chibougamau to Beattyville. How much that delay would be is a matter for judgment, but I imagine that it would probably be at least six months. But if your question is having regard to the contracts that we have entered into subject, of course, to the approval of parliament, if we should build the St. Felicien-Chibougamau line as quickly as we can, I would say it would probably result in the line in its entirety being built in a matter of about five years.

Q. Not if they were built concurrently?—A. No, but we are under obligation to build the western end as fast as we can. If we are honest people, we cannot take some of our effectiveness and put it somewhere else. We have to live up to our reasonable promises that we made to these people. They said, "We will guarantee you traffic, providing you guarantee to give us a railway as fast as you can", and that is the position we are in. If you say to us that you have to build the line to St. Felicien at the same time you put us in a position where we more or less fall down on our contract with the mines. How much delay it would be is a matter of judgment, but I think there would be some delay.

Q. Would you finish the two of them inside three years?—A. If we built them concurrently and gave special preference to the line from Chibougamau to Beattyville, I would say I do not know. For any figure short of 4½ years, I would have to give it serious thought and consult with the technical officers of the company.

Mr. PURDY: Have you any information on branch line No. 2 for the committee?

Hon. Mr. CHEVRIER: I think that is important and that we should deal with it. You are referring to the Ontario Line. I think we should study it. If the discussion is complete on this Quebec line, then I think we should undertake a discussion of the other line and perhaps we could adjourn with that thought in mind.

Mr. HAHN: In the contract was there any understanding given respecting the completion of the line, or that the contract would not be binding if the two are not built concurrently or anything like that? There is nothing in the contract which says one line must be built before the other?

The WITNESS: The understanding we have is that if they would guarantee the traffic we would build a line as fast as we could.

The CHAIRMAN: We shall now adjourn until 3 o'clock when we will take up the Ontario line.

Mr. NICHOLSON: I thought we had already had quite a long discussion. They have given us a pretty good description and I do not think we would want to hold it up over the week-end. I am agreeable to meeting at 3 o'clock, but could we not dispose of it this morning?

Hon. Mr. CHEVRIER: I would be all for it, if we could dispose of it this morning.

Mr. GREEN: We have got to hear something about the Manitouwadge Lake line; there has not been a word said about it today.

Hon. Mr. CHEVRIER: It is a very profitable line and I do not think there was much discussion about it in the House.

Mr. GREEN: Could we not meet at 3 o'clock?

Hon. Mr. CHEVRIER: Whatever the committee wants. Is it the wish of the committee to go ahead with the Ontario line at this time? I do not think it would take very long.

Mr. GREEN: Do you mean to propose that we sit through the lunch hour?

Hon. Mr. CHEVRIER: I do not think we should, but a discussion of the Ontario line should not take very long.

Mr. GREEN: The bill can not possibly finish by 2 o'clock, even if we do continue to sit now. Why should there be an attempt to put pressure upon us? I cannot understand it.

The CHAIRMAN: Well then, we shall now adjourn until 3 o'clock.

AFTERNOON SESSION

FRIDAY, May 21, 1954.

The CHAIRMAN: Gentlemen, we have a quorum.

I understand now we are going on with the Ontario end of the bill. I will call Mr. Fairweather.

Mr. S. M. Fairweather, Vice President in charge of Research and Development, Canadian National Railways, recalled:

The CHAIRMAN: Are there any other questions.

Mr. GREEN: I think Mr. Fairweather should explain it.

The WITNESS: I have here a map showing the portion of Ontario in which the Manitouwadge mining discovery has been made and also the Canadian National Railway lines. Manitouwadge's discovery was made at a point about 25 miles south of the Canadian Northern line between Hornepayne and Longlac. When we received information about the discovery, as is our usual practice we got in touch with the mining people who were developing the property and as we watched the development of it it became apparent that the Manitouwadge discovery was one of the larger mining discoveries made in this section of Canada. It is a very large ore body of medium grade. It is zinc-copper ore and it is at the present time at that stage where the interests that control it are busy finding out how big a body they have so they can make their plans as to the size of the mill they propose to build and how big a mine they would have and matters of that sort.

We have worked cooperatively with them and as I explained this morning we went to them and asked them what their plans were. They have shown us enough information to convince the Canadian National Railways that this is really a large mine in the making.

This property will, if furnished rail transportation by the branch line for which we are now seeking authority, likely send its copper concentrates to Noranda for smelting. Of course, there can be no certainty of that at this time, but in our discussions with these interests the possibility of their copper being refined at Noranda was taken into account and of course in all of these matters where there is commercial competition Noranda smelters would have to make an attractive proposal to the mining interests. We are anticipating that the copper concentrates would move from Manitouwadge over the proposed branch line to Hillsport, would then move a short distance westward to Longlac, then up to Nakina, and then travel east to Tachereau, and from Tachereau down to Noranda, and from that point the anode copper would move to Montreal for treatment.

We are so satisfied with the size of the property and with the obvious need for transportation that we have decided to ask the government to authorize the construction of this line from Hillsport to Manitouwadge. In addition to the mining discovery at Manitouwadge there are prospects that are being developed. There are indications that there will be more than one mine in that area. Property of that size capable of operating at a tonnage that we were told was at least 4,000 tons of ore a day makes it a foregone conclusion that this line has every prospect of being a profitable branch line. We, of course, have still to negotiate the terms. The mining company does not know exactly yet where it is going to place its shaft or where its mill will be located. But, it is so important that transportation be made available by the time that they decide to go ahead with their mill that we seek authority at this time so that when we have assured

ourselves that the mine has its financing arranged and its plans made we will be in a position to furnish transportation so that the heavy mining machinery and building machinery can move in over the railway.

That is about all, Mr. Chairman, I have to say.

By Mr. Green:

Q. What other metals are produced at that mine?—A. Well, at the present stage you would not call it a mine. It is, let us say, a prospect. The ores are copper, zinc, and they carry some silver. That is all.

Q. Is that characteristic of the mineral bearing ores in that whole district?—A. It is characteristic of one type of them. It is a complex zinc-copper ore with some silver.

Q. Where do you expect the zinc to go?—A. The zinc is a matter that is problematical. Of course, if a zinc smelter is built at Chicoutimi it probably will go to Chicoutimi, but failing that the zinc concentrates would probably move to one of the United States smelters, or possibly they might move out via the St. Lawrence River out to the sea and go overseas.

By Mr. Nicholson:

Q. How far is that from the C.P.R.?—A. The Canadian Pacific line is to the south about 35 or 40 miles.

By Mr. Green:

Q. Is there any talk of the Canadian Pacific building a branch line?—A. I would not know that. I am looking after the Canadian National interest.

The CHAIRMAN: I think if there are no further questions we could hear from the minister.

Hon. Mr. CHEVRIER: I have no statement to make other than what I have already said. Perhaps we could consider the bill clause by clause.

The CHAIRMAN: Clause 1.

1. The Governor in Council may provide for the construction and completion in whole or in part by Canadian National Railway Company (in this Act called "the Company") prior to the 31st day of December, 1964, or such later date as the Governor in Council may fix, of the lines of railway (in this Act called the "railway lines") described in the Schedule and referred to therein as Branch Line Number 1 and Branch Line Number 2.

Mr. GREEN: There is an amendment to clause 1.

The CHAIRMAN: There is an amendment on clause 1.

Hon. Mr. CHEVRIER: I would like to say a word to this amendment if I may. I have looked at the amendment carefully and I feel satisfied, for what my opinion is worth, that it is out of order for the following reasons. First, because it would destroy the first part of the clause. The clause reads:

> The Governor in Council may provide for the construction and completion in whole or in part by Canadian National Railway Company . . . . etc., etc.

In other words, the first part of the clause authorizes the Governor in Council to build the line in whole or in part. The amendment adds, "provided, however, that the construction of section "A" and section "B" of branch line No. 1 shall be undertaken at the same time", so that in the first part of the clause we give the Governor in Council certain powers which are whittled down in the second part.

Then the next reason for its being out of order is that it is inconsistent with the clause as a whole. If the Governor in Council is to have the discretion

to build the line in whole or in part, then he cannot undertake to build both at the same time. Then he does not have the discretion, and therefore it is inconsistent.

The third reason, which I think is fatal to the amendment after the evidence that has been given here this morning is that it will require a greater amount of money to build this line if that amendment is added than it otherwise would, because Mr. Fairweather has clearly said that if you build the two ends at the same time they will cost the Canadian National Railways more money than it will to begin at Beattyville and go to Chibougamau, than to complete that end and begin at the other. So I as minister would have to go back to parliament, if that amendment goes through, and introduce legislation asking for a further commitment of public funds to the extent to which it will cost the Canadian National Railways more money than it otherwise would.

Now, during the recess I consulted with the counsel for the House, who is generally consulted on these matters, and he assures me without any doubt that this amendment is out of order. So for that reason I bring it to the attention of the committee.

Mr. GREEN: Mr. Chairman, I am afraid I cannot agree with the minister that the amendment is out of order, quite apart from the merits of the amendment itself. It is the first time that I have ever heard that it is out of order to try to whittle down the government's powers. That is a new rule for the House and for a committee, and if we cannot do that there is not much use in our being here. Then he says that the amendment is inconsistent with the clause. I suggest that if that is the case it would be dealt with by the way a person votes. If he thinks it is inconsistent he should vote against it, and if I do not think it is perhaps I should vote for it. I really do not think that there is any ground for ruling this amendment out of order on either of those two submissions.

As for the third reason, there again I do not think Mr. Fairweather said very clearly that it would cost more to build from both ends at once. My understanding is that it would be cheaper to build at both ends, and even if it were more expensive that certainly does not prevent this committee from voting for or against an amendment of this type. If the amendment carried, then the government would, of course, have to take the necessary steps in the House, and if the government did not wish to approve the amendment it would presumably be voted down.

Hon. Mr. CHEVRIER: We would still have to go back to the House on a resolution.

Mr. GREEN: There is no harm in a committee going back to the House.

Hon. Mr. CHEVRIER: We would still have to go back to the House on a new resolution.

Mr. GREEN: Incidentally, the minister has in his bill a ceiling of about $7 million over the amount he asked in the resolution. I do not think there is any doubt that that would be far more than would be required to meet any increase in cost. I am still going to ask for an explanation as to how he got the $44 million. It is more than before.

Hon. Mr. CHEVRIER: This would increase it still more.

Mr. GREEN: I think the committee should deal with this question on its merits. May I say that I think that Mr. Fairweather is the one who has not been very consistent, because he started off by saying that this project should be treated as a whole. He is very strongly in favour of the project being treated as a whole. That means a line from Beattyville to St. Felicien. Then he went on to explain that for the present the western end of the line would

pay, that is from Beattyville to Chibougamau. Then he did not think that the other end would pay for the present time, and he expressed the view that the Canadian National Railway wants the eastern end built as a development project, and he went on to explain what he meant by development.

He said he had in mind a zinc smelter at Chicoutimi, and I think that is a splendid objective. I was very pleased to hear him say he expected to have zinc ore or zinc concentrates taken to Chicoutimi over a distance of, I guess, about a thousand miles. That would certainly be a great help for the whole nation of Canada, and he stressed that he thinks that Chicoutimi should be one of the great harbours of Canada, and it is already a national harbour as a matter of fact. He said just a minute ago that he has a great dream of a zinc industry at Chicoutimi. It is certainly going to be nothing but a dream if this branch line is not built from Chibougamau to St. Felicien. I do not believe that there is the slightest chance of any company building a zinc smelter at Chicoutimi if the line is not built from St. Felicien to Chibougamau. I do not believe it will be possible to get anybody to go in there and spend money, $25 million or so, on smelting if this branch line is not going to be built.

With the great power resources of the Lake St. John, Saguenay and Chicoutimi area—I am not sure of this, but I guess perhaps the greatest in the province of Quebec and one of the greatest in Canada—there is a background there for a very large industrial development, of which the zinc smelter would be only a part. Chicoutimi is a seaport. There would be none of this business of going all around hundreds of miles by rail before you get to some other seaport. The Chibougamau area now is tributary to Lake St. John. A highway goes in from Lake St. John and supplies go in that way and ore is coming out that way, I understand, and if there is only one line built, the western section, it is perfectly obvious that Chibougamau will be no longer tributary to the Lake St. John area.

I do think that the two sides of this triangle, that the two lines should at least get away to an equal start. If it turns out that all the business is going to the western branch—and we cannot then do anything about that—but I am afraid that in the way this has been set up to us today there is not the slightest chance of anything getting down to St. Felicien or the Lake St. John, Saguenay, Chicoutimi area.

For those reasons, personally I think that the amendment or some similar plan should be given further consideration and that the project should really be treated as a project and not, as it actually has been treated today, as half a project now and the other half perhaps three years or five years or even ten years from now, and with the bill so drawn it might never be built at all.

Those words in that section to which the minister just referred "in whole or in part" make it very clear that if the government sees fit this eastern branch need never be built at all, and still there would be full compliance with the section.

By Mr. Gagnon:

Q. Mr. Chairman, may I say that the principle of this bill is to build a railway in two sections. It is exactly what I asked in the amendment that I moved and I do not think the timing of the construction of the two sections can make this amendment out of order. I want to know according to what rule you declare it out of order? It does not involve the spending of more money than is already indicated in the bill, and I think we are entitled to know according to what rule you declare this amendment to be out of order. You say

you have spoken to the counsel of the House during the recess. I did that myself—I consulted the authorities and they assured me that my amendment was in good order.

Hon. Mr. CHEVRIER: You did not consult the right authorities, that is the difficulty! However, I think the honourable member is entitled to know why his amendment is out of order and I would ask my parliamentary assistant to deal with the point at issue.

Mr. LANGLOIS (*Gaspe*): Mr. Chairman, speaking to the point of order and in support of what the honourable minister has said, I shall quote from Beauchesne's third edition of parliamentary rules and forms the following citations:

In support of his first argument to the effect that the proposed amendment was a negation of the first part of the clause to which the amendment applies, the minister in making this point of order drew the attention of the committee to the fact that the first part of the clause gave the Governor in Council the discretion of providing for the construction and completion of the project either in whole or in part, while the amendment proposed by the honourable member for Chicoutimi had the effect of directing the Canadian National Railways and the government to build the two sections of that line, the Chibougamau-St. Felicien section and the Chibougamau-Beattyville section at the same time. I shall quote citation number 339 of Beauchesne at page 136 of the third edition of parliamentary rules and forms:

> An amendment proposing a direct negative, though it may be covered up by verbiage, is out of order.

In connection with the contention that the amendment is inconsistent, I wish to quote citation number 344 at pages 136 and 137 of Beauchesne's parliamentary rules and forms, third edition, and I quote:

> 344. It is an imperative rule that every amendment must be relevant to the question on which the amendment is proposed. Every amendment proposed to be made either to a question or to a proposed amendment should be so framed that if agreed to by the House the question or amendment as amended would be intelligible and consistent with itself.
>
> The law on the relevancy of amendments is that if they are on the same subject-matter with the original motion, they are admissible, but not when foreign thereto. The exceptions to this rule are amendments on the question of going into supply or ways and means.

I shall also read part of citation number 346 as contained on page 137 of the third edition of Beauchesne's parliamentary rules and forms:

> The Speaker ruled it out because (a) the portion of the amendment which approved the Agreement was useless as it suggested no change in the main motion, and also, (b), an amendment to disapprove what the main motion approves is nothing but an expanded negative.

Now, as to the contention that the amendment contained in itself a greater commitment, I do not think it is necessary for me to quote standing order number 60 and the relevant sections of the British North America Act dealing with money bills, etc . . . I refer here to section 53 and subsequent sections. From the evidence given this morning by the vice-president of the railway company, it was amply demonstrated that this line between Chibougamau and St. Felicien would incur a yearly deficit of approximately $1 million. Therefore, if we direct the authorities to build this line right away at the same time they build the other section of the line from Beattyville to Chibougamau, we are in fact either asking the Canadian National Railway to

absorb the deficit of $1 million or we are asking the government to introduce at some later stage a resolution to cover the deficit by a subsidy and in that way the amendment contains a greater commitment than that envisaged in the legislation before the committee.

Mr. GREEN: On this point of order, Mr. Chairman, dealing first with the argument that this amendment is a direct negation of the paragraph which it seeks to amend, that obviously is incorrect because if it were true it would say they could not build any line at all.

Mr. LANGLOIS: It is a negation of the discretion.

Mr. GREEN: This amendment does not do that at all. It simply provides that with regard to one of the lines—and remember there are two lines covered by this bill, the one in Ontario as well as the one in Quebec—the amendment simply says in regard to the Quebec line that the two sections must be started at the same time so obviously the amendment is not negative of the paragraph itself.

And then my friend argues that is not relative—

Mr. LANGLOIS: —not consistent.

Mr. GREEN: It is directly relative. It is simply a proviso added on to the paragraph which reads:

> Described in the schedule and referred to therein as branch line number 1 and branch line number 2,

the first one being in Quebec and the second one in Ontario. The amendment simply adds: Provided that construction of (*a*) and (*b*) should be undertaken at the same time. It is simply adding a condition to the construction of the Quebec branch line.

And the third one concerning meaning an increase in money, I now see, since we have heard this argument that what the minister was trying to get at is based on a possible deficit after the line is built.

Hon. Mr. CHEVRIER: I did not even mention that!

Mr. GREEN: That is the argument the parliamentary assistant has made.

Hon. Mr. CHEVRIER: Both arguments are good.

Mr. GREEN: Certainly the argument presented by the parliamentary assistant is completely fallacious, because he is only referring to any possible deficits after the line is built, and that has got nothing to do with the cost of construction of the line. This bill does not pretend to deal with the operating cost but only with the construction of the line. There is set out in the schedule the amount that can be spent: $17 million on each of the eastern and western branches in Quebec, and $1 million—apparently there is to be a common line for a short distance, plus $3,750,000 for the Ontario line; and in addition to that, the bill provides a leeway of 15 per cent, so that a possible loss in operating has not got the remotest connection with this bill. Therefore the amendment cannot be ruled out of order on the ground that the government is going to have to find money to meet a deficit. There may be a deficit on the western line. Nobody knows; or on the Ontario line; and if my friend's argument is correct, the whole "works" may be out of order.

I submit it is ridiculous. I submit that on not one of three points should the chairman rule this amendment out of order; and I hope that he will not rule this amendment out of order on some technicality but just let it be carried to a vote. Let us see how the committee feels about the question. That is the ordinary democratic way of settling these questions, not by having a amendment ruled out of order.

Mr. NICHOLSON: Mr. Chairman, I find myself in a difficult position. I feel that I should protest against this type of legislation. I think that the vice-president has given us a very good case, indicating that one section should be

built. Possibly he should not ask for money for the building of the other section. But I think it is a bad principle for us to build railways by order in council. I think the building of a branch line—particularly one to cost $17 million—is of sufficient importance to go before parliament in a bill; and I would suggest that since at this stage the government does not plan to proceed with one section at this particular time, that that section be withdrawn.

Parliament is very co-operative in providing funds for the Canadian National Railways for any legitimate project; and since the vice-president has made it very clear that construction of this line will not proceed before parliament meets again, I submit that one section could be withdrawn and that legislation could be brought in before it is proposed to proceed with the building of the other section.

Hon. Mr. CHEVRIER: I would have to oppose that suggestion very strongly because the government did not introduce this bill without giving it very careful consideration. And consideration was taken in regard to the advice which we received from the government agency that since a portion of this line was immediately profitable, therefore we should proceed with the immediate construction of it; but that another portion of it might not at this time be profitable, although it might, meanwhile, become profitable as Mr. Fairweather has said. It may be that that would happen within a matter of months or a year; so why should we put the Canadian National Railways in the position of having to come back to parliament to get the authority such as my honourable friend suggests? It might then be that after this line is started, and after construction is begun, an agreement can be entered into with some industrial company or other development that might want to construct a zinc refinery, or some other enterprise; and then what would the vice-president of the railways have to say? He would have to say: I cannot enter into any agreement with you because I have to go back to parliament.

That was the reason why the government, after careful consideration, wanted to put the Canadian National Railways in the position of being able to negotiate an agreement. There is no intention of not building the eastern part of the line. On the contrary, the intention is quite clear and we hope it will be possible to build it soon. That is why we want the authority to do so from parliament.

Mr. NICHOLSON: But it would still result in railways being built by order in council. The whole argument presented by the vice-president this morning was that it was not a feasible proposition now. I think we should not provide for an order in council over a ten year period. I think it is a very bad procedure to be followed. And I think the building of branch lines should come before parliament when there is a proposition. The whole argument of the vice-president this morning was that this was not a feasible proposition. I must register my protest against this step because it would indicate that at some other time we might have another bill which provided for an order in council on a much wider basis.

Mr. LANGLOIS: Speaking to the amendment now, this amendment as proposed may have one of two results. The first one might be that the Canadian National Railways would build the eastern section together with the western one now and incur a deficit of $1 million a year. The other result might be that the Canadian National Railways would wait, and not build the western section until such time that it is assured of sufficient revenue from the eastern section. By voting for this amendment we might then delay the construction of the western section of the proposed line.

Mr. DUMAS: That is it. Now, the question.

Mr. MONTGOMERY: Mr. Chairman, this morning when I listened to the vice-president I could see his point; but the more this has developed the more I cannot see it. I cannot see parliament handing over to the government the

right to decide when, where, and what money is to be spent for a railway. I do not think we should do that. I think there should be a definite proposition put before parliament and that we should be asked to vote on it, either for or against it.

Here we are with an amendment which also bothers me because I do not like to vote for something if I do not know it is going to pay. But at the same time if I do not favour the amendment then I am adopting and approving a principle in this legislation which I oppose. Therefore I think I would have to —if it is ruled out of order, then we do not vote—and personally I am no expert on it. However, I feel that with what little knowledge I have about procedure I cannot follow the parliamentary assistant at all in his argument that this amendment is out of order. It deals directly with the first question; it does not destroy it. It simply asks us to complete what in the first place the Act suggests that they be authorized to do. So I think I would have to vote in favour of the amendment.

Hon. Mr. CHEVRIER: May I remind Mr. Montgomery that I have just walked over and taken the opportunity to look at the former Acts of parliament having to do with the Barraute line, and the Kitimat-Terrace line, and the Lynn lake-Sherridon line which were passed by parliament before the hon. gentleman was here, and when the hon. member for Mackenzie was here, and the wording is exactly the same as in this bill. It reads:

> That the government may provide for the construction of and completion by the Canadian National Railways of such and such a line—

So there is nothing novel in the method by which we are proceeding because it has been done that way for thirty years.

Mr. GREEN: There are two differences, however, in that in the bill now before us we have the words "in whole or in part."

Hon. Mr. CHEVRIER: Yes.

Mr. GREEN: And we have also the potential delay of ten years.

Hon. Mr. CHEVRIER: But that was not the point made. It was said that we should not authorize the government to do this. But we have been doing it that way for thirty years, in authorizing the Governor in Council to begin construction; and the Canadian National Railways cannot begin construction of this line until and unless it is authorized by order in council so to do.

Mr. NICHOLSON: I have no objection to proceeding with the $17 million by order in council. We have had a full discussion, and the vice-president has made out a good case. I have no objection to the wording and that we proceed by order in council; but not with the other section, involving $17 million regarding the construction of a branch line which may or may not be built within the next ten years I think that a matter of that sort should be brought back to parliament before proceeding with the construction.

The CHAIRMAN: After listening to the parliamentary assistant and his explanation of this bill, and to the minister's explanation, I rule that this amendment is out of order and I declare it so to be.

Mr. GAUTHIER (*Lac St. Jean*): Mr. Chairman, before adopting this clause, as I said this morning, it was my intention to vote for the amendment proposed by the member for Chicoutimi because as you will recall I was the first to advocate on the floor of the House and on the outside that the section from Chibougamau to St. Felicien should start in conjunction with the western section.

Mr. GAGNON: You were not the first to speak on that question.

Hon. Mr. CHEVRIER: I think that the honourable member should be courteous enough to listen to what this member has to say.

Mr. GAGNON: You are not the chairman.

Hon. Mr. CHEVRIER: I am not the chairman, but I feel I should rise on a point of order. The honourable member consistently interrupted me in my remarks on this matter in the House. Mr. Gauthier has been very courteous in listening to you, and you should be equally courteous to him when he is speaking now.

Mr. GAUTHIER (*Lac St. Jean*): I was amazed at the member for Chicoutimi putting that amendment forward here because since 1949 I spoke on that question three times in the House of Commons and I was present when two delegates met me in order to meet the Minister of Transport and I might say that the member for Chicoutimi was absent at that time. I never saw the member for Chicoutimi when the delegation came to Ottawa, and since 1949 I never heard the member for Chicoutimi speak on that question, except last week. I wish to go further and I will proceed with my amendment. I have an amendment to propose, Mr. Chairman.

I move, seconded by the honourable member for Roberval, the following amendment to bill No. 442: In clause 1, line five of the bill, delete the words: "or in part". The effect of this amendment, if passed by the committee, will I think, leave some latitude to the Canadian National Railways to assess further the economic possibilities towards the building of the section between Chibougamau and St. Felicien and will assure us that the whole project, including the section between Chibougamau and St. Felicien will be completed in the near future.

Hon. Mr. CHEVRIER: Mr. Chairman, I am afraid I will have to oppose this amendment too, although for different reasons than I have opposed the amendment of the member for Chicoutimi. If you take out the words "or in part" then you are providing for the construction and completion of the whole line, and in view of the statement given by the officer of the Canadian National Railways this morning I do not think we could authorize that. It would be against the government's policy and against the railway's policy, and would mean a greater expenditure of public funds. So, for that reason I think I would have to oppose the amendment.

Mr. GAGNON: To put the record straight I think I should say to my honourable colleague from Lac St. Jean that I was with the delegation which came in here in 1948 to see the Minister of Transport.

Mr. GAUTHIER (*Lac St. Jean*): I find it strange that the member for Chicoutimi since I came here in 1949 never spoke about that question and never came with our delegation. I want to make that straight on the record.

The CHAIRMAN: Shall the amendment carry?

Hon. Mr. CHEVRIER: I have no objection to the legality of the amendment but I am saying that I would have to oppose the amendment for the reasons I gave earlier.

Mr. BOUCHER (*Restigouche-Madawaska*): Although I am not taking part on one side or the other, I must call the attention of the committee to the fact that clause 1 does not limit the time of completion to December, 1964. It says: "Or such later date as the Governor in Council may fix".

The CLERK: (*reads*) Mr. Gauthier, (Lac St. Jean), moves, that clause 1, line 5 of bill 442, be amended by deleting the words "or in part".

Mr. CAMPBELL: On a point of order, the argument made by the parliamentary assistant to the first amendment that there would be a million dollar deficit expected on this branch line would apply to the second amendment.

Hon. Mr. CHEVRIER: If the chairman wants to declare it out of order I am not going to interfere.

The CHAIRMAN: Shall the amendment carry?

Mr. BELL: On this second amendment, I feel "in whole or in part" does not imply that the two railways have to be done at the same time. They do not have to commence simultaneously and therefore I feel that this amendment is different and in order.

The CHAIRMAN: All those in favour of the amendment?

The amendment is lost.

1. The Governor in Council may provide for the construction and completion in whole or in part by Canadian National Railway Company (in this Act called "the Company") prior to the 31st day of December, 1964, or such later date as the Governor in Council may fix, of the lines of railway (in this Act called the "railway lines") described in the Schedule and referred to therein as Branch Line Number 1 and Branch Line Number 2.

Shall the clause carry?
Carried.

Clause 2.

2. The Company shall adopt the principle of competitive bids or tenders in respect of the construction of the railway lines in so far as the Company decides not to perform such work or any part thereof with its own forces, but the Company is not bound to accept the lowest or any bid or tender made or obtained nor precluded from negotiating for better prices or terms.

Mr. BARNETT: On Clause 1 there is one question I would like to ask. I am wondering why that phrase: "or such later date as the Governor in Council may fix" has been included in this. The witness indicated that if the developments that he saw as impossible took place and the line could be constructed in a physical sense in a much shorter time, this Act does allow the railway and the Governor in Council some considerable discretion in the way they carry through with the program which the Act provides. I am wondering if there is any real reason why, if circumstances are such, that at the end of 10 years the project has not been carried through to completion that the railway and the Governor in Council should not then at least bring the matter back to parliament before any further action is decided on it at the end of that time. I am wondering just why when the bill was drafted it was necessary to include that phrase which further extends the powers of the Governor in Council for an indefinite period.

Hon. Mr. CHEVRIER: The reason is it might well be that it would not be possible to construct a line within a period of ten years. I can think of authority which was given to parliament heretofore and because of circumstances over which parliament had no jurisdiction it was not possible to build the line within the stipulated time. I would think that if it were a period substantially beyond the ten year period that perhaps the thing to do would be to come back to parliament. That is the reason which occurs to me at the moment, unless counsel for the railway can add to that paragraph.

Mr. ROSEVEAR: I can only add one other thing, and that is that the thought crossed some of our minds that the unsettled state of the world at the present time might result in our not being able to carry this through when we intended to and therefore we thought we should take a longer period if we need it.

Mr. GREEN: Mr. Chairman, does this difficulty not arise because in the ordinary bill providing for the building of a branch line the date which is inserted is the date at which it is expected that the railway will be completed? Just in case the C.N.R. might not be able to finish it these words were put in, namely, "such later date as the Governor in Council may fix", and so on. But in this particular case we do not have a date fixed which is anywhere near.

We have a date 10 years ahead, which is a completely different situation. I am glad that the member for Comox-Alberni has pointed out that the effect of leaving these words in, "such later date as the Governor in Council may fix", is that the eastern end of the line may be delayed even longer than 10 years. The Governor in Council could hold it off for 15 years under that provision. I doubt whether those words are necessary where the actual date put in the clause is 10 years ahead.

Hon. Mr. CHEVRIER: The reason for the change in this from the other Acts is that the circumstances are different. The circumstances are not the same here as they were in the case of the Kiask Falls line, for instance. We knew where we were going to start and we knew where we were going to end. While that is true here, we are not so positive about the financial success of the line, and for that reason it may be more than 10 years before the region develops in order that the Canadian National Railway may come back to the government and say to the government after 11 years, "We have now found the necessary guarantees and we are going ahead". It is because the circumstances are different that the wording has been different in this Act.

Mr. NICHOLSON: In 10 years the minister may not be here.

Hon. Mr. CHEVRIER: I doubt it very much. Not that I want to leave; I am perfectly happy here.

Mr. NICHOLSON: If this road is not built in 10 years, I think this matter should be brought back to parliament. I think we should not give the Canadian National Railways a blank cheque now that is good for the next 50 years. There is no limitation on this at all, "or such later date as the Governor in Council may fix". I wonder if the minister would not consider striking out this clause and making it mandatory for the proposition to be brought back to parliament in 10 years' time. If it had not been built by then and had to wait 11 years, there would be no serious damage done.

Hon. Mr. CHEVRIER: I cannot agree to having those words stricken out, because careful consideration was given to the matter and they were put in because of these special circumstances.

Mr. NICHOLSON: I still move that these words, "or such later date as the Governor in Council may fix", be struck out in clause 1.

The CHAIRMAN: Those in favour of the amendment to clause 1 signify by holding up their right hands. Those against? The amendment is lost.

Shall the clause carry?

Carried.

Clause 2.

2. The Company shall adopt the principle of competitive bids or tenders in respect of the construction of the railway lines in so far as the Company decides not to perform such work or any part thereof with its own forces, but the Company is not bound to accept the lowest or any bid or tender made or obtained nor precluded from negotiating for better prices or terms.

Mr. PURDY: This has to do with the construction of the railway lines. I think the witness told us that the type of wood in this area being opened up was suitable for pulp. I was going to ask him if he could tell us what type of ties he proposed to use in this railway, what kind of cross-ties?

Mr. HAHN: B.C. fir.

The WITNESS: I do not think that I said that the wood in this area was suitable only for pulpwood. The wood in this area is a mixture of pulpwood and wood suitable for timber. There is hardwood and softwood. So far as the

ties are concerned, the ties that we would use in that territory would be jack-pine ties, and they would be cut in the territory.

The CHAIRMAN: Carried.

Clause 3.
Carried.

Clause 4.

4. Subject to the provisions of this Act and the approval of the Governor in Council, the Company may, in respect of the cost of the construction and completion of the railway lines, or to provide amounts required for the repayment of loans made under section 5, issue notes, obligations, bonds, debentures or other securities (in this Act called "securities"), not exceeding in the aggregate, exclusive of any securities issued to secure loans made under section 5, the sum necessary to provide the Company with the net amount of forty-four million five hundred and sixty-two thousand five hundred dollars, bearing such rates of interest and subject to such other terms and conditions as the Governor in Council may approve.

Mr. GREEN: On clause 4. This is the clause which provides the sum of $44,562,500, although the total in the schedule is, I think, $38,750,000. I am not clear yet as to why this large amount is contained in clause 4. There was some attempt at explanation in the House to the effect that it had been brought about by the reason of the power in clause 3 to exceed the estimates by 15 per cent, but I want to point out to the committee that in these other branch line bills, such as Terrace-Kitimat and Sherridon-Lynn Lake, and I think the other one in Quebec, the amount provided for in the statute was the amount set out in the schedule. In the Lynn Lake extension there was a difference of some $4 million or $5 million that was accounted for by the fact that the Department of Defence Production was paying that amount and parliament did not have to give the authority in the Act. It looks to me as though this clause 4 is wrong, and that it should have $38,750,000 instead of the larger figure.

Hon. Mr. CHEVRIER: When the hon. member for Quadra raised this point in the House, I gave the following explanation, namely, that the estimated amount of expenditure as appears in the schedule of the bill was $38,750,000, and that clause 3 provides that these estimates may be exceeded by not more than 15 per cent, and that if you add 15 per cent to the $38,750,000, you then get $44,562,000, as set out in clause 4. That is the explanation that I thought was the one that should be given. Since then I have inquired, and I am told that that is the explanation, that it may be necessary to go beyond $38 million. It has not been as a rule, with the estimates of the Canadian National Railways, which are fairly close, but in case it should be necessary for the C.N.R. and the government to get authority from parliament to go beyond the $38 million, this is provided, in other words, so that it will not be necessary to come back here. If that is not clear, perhaps we could get further explanation from counsel for the Canadian National Railways, but I think that is the explanation.

Mr. GREEN: I would point out that the Terrace-Kitimat bill is exactly the same in regard to the clause providing for an excess over estimates of 15 per cent, and I think to the amount of money involved. There the Act contains the same figure.

Hon. Mr. CHEVRIER: The same figure, and I suppose that is the same case in the other two bills too.

Mr. GREEN: I think all three are the same. There has been a change made in the type of legislation, and I would like to know why that change is made. What happened to bring about that result?

Mr. ROSEVEAR: We thought that we improved the bill, because the other bills did not actually provide for the 15 per cent. The previous bills did not provide for the 15 per cent.

Mr. GREEN: Yes, they did.

Mr. ROSEVEAR: I may have misunderstood the hon. member, Mr. Chairman, but do I understand that the point is that the 15 per cent was added to the table before, because I do not have that in front of me?

Hon. Mr. CHEVRIER: No, it was not added to the table. The 15 per cent is added to the bill by virtue of a clause.

Mr. ROSEVEAR: I do not know whether I understood the hon. member, Mr. Chairman. Do I understand that in the previous bills the 15 per cent was added in the tables, because I did not understand that was so?

Mr. GREEN: No, I have here the Terrace-Kitimat Act and section 3 reads—and the members can check it—I think it is identical with clause 3 of this bill:

3. Estimates of the mileage, the amount to be expended on the construction and the average expenditure per mile of the respective railway lines are set out in the Schedule, and, except with the approval of the Governor in Council, the Company shall not in performing the work of construction and completion exceed such estimates by more than fifteen per cent.

That is exactly the same as the words you put in clause 3 of the bill we are now considering and the schedule, of course, sets out the total cost of $10 million just as the schedule for this bill sets out a total cost of $38,750,000.

And then, Section 4 of the Terrace-Kitimat Act reads as follows:

> 4. Subject to the provisions of this Act and the approval of the Governor in Council, the company may, in respect of the cost of the construction and completion of the railway line, or to provide amounts required for the repayment of loans made under section five, issue notes, obligations, bonds, debentures or other securities (in this Act called 'securities'), not exceeding in the aggregate, exclusive of any securities issued to secure loans made under section five, the sum of ten million dollars, bearing such rates of interest and subject to such other terms and conditions as the Governor in Council may approve.

Now, I do not see why you bring in this bill in this way. If you had drawn the Kitimat Act as you drew the bill we are considering today you would have had 15 per cent added on to the $10 million. I do not see why you should not have followed the same wording that was followed with the other branch line bills.

Mr. BOUCHER (*Restigouche-Madawaska*): Is there any provision for temporary loans in this bill?

Mr. GREEN: In the following clause.

Hon. Mr. CHEVRIER: Yes.

Mr. GREEN: This is the standard form that has been used in all these bills and the House passed a resolution calling for $38,750,000 and now the bill comes up to $44 million.

Mr. HAHN: According to that Kitimat bill they could not borrow over $10 million—the 15 per cent was included in it?

Mr. GREEN: No, it was not.

Mr. ROSEVEAR: Could I answer that question? We thought, Mr. Chairman, that we had improved the bill because clause 3 provides a leeway of 15 per cent, but it does not provide for the Canadian National Railways obtaining

the money over that 15 per cent; and we thought clause 4 followed logically clause 3 by giving the amount in the schedule plus 15 per cent. That is reason. That is the explanation.

Mr. DUMAS: Carried.

Mr. ROSEVEAR: We think it follows logically after clause 3 because for instance if we were in a position where we needed part or the whole of the 15 per cent how would we get it? There is no authority in the bill for getting it.

Mr. GREEN: There is a provision in the other bills, of course, that the railway cannot go over the estimate without the approval of the Governor in Council, which I think is a very wise precaution, but now you are taking the very maximum and adding on the 15 per cent and getting your authority for it. I think it is a very unwise move for the House to take that step. It is far better to leave it at the amount covered by the resolution. In fact, I think this change is completely out of order. The House passed a resolution for $38,750,000 and now a bill is brought in for $44,562,500, and if that was the intention then the resolution which was put through the House should have provided for $44,562,500 and I suggest that the railway certainly was not hurt in the other three bills by having the estimated figures included in the bill and I suggest we stick to that. Of course, it is up to the minister.

Hon. Mr. CHEVRIER: May I just be allowed to say something here? The only difference between this bill and the other three bills is that in this bill what we have done is to spell out the amount of money estimated to be expended plus 15 per cent. In all the other bills this clause which provides for the expenditure of the money was exactly the same as the amount in the estimate. In other words, where the sum $38,750,000 appears here. If you add up all these amounts the sum $38,750,000 should appear in that clause we are now discussing and all the Canadian National Railways have done here is to spell it out by adding the 15 per cent. Now, I have spoken again, on that point which was raised, to the clerk counsel and he is definitely of the opinion that this is not out of order because the amount is an estimate. It is estimated at $38,750,000; however, if it is going to be of any assistance to the committee, in our anxiety and in order to show that we want to go along with any reasonable suggestion, I have no objection whatever to striking out the figure $44,562,500 and inserting instead $38,750,000. If it will make the committee happy, then let us do it.

Mr. GREEN: I think in the interests of thrift it would be as well to do that. If you have the larger amount set out there it is always a temptation to spend that amount,—that applies to me and everyone else, I suppose.

Mr. HABEL: It applies to you, too.

Mr. DUMAS: I move this amendment: that we replace the figure of $44,562,500 with the figure $38,750,000.

Hon. Mr. CHEVRIER: Mr. Green made the amendment and perhaps in fairness to Mr. Green we should have him move it and have you second it.

Mr. GREEN: I do not come from Quebec.

Hon. Mr. CHEVRIER: I think it would probably please the honourable member if he were to move the amendment and Mr. Dumas were to second it.

The CHAIRMAN: Clause 4 carried as amended.

Clause 5 carried.

Clause 6 carried.

Clause 7 carried.

Clause 8 carried.

Shall the bill carry?

Carried.

Shall the title carry?
Carried.

Shall the bill as amended carry?
Carried.

Shall I report the bill as amended?
Carried.

Mr. NICHOLSON: Do I understand the changes will be made in clause 5 as well as in clause 4 and throughout the bill? I refer, of course, to the change from $44,562,500 to $38,750,000. Will the change be made throughout the bill in the appropriate places?

Mr. GREEN: I think it appears only in the one clause.

Mr. NICHOLSON: It appears, I believe, in clause 5 too.

Hon. Mr. CHEVRIER: Yes, the change should be made in clause 5 as well.

Mr. DUMAS: Mr. Chairman, we had the pleasure this morning of having with us Mr. Fairweather again. Mr. Fairweather is vice-president of the Canadian National Railways and he has been an able counsel to our national system. Therefore I move a vote of thanks to Mr. Fairweather.

Mr. GREEN: I would like to second the motion, Mr. Chairman. It is always a very happy occasion for us to have Mr. Fairweather here and I particularly appreciate his forward-looking view of this whole development.

Mr. DUMAS: And we also extend our thanks to the other officers of the Canadian National Railways.

HOUSE OF COMMONS

First Session—Twenty-second Parliament

1953-1954

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman—H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

Bill No. 421 (Letter I-13 of the Senate),

An Act to amend the National Harbours Board Act.

WEDNESDAY, MAY 26, 1954

MONDAY, MAY 31, 1954

WITNESSES:

Mr. John F. Finlay, Legal Adviser, National Harbours Board; Mr. Jean Brisset, Q.C., of Montreal, representing the Shipping Federation of Canada and the Vancouver Chamber of Shipping.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954.

ORDERS OF REFERENCE

MONDAY, May 24, 1954.

Ordered,—That the following Bill be referred to the said Committee:

Bill No. 421 (Letter I-13 of the Senate), intituled: "An Act to amend the National Harbours Board Act".

TUESDAY, May 25, 1954.

Ordered,—That the name of Mr. Winch be substituted for that of Mr. Ellis on the said Committee.

WEDNESDAY, May 26, 1954.

Ordered,—That the name of Mr. Cardin be substituted for that of Mr. Dupuis; and

That the name of Mr. Breton be substituted for that of Mr. Richard (*Saint-Maurice-Lafleche*) on the said Committee.

Attest.

LEON J. RAYMOND
Clerk of the House

REPORT TO THE HOUSE

TUESDAY, June 1, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as its

EIGHTH REPORT

Your Committee has considered Bill No. 421 (Letter I-13 of the Senate), intituled: "An Act to amend the National Harbours Board Act", and has agreed to report the said bill with the following amendments:

1. Page 1, Clause 1, line 9: after the word "charterer" insert the words *by demise;*

2. Page 2, Clause 3, line 11: delete the word "fifty" and substitute therefor the words *twenty-five;*

3. Page 2, Clause 3, line 26: delete the word "fifty" and substitute therefor the words *twenty-five;*

4. Page 4, Clause 8, delete lines 29 to 41 inclusive and substitute therefor the following:

(b) *property under the administration of the Board has been damaged by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of his superior officers;*

(c) *obstruction to the performance of any duty or function of the Board or its officers or employees has been made or offered by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of a superior officer, as a result of which obstruction damage or other loss has been substained by the Board;*

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5. Page 4, Clause 8, line 42: after the word "has" insert the following words:

in respect of the vessel;

6. Page 6, Clause 9, lines 31 and 32: delete the words "by the owner of the goods" and substitute therefor the following:

by the person in whom title to such goods is vested.

A copy of the evidence adduced in appended.

All of which is respectfully submitted.

H. B. McCULLOCH,
Chairman.

MINUTES OF PROCEEDINGS

WEDNESDAY, May 26, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines met at 3.30 o'clock p.m. this day.

Members present: Messrs. Bell, Bonnier, Boucher (*Restigouche-Madawaska*), Breton, Byrne, Campbell, Cardin, Carter, Conacher, Deschatelets, Dumas, Gagnon, Garland, Gauthier (*Lac St. Jean*), Gourd (*Chapleau*), Green, Habel, Harrison, Healy, Hodgson, Holowach, Hosking, James, Lafontaine, Langlois (*Gaspé*), McIvor, Montgomery, Murphy (*Westmorland*), Murphy (*Lambton West*), Nicholson, Stanton, Villeneuve and Winch.

In attendance: Mr. R. K. Smith, Q.C., Chairman, Mr. M. A. Archer, Vice-Chairman, Mr. John F. Finlay, Legal Adviser, all of National Harbours Board, and Mr. Jean Brisset, Q.C., representing the Shipping Federation of Canada and the Vancouver Chamber of Shipping.

The Clerk informed the Committee that the Chairman, Mr. Henry B. McCulloch, and the Vice-Chairman, Mr. H. P. Cavers, were unavoidably absent, and attended to the election of a Chairman *pro tem.*

On motion of Mr. Langlois (*Gaspé*).

Resolved,—That Mr. Byrne be Chairman *pro tem.*

Mr. Byrne assumed the Chair.

The Committee proceeded with the consideration of Bill No. 421 (Letter I-13 of the Senate), intituled: "An Act to amend the National Harbours Board Act".

Mr. Langlois made a statement in explanation of the changes contemplated in the existing Act as set out in the Bill under consideration.

Mr. Brisset was heard in opposition to certain clauses of the said Bill.

Mr. Finlay was also called and made a statement on the proposed amendments to the existing Act as set out in the Bill under consideration and was examined thereon.

At 4.25 o'clock p.m., the division bells having rung, the Committee proceeded to the House.

At 5.50 o'clock p.m., a quorum having again assembled, the Committee continued with the examination of Mr. Finlay.

Members present: Messrs. Bell, Bonnier, Boucher (*Restigouche-Madawaska*), Breton, Byrne, Campbell, Cardin, Carter, Conacher, Gagnon, Gauthier (*Lac St. Jean*), Gourd (*Chapleau*), Green Habel, Healy, Hodgson, James, Lafontaine, Langlois (*Gaspé*), Montgomery, Murphy (*Westmorland*), Murphy (*Lambton West*), Nicholson, Small, Stanton, Villeneuve and Winch.

Mr. Brisset was further examined.

At 6.10 o'clock p.m., the examination of the witnesses still continuing, the Committee adjourned to the call of the Chair.

R. J. GRATRIX,
Clerk of the Committee.

MONDAY, May 31, 1954.

The Standing Committee on Railways, Canals and Telegraph Lines met at 2.30 o'clock p.m. this day. Mr. H. B. McCulloch, Chairman, presided.

Members present: Messrs, Bell, Carter, Cavers, Deschatelets, Dumas, Gagnon, Gourd (*Chapleau*), Green, Habel, Hodgson, Hosking, Lafontaine, Langlois, (*Gaspé*), McIvor, Nicholson, Purdy, Viau, Winch and Wood.

In attendance: Mr. R. K. Smith, Q.C., Chairman, Mr. M. A. Archer, Vice-Chairman, Mr. John F. Finlay, Legal Adviser, all of National Harbours Board, and Mr. Jean Brisset, Q.C., representing the Shipping Federation of Canada and the Vancouver Chamber of Shipping.

The Committee resumed consideration of Bill No. 421 (Letter I-13 of the Senate), intituled: "An Act to amend the National Harbours Board Act".

On motion of Mr. Langlois (*Gaspé*).

Ordered,—That the Committee print 500 copies in English and 200 copies in French of the minutes of proceedings and evidence adduced in respect of Bill No. 421.

Clause 1 was called and after discussion Mr. Winch moved,

That Clause 1, subclause 1 where it relates to the proposed new paragraph (*ea*) to Section 2 of the existing Act, be amended by adding after the word "charterer" in the second line thereof the words *by demise.*

At 3.05 o'clock p.m., the division bells having rung, the Committee proceeded to the House.

At 3.20 o'clock p.m., a quorum having again assembled, the Committee resumed consideration of Clause 1 and the amendment thereto by Mr. Winch.

Members present: Messrs. Bell, Campbell, Carter, Cavers, Deschatelets, Decore, Dumas, Gauthier (*Lac St. Jean*), Gourd (*Chapleau*), Green, Habel, Harrison, Hodgson, Hosking, Lafontaine, Langlois (*Gaspe*), McIvor, Nicholson, Purdy, Winch and Wood.

Messrs. Brisset and Finlay were recalled and further examined on the proposed amendment to Clause 1.

At 4.20 c'clock p.m., the division bells having rung, the Committee proceeded to the House.

At 4.40 o'clock p.m., a quorum having again assembled, the Committee continued with the consideration of Clause 1 and the amendment thereto by Mr. Winch.

Members present: Messrs. Bell, Campbell, Carter, Cavers, Deschatelets, Dumas, Gauthier (*Lac St. Jean*), Gourd (*Chapleau*), Green, Habel, Hodgson, Hosking, Howe (*Wellington-Huron*), Lafontaine, Langlois (*Gaspe*), McIvor, Nicholson, Purdy and Winch.

The question on Mr. Winch's amendment, having been proposed, was agreed to.

Thereupon Mr. Green moved,

That Clause 1, subclause 1, where it relates to the proposed new paragraph (*ea*) to Section 2 of the existing Act be amended by deleting the word "agent" in the first line thereof.

After discussion, and the question having been put, the said amendment was resolved in the negative.

Clause 1, as amended, was considered and adopted.

Clause 2 was considered and adopted.

On Clause 3 Mr. Winch moved,

> That Clause 3, relating to the proposed new Section 4 A, Subsection (1) of the existing Act, be amended by deleting the word "fifty" where it appears in line eleven on page 2 of the bill and substituting therefor the word *five*.

Thereupon Mr. Cavers moved,

> That the said amendment be amended by deleting the word "five" therein and substituting therefor the words *twenty-five*.

After discussion, and the question having been put, the said amendment to the amendment was resolved in the affirmative.

Thereupon Mr. Green moved,

> That the amendment be further amended by deleting words "twenty-five" and substituting therefor the words *one quarter of a mile*.

After discussion, and the question having been put, the said amendment to the amendment was resolved in the negative.

Mr. Cavers then moved,

> That Clause 3, page 2, relating to the proposed new Section 4A, subsection (2) of the existing Act, be amended by deleting the word "fifty" where it appears in line 26, and substituting therefor the words *twenty-five*.

After discussion, and the question having been put, the said amendment was resolved in the affirmative.

Clause 3, as amended, was considered and adopted.

Clauses 4 and 5 were considered and adopted.

At 6.05 o'clock p.m., a discussion arising on Clause 6, the Committee adjourned to meet again at 8.00 o'clock p.m. this day.

EVENING SITTING

The Committee resumed at 8.00 o'clock p.m. Mr. H. B. McCulloch, Chairman, presided.

Members present: Messrs. Bell, Campbell, Carter, Cavers, Deschatelets, Dumas, Gauthier (*Lac St. Jean*), Gourd (*Chapleau*), Green, Habel, Hahn, Harrison, Hodgson, Hosking, Howe (*Wellington-Huron*), James, Lafontaine, Langlois (*Gaspe*), McIvor, Nicholson, Purdy, Viau, Villeneuve, Winch and Wood.

In attendance: Same as at morning sitting.

Clause 6 was further considered and adopted.

Clause 7 was considered and adopted.

On Clause 8 Mr. Winch moved,

That paragraphs (*b*) and (*c*) of the proposed new Section 16 subsection (1) to the existing Act be deleted and the following substituted therefor:

(*b*) *property under the administration of the Board has been damaged by the vessel or through the fault of negligence of a member of the crew thereof acting in the course of his employment or under the orders of his superior officers;*

(*c*) *obstruction to the performance of any duty or function of the Board or its officers or employees has been made or offered by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of a superior officer, as a result of which obstruction damage or other loss has been sustained by the Board;*

After discussion, and the question having been put, the said amendment was resolved in the affirmative.

Thereupon Mr. Dumas moved,

That paragraph (*d*) of the proposed new Section 16, subsection (1) to the existing Act, be amended by inserting after the word "has" in the first line of the said paragraph the following words:
in respect of the vessel.

After discussion, and the question having been put, the said amendment was resolved in the affirmative.

Thereupon Mr. Green moved,

That the proposed new Section 16, subsection (1) of the existing Act be amended by deleting the words "in the opinion of the Board" where they appear in the third line thereof.

After discussion, and the question having been put, the said amendment was resolved in the negative.

Clause 8, as amended, was considered and adopted.

On Clause 9 Mr. Green moved,

That the proposed new Section 17, subsection (2) of the existing Act be amended by deleting the words "in the opnion of the Board" where they appear in the second and third lines thereof.

After discussion, and the question having been put, the said amendment was resolved in the negative.

Thereupon Mr. Lafontaine moved,

That paragraph (*c*) of subsection (2) of the proposed new Section 17 to the existing Act be amended by deleting the words "by the owner of the goods" where they appear in the second and third lines of the said paragraph and substituting therefor
by the person in whom title to such goods is vested.

After discussion, and the question having been put, the said amendment was resolved in the affirmative.

Clauses 10 to 14 inclusive and the Title were severally considered and adopted.

The Bill, as amended, was adopted and the Chairman ordered to report it to the House forthwith.

During the course of the proceedings, Messrs. Brisset and Finlay were further examined.

At 10.05 o'clock p.m., the Committee adjourned to meet again at the call of the Chair.

R. J. GRATRIX,
Clerk of the Committee.

EVIDENCE

MAY 26, 1954.
3.30 p.m.

The CLERK: Gentlemen, there is a quorum, Mr. McCulloch, and the vice-chairman, Mr. Cavers, are unavoidably absent today, and I would ask you to elect a chairman pro tem.

Mr. LANGLOIS (*Gaspé*): May I move, seconded by Mr. Gourd (*Chapleau*), that Mr. Byrne be appointed chairman pro tem?

The CLERK: Are there any other nominations? It has been moved and seconded that Mr. Byrne be acting chairman. Those in favour? Opposed, if any?

The motion is carried unanimously.

The ACTING CHAIRMAN: Thank you, gentlemen, for honouring me on this occasion. I am certainly humbled in attempting to replace the venerable member for Pictou and I ask your indulgence on this my first attempt to act as chairman.

We have a quorum, and I will now declare the meeting of this committee on Railways, Canals and Telegraph Lines open, and we will consider Bill 421, an Act to amend the National Harbours Board Act. We should have a general discussion and I would like to ask the parliamentary assistant to the Minister of Transport for a short statement.

Mr. LANGLOIS (Gaspé): Mr. Chairman and gentlemen, may I be first permitted to introduce to you the representatives of the National Harbours Board who are in attendance here this afternoon. On my right we have the chairman, Mr. R. K. Smith, the vice-chairman Brigadier Maurice Archer and Mr. J. F. Finlay, counsel for the board. These gentlemen are here at your disposal to supply any information or explanations that you may wish to have in connection with the proposed bill which is presently before you for study. I do not wish to delay the proceedings of the committee by making a lengthy statement, considering the fact that I have already made a series of comprehensive remarks in the House when the bill came up for second reading the other day. I wish, however, to repeat that a good many of the proposed amendments are put forward as a result of the experience acquired through some 18 years of operation of the National Harbours Board; that is, since its inception in 1936. I must also remind you, gentlemen, that the National Harbours Board Act has never been amended since 1936 with the exception of one slight amendment in 1938 which merely granted the board the power to sue and be sued in its own name in tort. Many of the proposed amendments are what we might call routine amendments. These are amendments for the purpose of clarification or placing in a more logical place within the Act some of the existing sections of the Act.

A few days ago representations were received from the Shipping Federation of Canada regarding the proposed legislation and I am informed that a request has been made to the secretary of this committee for the Shipping Federation of Canada to appear before you, gentlemen, and express their views on certain features of the proposed bill. We have here today counsel for the Shipping Federation of Canada, Mr. Brisset of the firm of Beauregard, Brisset and Reycroft. This gentleman is here, but he can be heard only if the committee so wishes. If I may make a suggestion in this respect, leaving

the final decision in the hands of the committee, may I suggest that we first hear the representations that Mr. Brisset wishes to make on behalf of the Shipping Federation of Canada and after he has done so, if the committee so wishes, we might perhaps hear counsel for the board who might give some information to the committee regarding the position of the board in relation to the representations to be made by Mr. Brisset. This is, of course, only a suggestion, and the decision rests with the committee.

Mr. GREEN: Has the chairman of the board any submission to make himself?

Mr. LANGLOIS: The echairman of the board may speak if the committee wishes him to do so, but I think Mr. Smith is quite of the opinion that the statement I made in the House is a very comprehensive one and there is very little he could add to it in a general way about the legislation which is proposed, but this does not prevent any member of the committee who has questions to ask from questioning Mr. Smith or any other representatives of the board who are in attendance.

The ACTING CHAIRMAN: Does this suggested procedure meet with the wishes of the committee?

Agreed.

The ACTING CHAIRMAN: Mr. Brisset?

Mr. BRISSET: Mr. Chairman and gentlemen, as Mr. Langlois has just said I am instructed to appear before you on behalf of the Shipping Federation of Canada and also on behalf of the Vancouver Chamber of Shipping. As you may know, the two associations represent the majority of ship owners and ship operators both on the east and the west coasts.

Mr. NICHOLSON: How about the north—Churchill? Have you any instructions?

Mr. BRISSET: I have no instructions from Churchill but I am quite sure whatever remarks I might make with respect to operations on the east or west coast will equally apply to Churchill. Both associations feel very strongly that certain of the amendments that are now before the House and the committee will have very serious consequences in that they enlarge the liabilities of ship owners and operators and all those who make use of the facilities of the national harbours of Canada. Our criticism is directed mostly against two sections of the Act. These two sections are sections 2e (ea).

Mr. NICHOLSON: Repeat that again please?

Mr. LANGLOIS (*Gaspé*): You mean clauses of the bill and not sections of the Act?

Mr. BRISSET: Of the bill before the House. That is the section which defines the word "owner". The other section is the one that purports to amend section 16 of the present Act and which is clause 8 of bill 113.

Mr. NICHOLSON: Would you mind giving the page and the line?

Mr. BRISSET: The first one is on page one of the old bill. It is section 1 where it is said: "Section 2 of the National Harbours Board Act, chapter 187 of the Revised Statutes of Canada, 1952, is amended by adding thereto, immediately after paragraph (e) thereof, the following paragraph:

> (ea) "owner" includes, in the case of a vessel, the agent, charterer or master of the vessel, and, in the case of goods, the agent, sender, consignee or bailee of the goods, as well as the carrier of such goods to, upon, over or from any property under the administration or jurisdiction of the Board.

I am only here to represent vessel owners, operators, agents and so forth, and, therefore, my criticism is directed against the first part of the definition wherein it is purported to define the owner of a vessel as including the agent, charterer or master of the vessel.

The other is to be found on page 4 of the bill, section B wherein it is provided that section 16 is repealed and the following substituted therefor, (16) (1) and so forth. I do not propose to read at this time the whole of the section. I have prepared for easy reference a comparison rather in brief form, a comparison between the former section of the Act, article 16, and the new sections which include 2e (ea) and section 16, and if the committee so wish I could distribute those.

The ACTING CHAIRMAN: If you have sufficient copies.

Mr. BRISSET: I think I have sufficient copies.

The ACTING CHAIRMAN: Is that agreeable?

Agreed.

Mr. BRISSET: I might explain that this brief has already been submitted to the National Harbours Board at their request after representations were made to them verbally.

Mr. BELL: Was this before or after this bill? I presume you made your brief after you learned what is in the bill?

Mr. BRISSET: Yes, after we learned of the amendments that were sought to be presented to the House.

Mr. LANGLOIS: After the bill was passed by the Senate.

First of all, I want to draw the attention of the committee to the fact that in the present Act there was no section corresponding to 2 (*e*) (*ea*): the definition of the word "owner". And secondly, in order to shorten the procedure, I would like to refer the committee to subsection (*b*) of the new section 16 (1). 16 (1) starts as the old section did, that the Board could seize any vessel within the territorial waters of Canada in any case where— and so forth. In the section there has been added the words "in the opinion of the board". I will not comment on this for the time being.

I will refer the committee right away to section (*b*) to which section (*c*) of the present Act corresponds. A new section (*b*) reads as follows: "Property under the administration of the board has been damaged through the fault or negligence of the owner of the vessel or a member of the crew thereof acting in the course of his employment or under the orders of a superior officer." What is to be noted first is the word "owner" that we find in that subsection (*b*) and the word "owner" is defined now in section 2*e* (*ea*) as the agents—not only the owner—but the agent, the charterer and master of the vessel. It is that definition which we think—or respectfully submit—greatly enlarges the liabilities of ship operators and ship owners and we will say to such an extent that it can have very serious consequences and create great injustice. Under the present Act the board was given the procedural right to seize a vessel in two circumstances: the first, if injury was done by the vessel to board property; and secondly, if injury was done by default or neglect of the crew while acting as the crew. It is a well known principle of maritime law that the right to seize a vessel is only given—and I refer to the Admiralty Act in this respect—is only given when damage is done to property by the vessel as the noxious instrument of the damage. That has been so for centuries.

Now, what is the result of the amendment? We have gone a long way from the idea of giving the procedural right of seizing the vessel when damage is done by it, and we now find under the amendment the seizural right will exist as a result of the amendment I have drawn your attention to earlier in

five different cases: first of all if the damage is done through the fault or negligence of the owner of the vessel which is quite proper and I do not criticize this part; secondly if the damage is done through the fault or negligence of the agent of the vessel; thirdly if the damage is done through the fault or negligence of the charterer of the vessel; fourthly, if the damage is done through the fault or negligence of the master of the vessel. There, again, I do not think one can criticize this provision. Fifthly, if the damage is done through the fault or negligence of the crew of the vessel acting in the course of their employment or on the orders of their superior officers. There, again, the rule of respondiat superior should apply, and there is no criticism directed against this provision.

The two provisions that we most strenuously oppose are the right to seize a vessel for damage done by the negligence of an agent and for damage done by the negligence of a charterer, because in either of these two cases the vessel owner may have had nothing to do with the act complained of. The vessel herself might be entirely unconnected with the damage done; the vessel might be out to sea or in Japan as far as we know, and there is no reason to make a vessel liable to seizure when she arrives in a harbour in Canada because the agent of that vessel has committed some negligence that has caused damage to the board's property. The right of seizure is a very serious remedy, so serious that in a good many maritime countries of the world now—and I refer particularly to France, Belgium and Italy—whenever a ship is seized in one of the ports of these countries the party seizing, if his claim is found unfounded, will be liable to pay a minimum of four days' detention, whether the ship was detained at all or not through the seizure, and four days' detention or demurrage of the vessel means a penalty ranging from $6,000 to $15,000 altogether. This shows the serious view that is taken in maritime countries of the right to seize.

Now, there is more, and I revert to the brief that is before you. The amendment says, "the agent of the vessel". These are the words used, but nowhere is there a definition of this expressoin, "the agent of the vessel". Therefore we must understand by it what is commonly known in marine circles as the vessel agent or husbanding agent. A vessel agent or a husbanding agent is in no way the representative of the owner of the vessel. He is simply, to use the expression I have coined for this purpose, a co-ordinator of services. When a vessel comes into a port, an agent will be appointed whose duties will be to make arrangements with the stevedores to load and discharge the ship, with the shipping master to sign on or sign off a crew, with the oil merchant to fill in the ship's bunkers, and with the customs officer to clear the vessel. He does that for a modest fee, and I will say to the committee that the usual fee is about $200 for these services, and I do not think an agent ever considers the possibility that he would be held liable, say, if the ship coming into the harbour should collide with some of the installations, say a wharf. The right to seize before existed only if the vessel was the instrument of the damage, and I repeat this is the way it should be and has always been. The result of this definition is very far-reaching, because it makes the ship or vessel owner liable for the agent and the charterer, and it also plays in such a way as to make the owner liable for the agent and the charterer. Let us take the case of a charterer. The amendment that is sought before this House does not define the charterer. There are many types of charterers in marine parlance. You may have a voyage charterer; you may have a time charterer; and you may have a demise charterer. The demise charterer is the one who operates the vessel, furnishes a crew, and he is really in the shoes of the owner, and there is no objection to making him liable for the damage that might be done by the vessel or by the crew, because the crew are his servants, and the vessel

is for all practical purposes his property. The case is quite different when you deal with a time charterer or a voyage charterer. The time charterer or voyage charterer is simply a shipper, but instead of shipping only one parcel of goods will ship enough to fill a ship, either his cargo or the cargo of others, but he has no control over the navigation of the vessel; he has no control over the crew, and has no connection at all in so far as the negligence of the crew might be concerned with the vessel's operation. Now, in this case, let us assume that a Canadian charterer were to charter a foreign vessel, and that this vessel would come here in one of our ports and cause damage to board property. Under the amendment, you will find the charterer liable for such damage. I can assure you that a charterer will not carry insurance to cover such a liability, and I doubt whether he could even get insurance for such a liability in the market. I know of no type of insurance that would cover such a risk, because the operation of the vessel is none of the business of the charterer at all. I am speaking of the case of the voyage or time charterer.

I have in the brief given an illustration to show, with all due respect to my friends here, how illogical the provisions could be, and the illustration I have chosen is this one. Let us assume that a charterer has a truck which he uses to take his goods, that have been discharged from the ship, from the dock to his own warehouse, and let us assume that his truck, while within board property, caused damage to, say, another truck or some installation of the board. Then the ship would be liable for arrest. I think this is a situation that will show how illogical this provision would be if it were allowed to stay as presently drafted. The same illustration could be given in the case of an agent. We have many agents in our ports. They have access to board property. They use trucks to move goods in and out of the limits of the harbours and if in doing so they cause damage to board property the vessel can be arrested. The crew of the vessel has nothing to do with this operation at all, nor the owner of the vessel. I am sure that it will be pointed out by the legal adviser to the board, as it has been pointed out to us earlier, that the present section gave the same right to the board.

I must very strongly—although respectfully—disagree with this, and I would like to refer this committee to section 16, subsection 2 of the present Act which reads as follows:

> (2) In a case coming within paragraphs (*c*) or (*d*) of subsection (1), the vessel may be seized and detained until the injury so done has been repaired and until all damages thereby directly or indirectly caused to the Board (including the expense of following, searching for, discovery and seizing of such vessel) have been paid to or security for such payment accepted by the Board; and for the amount of all such injury, damages, expenses and costs, the Board has a preferential lien upon the vessel and upon the proceeds thereof until payment has been made or adequate security has been given for such damages, whether direct or indirect, and for the amount of all such injury, damages, expenses and costs as may be awarded in any suit resulting therefrom, and the owner, charterer, master or agent of such vessel is also liable to the Board for all such injury, damages, expenses and costs.

So, after having giving the procedural right to seize, the law provides that the owner, charterer, master, or agent is also liable. It is substantive law that the owner be liable for damages done by the vessel and we must not forget that the right to seize only exists if the damage is done by the vessel or was caused by the crew, not by the agent or charterer.

I submit that it is perfectly legitimate to provide that the owner will be liable. I think one can question the logic of making the charterer or the agent

also liable. And I submit to you, gentlemen, that this provision from a practical point of view has really no consequence at all because of the way things operate; and I will explain that briefly.

Let us assume that a ship in docking at a wharf will hit the wharf and cause damage. The board has the procedural right to seize that vessel and will, in practice—the 18 years the Act has been in force proves it—move to seize that vessel.

Now, that vessel normally is insured, and I would say that in the case of a commercial vessel, it is always insured.

Immediately the right to seize is exercised, or notice is given that the vessel will be seized, the vessel owner, through his agent or insurance company will immediately contact the underwriters, and the underwriters will immediately, through their agent, put up what we call "bail" or security to guarantee that the vessel will be released and not detained.

Well, immediately the board has notice of security for its claim, and having security for its claim either in cash or in the form of a bond from an insurance company, it has no reason to go against the agent or the charterer and never has done so in the eighteen years the Act has been in force.

But I will go a little further. I will say that if the board, under the present Act, were to fail to seize a vessel either by negligence, oversight, or for any other reason, then, after the vessel has left, if it attempts to sue the agent, the Canadian agent or the Canadian charterer, I will say that the Canadian agent or the Canadian charterer can plead that his position has been prejudiced by the failure of the board to act and to seize the vessel. And it should not be forgotten that the agent has no right to seize because of possible liability he might incur if the board goes against him later on.

I will say this: that the agent and the charterer have the right to plead that they have been prejudiced and that the recourse against the agent and the charterer is only a secondary recourse, and a close scrutiny of the provisions of the Act, I submit, prove it, because the words used in the present Act referring to the owner-charterer being also liable to the board, are these:

> "For such injuries, damages, expenses and costs."

The "expenses", of course, refer to the expenses of seizing the vessel and the "costs" mean the legal costs incurred in the action following seizure. Therefore, the Act as it reads now foresaw that the primary recourse would be exercised.

Now, the amendment is quite different, and I would refer the committee to subsection 7 of section 16 which starts with these words:

> (7) Whether or not all or any of the rights of the board under this section are exercised by the board, the board may, in any case described in subsection (1), proceed against the owner of the vessel in any court of competent jurisdiction for the amount owing to the board (or for the balance thereof in the event of any sale contemplated by subsection (3)) and may also exercise against the owner of the vessel any other right or remedy available to the board at law.

The important words are "whether or not all or any of the rights of the board under this section are exercised..."

And that means, if I may paraphrase it, whether or not the board exercises its lien against the vessel and seizes the vessel, it will still have recourse against the agent and the charterer.

Therefore, we have done away entirely with the idea of exercising primary recourse against the vessel. The serious consequence which I want to place before this committee with respect to this section are these: let us assume a foreign ship comes in to one of our ports, and that she damages board property, and no steps are taken to seize her.

She leaves port. But some time later a claim is made against the agent who has acted for her while she was here, getting a modest fee of $200 to do it.

He may be faced with a liability of thousands of dollars, and we have seen cases where extensive damage and extensive claims have arisen as a result of damage caused by a ship to harbour installations.

The agent will be faced with this liability and with no way of catching up with the ship which is now out of the jurisdiction, and with no insurance to cover him because the liability insurance which a ship agent carries is only to cover his liability arising out of his operations as an agent, and not arising out of the navigation of the ship over which he has no control.

The same thing would happen to the charterer. We have firms in Canada which do charter a large number of vessels. I know of one firm in particular which has some 50 or 60 vessels under charter—under time charter, I mean—and I think it would be unfair to place upon this Canadian firm the burden of assuming liability for all damage which may be done within harbour limits by all the foreign vessels which are under charter to it.

These foreign vessels are covered by insurance, but the Canadian charterer would not be so covered.

I was explaining earlier that a shipowner now would not be covered by his insurance for damage done to board property by the agent or the charterer. I do not want to deal at too great length with marine insurance. I am sure that the committee knows there are two types of insurance which a shipowner carriers; one is called "hull and machinery insurance"; that covers him for damage done to his vessel and for damage done by his vessel to other vessels. And there is also what is called the protection and indemnity insurance which is a liability insurance covering the vessel owner against various liabilities that may accrue in the course of his operations; for instance, workmen's compensation claims, liability for damage to cargo, liability for injury to passengers on board ship or people ashore who might be injured by the vessel or its equipment. Let us take first of all hull and machinery insurance. That covers liability for collision with another vessel. Let us suppose the vessel comes into collision within harbour limits with a craft belonging to the harbour board. That risk will be covered by the hull policy, the risk of liability to the board, but the charterer of the ship or the agent of the ship will not be covered under that policy and will have no recourse against the vessel—that might be Norwegian, Swedish, British or American. I do not want to give to the committee too many illustrations, but dozens and scores of illustrations like the one I have just given could be found to illustrate the serious consequences that could flow from the amendments that are sought to be made to section 2 *e* (*ea*) and section 16.

Before closing there is just one other remark I would like to make which shows how far reaching the definition is and what effects it can have. In one particular instance it says that the vessel that is seized for having caused damage to board property can be sold if the claim is not paid and out of the proceeds of the sale the National Harbours Board is paid first and the excess is remitted to the owner which means that the excess of the sale price which remains after settling the board's claim can be given to the agent, the charterer or master of the vessel. The charterer has no interest at all in the proceeds of the sale of the vessel and the charterer may at that time have ended with the charter of the vessel months before. The agent who has acted for hundreds of ships and owners during the season will have closed his voyage account at the time this distribution takes place, and has no interest in the proceeds of that sale. Of course, I do not say that in practice it is likely to happen that the board will pay the agent if ever a vessel is sold and there remains some proceeds but it shows how illogical this provision is.

I have to say to the committee that I am here to criticize and oppose and not to suggest any constructive ideas concerning how the Act should read, but I want to point out to the board that during the 18 years the present Act has

been in force there has been no case—and I have asked the board to let me know if they have had any—where the board has been unable to collect in case of damage to board property, so the Act as it presently is has always served its purpose and I submit that it should remain as is or if any amendments have to be made there may be one that should be recommended and that is that the reference to charterer and agent in section 16 be deleted and replaced with the words: "Charterer by demise" because it is quite correct in law and in principle that the charterer by demise who stands for the owner of the vessel and who is responsible to the same extent as the owner of the vessel is liable to the board for damage to board property. With this, gentlemen, I will close my remarks. I thank you for the attention you have given me.

The ACTING CHAIRMAN: Thank you, Mr. Brisset. Is it the wish of the committee to hear Mr. Finlay the legal adviser to the National Harbours Board before we begin our questioning?

Hon. MEMBERS: Agreed.

The ACTING CHAIRMAN: Mr. Finlay?

Mr. JOHN F. FINLAY (*Legal Adviser, National Harbours Board*): Mr. Chairman and gentlemen, I believe that it would be correct to say that actually the representations made by counsel for the federation can be perhaps summarized in two points. The first contention, I believe, is that under the proposed bill it would now be possible to seize a vessel for damage done by an agent or charterer where the vessel has not been the noxious physical instrument of the damage. Now as regards that point may I first point out that under the ordinary rules of agency law if the damage was done to board property by an agent of the vessel there would be no reason why the vessel could not be seized. Now one point should be acknowledged immediately, and that is that the vessel would not be seized at once. In that case action could be taken against the agent or owner of the vessel. Under the ordinary rules of agency law; judgment having been obtained, the vessel could be seized. There is actually very little difference in that respect. Now, of course, a great deal of emphasis was placed by counsel for the federation on the term "agent" and he referred to the assumption that we must adopt the ordinary commercial or mercantile meaning of the term. As it is commonly used a firm may describe themselves as ships' agents, but with all deference I submit we are dealing here with legislation and when the term "agent" is used it has a very definite connotation at law and it means "agent" as that term in recognized and known at law and not as it may be known commercially or by particular groups who choose to call themselves ships agents. The Act refers to an agent of the vessel which means a legal agent of the vessel. In the past there has never been any question under the ordinary rules of agency law. Quite apart from this bill there has been no difficulty or argument at all about the fact that the principal is liable for the negligence of his agent. We have always been able to proceed against the principal for the negligence of his agent and having obtained judgment against the principal we could seize his vessel. To the extent that this bill could be regarded as effecting any alteration in that regard the only difference it makes is that the board would be able to seize the vessel in order to obtain security before obtaining judgment but it must be noted that the Bill does not provide that we seize the vessel and sell her before judgment. The only provision is that we may now seize the vessel until we have obtained security. Having obtained that, we release the vessel. So far as the liability of the principal is concerned I submit that liability has always existed and that agent of the vessel means agent at law. We are after all dealing with a statute, proposed piece of legislation, and the terms must be given their legal connotation and not their mercantile or commercial connotation.

Another point made by counsel was the reference to charterer. He referred to the fact that there are, of course, at least three types of charterers: time, voyage, and demise. That is perfectly true. I submit that here the term charterer would be interpreted as meaning charterer by demise. The bill speaks of charterer of the vessel. A time charterer—or a voyage charterer is not strictly speaking a charterer of the vesesel as such. But, assuming for the moment that "the term" is fallacious and that it does cover all types of charterers, then under the existing Act the provision is that where the vessel has been the physical instrument of the damage, the charterer may be held liable for all damages. In other words, if charterer is to be given that wide connotation to cover not only charterer by demise, but also time charterer and voyage charterer, then the voyage or time charterer has always been liable in damages for physical injury done by the ship itself over which he had no control. The point is that we suggest we are not actually enlarging the law in that respect, except possibly to this extent that it may be admitted that in the past it has certainly and indisputably been necessary that the vessel herself should have done the damage before the vessel could be seized; whereas the damage may be done by the agent or charterer, without the vessel herself being the actual instrument. But, with deference I suggest after all where is the injustice in that? Granting the relationship of agency or charter, why should the vessel not be liable for seizure for damage done by the owner or legal agent of that owner? If the individual himself is liable in law, where is the injustice of making the vessel liable to seizure as security.

Mr. MURPHY (*Lambton West*): What do you mean by legal agent?

Mr. FINLAY: The point there is that the counsel for the federation—I believe I correctly interpret his representation in that respect—was suggesting that because the bill uses the term agent of the vessel that term might be interpreted as covering a much wider range than the ordinary phrase agent at law. An agent at law has very definite connotations. It is a very definite relationship to the principal.

Mr. MURPHY (*Lambton West*): I would like to have that cleared up.

The ACTING CHAIRMAN: We will reassemble immediately after the division.

(The meeting adjourned for a division in the House.)

The ACTING CHAIRMAN: Gentlemen, we have a quorum.

Mr. Finlay will continue his presentation.

Mr. FINLAY: I believe at the time the committee adjourned the particular question put was: the definition or the meaning of the term "agent of vessel". Strictly speaking at law the term agent has a very definite connotation. It is the person who is standing in the shoes of the individual he represents. Everything he does is the act of the principal and the principal is responsible directly for anything that that man may do. That is the legal definition of agent—agent at law. There are, however, people who may call themselves ships agents and are not necessarily agents at all in the legal sense. They may be independent contractors or chandlers or suppliers of ships' equipment. The ship may want certain supplies or material. A firm may very well call itself a firm of ships' agent and supply those materials to the ships. I suggest, however, that that firm is not an agent of the vessel within the legal meaning of the term. It is not an agent of the owner of the vessel. It is not acting for him; it is simply in the position of an independent contractor. Anybody from whom you may buy equipment or who you may have do some work for you is not your agent; he is a contractor doing work for you. That I suggest is the position of the vast majority of so-called ships' agents. But, we are not dealing here with commercial phraseology but with a statute. In a statute,

I submit, that the only meaning that can be given to agent is the legal meaning of that term; a man who stands directly in the shoes of his principal; a man who is responsible and acting under the authority and under the orders of another person and whose actions are at law ascribed to his principal. An employee, for instance, would be an agent of his employer. The National Harbours Board is an agent of the crown. Everything that the National Harbours Board does is an act of the crown from a legal standpoint. On the other hand in the case of a contractor building your home, in that case the contractor is not your agent. The things which he does are not necessarily attributable to you at law. But, if you employ somebody directly on wages or salary to do a certain work for you, that man then would be your agent. The prime point here is as I say the contention of the board is that agent of the vessel means legal agent and that consequently there is no reason why the vessel—in addition to the owner of the vessel—should not be liable for every act. All we are doing is repeating our right to seize the vessel by way of security if the person for whom he is responsible does any act which damages board proporty. Have I made that point sufficiently clear, Mr. Chairman?

Mr. WINCH: You certainly have not made it clear to me.

Mr. NICHOLSON: I wonder if Mr. Finlay would clear this point: I found myself a supernumerary to a ship belonging to the Standard Steamship Company. This ship was chartered to the Rank Milling Company, the Montreal Steamship Company was the agent, and it drew a cargo from Churchill to London. Assuming that $5,000 damage was done to the National Harbour Board at Churchill, I understand that if the Act passes that the Montreal Shipping Company or the Rank Milling Company could be liable for this $5,000 damage if the National Harbour Board should be negligent and the ship got away and it was later found out that damage was done. It occurred to me from the evidence given by Mr. Brisset that either the Montreal Shipping Company or the Rank Milling Company could be liable for this damage for which they have no responsibility.

Mr. FINLAY: Assuming that there was an agent relationship between them.

Mr. NICHOLSON: They were the Churchill agents.

Mr. FINLAY: Well, assuming for the moment the agency relationship—again the legal agency. It is difficult to say without nailing it down to particular facts whether or not the individual is an agent. He may be an agent or may be an independent contractor.

Mr. CONACHER: Assume he is the agent.

Mr. FINLAY: The Montreal Shipping Company could be held liable, and as a matter of fact that is not new; that is true under the existing Act. If a foreign vessel does damage the port property under the present Act, then the board can sue the agent of that vessel.

Mr. NICHOLSON: How about the Rank Milling Company? Would they be liable?

Mr. FINLAY: Certainly, if they are the charterers of that vessel.

Mr. WINCH: May we ask questions now?

The ACTING CHAIRMAN: Would you prefer to finish the statement?

Mr. MURPHY (*Lambton West*): Could you give some illustrations of agents.

Mr. FINLAY: Yes. The best example and the simplest one is simply that of an employee. Any employee would be the agent of his employer so long as he was acting as an employee. The National Harbours Board is an agent of the Crown; that is everything it does is the act of the Crown from the legal standpoint. On the other hand, in an illustration I mentioned before you may

have a building contractor; he is not the agent, he is doing some work for you but he is an independent contractor. He is not directly in your shoes from the legal standpoint.

Mr. NICHOLSON: I wonder if the witness could clear up this point. The Montreal Shipping Company imposes a very small fee for the service rendered to the Standard Steamship Company while the ship is in Churchill loaded and waiting. The other witness indicated that the Stag Steamship Company was covered by insurance adequately. So if there was damage done the insurance would cover it. It seems to me that it would be a hardship on Montreal Shipping Company if they were asked to cover damage amounting to thousands of dollars, and the same thing with the Rank Milling Company. I would not imagine that they would be liable to pay a fee for transporting grain from Churchill to their mill. It would not appear to me that they should be responsible for the errors made by the Stag Steamship Company.

Mr. FINLAY: I believe that the answer there, of course, is that they themselves are, so to speak, in the business. They have chosen to put themselves in the position of agents for that vessel. There is no injustice. You said that they are receiving a small fee and that consequently it is unfair to charge them with the liability incurred by the vessel. Well, with deference, I suggest that the National Harbours Board is receiving an even smaller fee for the use of this harbour, and yet we may have half a million dollars damage. Who is to pay for that?

Mr. NICHOLSON: Both the agents' offices in Churchill and in London, England—certainly the London offices that looked after the Stag operations were a very modest company. I think a $15,000 bill would probably put the firm out of business, but the Stag Steamship Company got a sizable amount and were making a good return for the transporting of grain. I think the insurance rates were very high, and it seemed to me that if the agents were liable to this extent they would have to raise their fees a good deal or one bad accident would put them out of business.

Mr. FINLAY: There is one point that should not be overlooked in that connection, that there is absolutely nothing to preclude the agent from joining his principal. If the vessel has done the damage there is nothing to prevent the Montreal Shipping Company, if in fact its principal is supplied with adequate funds, from joining its principal in any action that we may take against it.

Mr. SMITH: He can call him in warranty.

Mr. LANGLOIS (*Gaspe*): The agent may call in the owner warranty if the agent is held responsible for damages caused by the owner; then the insurer of the owner steps in and the owner is covered.

Mr. BRISSET: We do not agree with that. The ship might have left by that time.

Mr. LANGLOIS: But the insurance coverage protects the owner.

The ACTING CHAIRMAN: Order. Let us have this cleared up.

Mr. WINCH: I wanted clarified in my own thinking what I understood was said by Mr. Finlay. I understand that earlier in your remarks you made mention of a charterer on a voyage. I am not quite certain of the term.

Mr. FINLAY: A demise charterer.

Mr. WINCH: I understand you said that a voyage charterer could or should be held responsible if required?

Mr. FINLAY: Yes, a demise charterer.

Mr. WINCH: If that is my understanding, I would like to have a clarification of what that means. For example, any of my friends here of the Liberal party, Conservatives, Socreds or C.C.F., as happens very often in my city of Van-

couver, may charter a ship over to, say, Newcastle island, or something of that nature, and they have a voyage charter. Do I understand that your position on this amendment and your opinion is that in the event that the harbour board is not able to lay a claim or collect a claim from the ship you should then have the right to lay a claim against the voyage charterer?

Mr. FINLAY: No. Our contention is that, first, the term "charterer" should be given the connotation of "charterer by demise". He is the person who actually becomes the temporary owner of the ship. That would not apply in your example which, I take it, would be more in the nature of a pleasure expedition. You do not take over the vessel; in other words, you simply make arrangements with a steamship company.

Mr. WINCH: But are you not chartering that for the entire voyage?

Mr. FINLAY: You are chartering it, but that is not what is known by a charter by demise. In a charter by demise, the charterer is, in other words to use the other term in common law the tenant, so to speak of the vessel, the lessee. It is a temporary transfer of title. He takes the ship, including the crew and the master all under his control. That is a charter by demise. In the example you cite, that would be merely a voyage charterer.

Mr. WINCH: That is exactly the term you used when you spoke, a voyage charterer.

Mr. FINLAY: Yes, a demise charterer.

Mr. WINCH: Now you are changing it.

Mr. FINLAY: No.

Mr. WINCH: I would like to have that explained if I may.

The ACTING CHAIRMAN: I think we will have to accept the statement made by Mr. Finlay rather than what you assumed he said on an earlier occasion.

Mr. NICHOLSON: Assuming that the boat gets away from Churchill because of the laxity of the Harbours Board and the claim is later made against the Montreal Shipping Company, it seems to me to be unfair to have the Montreal Shipping Company liable for a claim because the National Harbours Board had failed to seize the vessel at the time the damage was done. Would you care to comment on that?

Mr. FINLAY: First, I would submit that under the present Act that is the situation, that is to say, that the board is perfectly free under the Act as it stands to do just that, but more important than that point is this. The term used by the counsel for the federation is "if the board is negligent in allowing the vessel to escape", but I suggest that there is no reason why the board should be regarded as under any obligation to seize that vessel. Why should we? If an individual does damage with some other instrument, why should it be considered incumbent upon the injured party to necessarily seize the instrument? Certainly we ordinarily do, but supposing that we do not, and of course we may not through many circumstances? There have been two cases at least within recent years in Vancouver where we did not seize the vessel, simply because we did not know of the damage until after the vessel had sailed. That was an excellent example of the kind of thing that can happen. However, supposing we do not? Supposing that there is laxity of some sort on the board's part and that we do not seize the vessel, the suggestion made by the shipping federation is that under the present Act, unless we had chosen to seize the vessel in the first instance, we would not be able to sue, let us say, the Canadian agent or the Canadian charterer, this being a foreign vessel in the example cited, but, with deference, I would disagree with that. I would suggest that there will not be found any decision of any court in which it has ever been held that a party was obliged to exercise both remedies. There have been cases where a court has said that where one remedy was exercised

the party has not been free to exercise the other, but I know of no case where it has ever been said that anybody was under an obligation to exercise both remedies available to him.

Our submission is that it has been put or represented as an injustice to the Canadian agent or charterer if the board should fail to seize the vessel. With all deference, I submit that with the board as the injured party, why should it be incumbent on the board to do it? We will certainly do it in most cases to protect our own interests; but if we should fail to do it, I suggest that it can hardly be attributed to us as a fault.

Mr. WINCH: I would like to have clarification, Mr. Chairman. The witness in his remarks made a differentiation between a voyage charter and a charter by time. What is the difference? In your first remarks you very definitely said "voyage charter".

Mr. FINLAY: The best example I can give is to use an ordinary analogy. A charterer by demise is equivalent to the tenant of a house. He takes over the whole affair completely and he becomes the temporary owner. He has almost ownership rights, certainly in relation to a third party and even, to some extent, against the landlord. He is the temporary owner, and that is equivalent to a charter by demise.

The tenant of the house may have his own lodgers if he wishes, and the same is the case with respect to the charterer by demise; he may hire his own crew and officers; he takes over the ship completely.

On the other hand, the voyage charterer would ordinarily take the vessel but with the owner's crew and master on board, and probably only to the extent of having the vessel make a voyage from point "A" to point "B" or make certain cruises within a certain period of time in order to transfer the cargo from one point to another. He is not the temporary owner of the vessel, and the master is not necessarily under his control. Therefore, you could have a situation where damage was done by a vessel without that type of charterer actually being responsible.

Mr. WINCH: Mr. Chairman, can we take it as a committee that it is clear thay neither the intent of the government or of the board, from a reading of this amending Act, has any effect upon any claim for damages against the voyage charterer?

Mr. FINLAY: That is correct.

The ACTING CHAIRMAN: Now, Mr. Conacher.

Mr. CONACHER: What are the laws governing on this particular point, let us say in Great Britain or the United States?

Mr. FINLAY: With regard to charters?

Mr. CONACHER: No. In regard to the liability of the agent.

Mr. FINLAY: As regards the liability of the agent, I know of no legislation in the United Kingdom which corresponds precisely to this.

Mr. CONACHER: Is this more drastic in regard to the agent?

Mr. FINLAY: It is more drastic, let us say, in its terminology because it mentions the agent whereas the English legislation does not. But our submission is that in any case the principal is liable for the acts of his agent.

I might say that the introduction of the term "agent" is not something adopted by the National Harbours Board, from its inception in 1936. It has appeared in the Harbour Commission Acts of Canada for at least half a century. Therefore, there is nothing new—no innovation there.

The ACTING CHAIRMAN: Now, Mr. Hosking.

Mr. HOSKING: I have a question about the Montreal Shipping Company, but before I ask that question I would like to ask in regard to the chartering

of ships for a voyage. As it was suggested, is that not the same position exactly as a person renting a taxicab with the driver and riding in that taxi as a passenger; he cannot be assessed for any damages done by the taxicab under the control of its driver?

Mr. FINLAY: Precisely.

Mr. HOSKING: But if you rented a vehicle yourself, and you become the driver, then you are responsible.

Mr. FINLAY: I think that is an excellent example; it shows the contrast between a "drive yourself" and a taxicab.

Mr. HOSKING: Could you tell us just how this Montreal shipping company could be in a position like the person who rents a taxi to drive himself?

Mr. FINLAY: Oh, yes.

Mr. HOSKING: In order for the shipping company to be liable, how could they get themselves around the position where they could be considered as the person who rents a car to do the driving himself?

Mr. FINLAY: So far as the Montreal Shipping Company is concerned, in the example or illustration mentioned, that was not the case of a charterer. In the example that you mention, that of the taxicab and the drive-yourself, that applies to the charterer. The Montreal Shipping Company would be liable, not as a charterer but as an agent.

Mr. HOSKING: As I understood it, the charterer and agent were the same thing.

Mr. FINLAY: Oh, no.

Mr. HOSKING: He had assumed responsibility for handling the vessel.

Mr. FINLAY: Not necessarily; in the case of the agent, the agent might do any act as an agent; he might or might not have to do with the handling of the vessel; but if he was going—suppose the owner of the vessel instructed the Montreal Shipping Company as his agent to, let us say, prepare for the arrival of one of his ships. The Montreal Shipping Company, acting as his agent at law, would go down to the wharf at Montreal, and let us say, through its negligence there was a fire. In that case there was no act of the vessel; the vessel is not involved as such; but nevertheless the vessel owners could be held liable because the Montreal Shipping Company were acting as their agents.

Mr. HOSKING: Isn't that rather a far-fetched case, for an agent to go down and start a fire?

Mr. FINLAY: Yes, it is rather a far-fetched example, admittedly; and the most common application would be in the case where you could have the contingency of a foreign vessel, possibly without assets, doing damage.

Mr. HOSKING: It is not too clear in my mind about the captain of the ship. The Montreal Shipping Company or the agent cannot give any authority, as I understand it, or have anything to do with the sailing of that vessel; therefore he is not in a position to create the damage which, I understand, under this Act you want to make him liable for.

Mr. FINLAY: Oh!

Mr. HOSKING: Just a moment; the other point is that in the confusion the agent is sued for the damages, while the insurance company or the underwriters of the ship, in some sense could get, under a legal technicality, where they would not be able to sue the person who actually is responsible, but would sue the agent who probably cannot be in a position to pay; and the originator of the crime or the damages could get off scotfree.

Mr. FINLAY: I suggest there that the originator would not get off scotfree. There is nothing to prevent—assuming in the example which you cite that

the principal is actually responsible for the damage—we still have the right to proceed against the agent, against the Canadian agent; we can do that and there is nothing to prevent the Canadian agent from joining his principal.

Mr. HOSKING: Only distance.

Mr. FINLAY: Yes, only distance; but that applies equally to us.

Mr. HOSKING: It seems to me that this Act is trying to allow the board to get their money where they could not get it before, that is, they are trying to get it from an intermediary, from an innocent bystander, so that they may collect.

Mr. LANGLOIS (*Gaspe*): Mr. Chairman, he is not an innocent bystander. What we are asking in the proposal, or what is being asked of this committee by the representations we have heard today from council for the National Federation of Shipping is that the board, the National Harbours Board, prejudice its own case, its own recourse for damages caused to its property in not having a proper recourse against the agent of the owners of the ship; and if this agent needs protection, it is up to him or the owners to provide it when they contract for this agency, between themselves.

For example, there is nothing to prevent the agent from securing some kind of guarantee from the owner of the ship, if he is to be held responsible for damages caused by the ship.

On the other hand, the same thing might be done and can be done by the owner of the ship, for any action done by his agent. It is a matter of contractual conditions between the owners of the ship and the agent, and it is up to them to protect themselves.

After all, these contracts, these agency contracts, are not entered into between the board and the agent or the owners, but between the owners and the agent. It is up to them to clarify their respective position in respect to one another and not up to the board.

Hypothetical cases have been cited here today and I wish also to cite one. Here in Canada, you have agents of ships who have no physical assets in Canada. They occupy premises which are leased from the National Harbours Board. They are agents for foreign ships. When the ships are gone—and assuming the fact the agent has no physical assets here, what recourse then does the board have for damages caused to the board's property in connection with the operation of these ships? That is why I wish to point out that by accepting the representations that have been made here this afternoon we might prejudice the position of the board and we are doing it for the sole purpose of relieving the owners and the agents from their own responsibility to otherwise protect each other as they may see fit. While I am speaking on that point, in order to clarify the matter, I might state, for the consideration of the committee, the policy of the department concerning representations. Although we are not prepared to accept and we will have to oppose any possible amendment to clause 1 aiming at the restriction of the definition of an owner of a ship by deleting the words "agent, the charterer or the master of the vessel"—

Mr. WINCH: Would you repeat what you just said?

Mr. LANGLOIS (*Gaspe*): Although we will have to oppose any possible change to the first part of clause 1 dealing with the definition of owner as suggested—I am speaking for the department and on behalf of the minister just now—we would be prepared to meet half way—if I may express myself in this manner—the request or representations made by counsel for the Shipping Federation of Canada and this could more properly be done under clause 8. We have even gone so far as to prepare a tentative amendment which would be acceptable to the department and to the board. When we come to clause 8 I will read this proposed amendment, if the committee will permit me, and

I will leave the fate of this amendment in the hands of the committee. However, I will then feel bound to warn the committee that we must be very careful not to cause prejudice to the position of the board in any of the possible future cases that might arise, where the only worthwhile recourse of the board for damages caused to its property would be by seizure of the vessel, because in some instances it might happen that the agent has no physical assets and then any recourse against him would be futile.

Mr. WINCH: The reason I asked that is to find out—and I think it is a matter of procedure, sir, which would help us—in view of the statement that the department cannot consider any change in clause 1 and in view of the fact they have a recommendation concerning clause 8, is it possible or permissible that we have some indication of what the change will be in clause 8?

Mr. LANGLOIS (*Gaspe*): Perhaps we would be anticipating the discussion on clause 8, but I have no objection and I am in the hands of the committee.

Mr. GREEN: I think it is a little premature for the parliamentary assistant to say that no matter what the committee might wish the department will not change—

Mr. LANGLOIS (*Gaspe*): I did not say that. On a point of order, Mr. Chairman, I did not say that. I said that we would have to object to any amendments along the lines suggested this afternoon to clause 1 and that is a statement of policy of the department.

Mr. GREEN: We are an independent committee of the House, and we are not in a position to be given an ultimatum of that kind.

Mr. LANGLOIS (*Gaspe*): Mr. Chairman, I must object to that on a point of order. The honourable member is putting words into my mouth which I have never spoken. As I said, as a representative of the minister and as a member of this committee, all what I have said is that I would have to oppose any amendment to clause 1 along the lines suggested this afternoon leaving the final decision to the committee. I am entitled to say that.

Mr. GREEN: I do not think you are. This is the first time I have ever heard a minister, let alone a parliamentary assistant, come into a committee and before we are finished hearing the representations for considering a revision, we are told that the department is not willing to change and I am quite sure that the Honourable Mr. Chevrier would not take that position because—

Mr. LANGLOIS (*Gaspé*): I never said anything of the kind—

Mr. GREEN: —we are here to study this bill which went through the House with practically no discussion on the understanding it would be given adequate study in this committee. It is not a political matter at all. There are no politics in it for anybody, but believe me, for some of the ports in Canada it is a mighty vital bill and I know this bill is extremely important to my own port of Vancouver, and we are far more concerned about retaining the shipping business there than we are about giving the National Harbours Board extra powers. I presume every one of the national ports will be in that position. It is the business that goes through the port that is important and not the giving to the board of a club to handle the people who are doing the business which goes through the ports. I would like to ask Mr. Finlay, in the first place, how much the National Harbours Board has lost by reason of failure to recover for damages done to its property by vessels?

The ACTING CHAIRMAN: Could you answer that, Mr. Finlay?

Mr. FINLAY: The answer to that question, Mr. Chairman, is—

Mr. CAMPBELL: Please speak a little louder.

Mr. FINLAY: —the answer to that question, Mr. Chairman, is that up to the moment we have always succeeded in recovering. However, I submit that that is no indication that we will necessarily continue to do so.

Mr. NICHOLSON: 18 years—that is pretty good.

Mr. FINLAY: Yes, but it could happen very easily.

The ACTING CHAIRMAN: Mr. Green has the floor.

Mr. GREEN: This bill has been in effect for 18 years, and under the provisions of this bill you have not lost one cent so far as damage done by vessels to harbour board property is concerned.

Mr. FINLAY: That is to say by reason of the existing machinery for seizure of the vessels.

Mr. GREEN: No, but all I want to know is whether you have lost any money by reason of damage done to your property by vessels since the National Harbours Board was set up in 1936?

Mr. FINLAY: We have certainly lost money in the sense that we have had to sue for it. We have recovered it at very considerable legal costs in a great many instances.

Mr. GREEN: You have been compensated for all the damage that has been suffered?

Mr. FINLAY: Because there have always been one or two factors involved. One or two circumstances have always prevailed in these cases. In the majority of cases we were able to seize the vessel and thus obtain security and in some other cases we were fortunate enough to have a Canadian owner whom we could immediately sue.

Mr. GREEN: You are in the position under your present statute, let alone any of these new amendments, to seize the vessel, in the first place, if there is any damage done to your property, are you not?

Mr. FINLAY: If the damage is done by the vessel; but, supposing the damage is done by the agent of the vessel.

Mr. GREEN: How on earth can an agent of a vessel damage your docks?

Mr. FINLAY: That can happen.

Mr. CONACHER: Has it happened up until now?

Mr. FINLAY: No, it has not happened by a party acting at that time as an agent of a particular vessel. But, it has happened in at least one instance that we have suffered considerable damage through the negligence of one company which does act for the most part as an agent of vessels. In this instance it was not acting as the agent of any particular vessel, it is true. We are instituting action against that company now.

Mr. GREEN: What sort of damage was that?

Mr. FINLAY: Fire damage.

Mr. GREEN: An agent acting under direction was responsible for starting a fire. Is that right?

Mr. FINLAY: That is so.

Mr. GREEN: What on earth has that got to do with the vessel?

Mr. FINLAY: The vessel is simply taken as security.

Mr. GREEN: You would be able to take a vessel belonging to somebody else to pay you for damage caused by fire started by an agent?

Mr. FINLAY: That is so, and, of course, if there never was an amendment to the Harbours Board Act, if the Harbours Board Act did not exist in its present form, we could proceed against the agent in a case such as I have cited—We could proceed against the principal or the employer for the damage done by his agent, and having succeeded in an action against him we could take his vessel.

Mr. GREEN: You could not do that unless the agent was acting in the specific business of the owner of the ship and started a fire for the owner.

Mr. FINLAY: Yes.

Mr. GREEN: You have your rights under the present Act to seize the vessel for any damage it does.

Mr. FINLAY: That the vessel does.

Mr. GREEN: Yes. That is a big security, is it not?

Mr. FINLAY: It may be.

Mr. GREEN: And if your people were on their toes it would be mighty hard for a vessel to get out of port where it has done damage to your property.

Mr. FINLAY: We have had several instances where a vessel has sailed without the damage being discovered until after the vessel had sailed.

Mr. GREEN: And you have always got all the money?

Mr. FINLAY: Yes, but again in those cases the owner happened to be in Canada.

Mr. GREEN: You have collected in every case to date?

Mr. FINLAY: That is right, but of course it could have happened this afternoon that a foreign ship did that damage.

Mr. GREEN: Whether a foreign ship or a Canadian ship you have never lost a penny because of damage done by a vessel to any of your docks?

Mr. FINLAY: No, but because of the very obvious possibility of it happening we are attempting to guard against that.

Mr. GREEN: The trouble with that is you put up barriers to ships going to come into Vancouver, Halifax, St. John, or Montreal, if they are faced with all these provisions. As you know we are in very keen competition with ports like Seattle and Portland, and a port cannot carry on business if the National Harbours Board is going to take all these powers which it does not need.

Mr. FINLAY: I might say that there is one power which is far more extensive than anything actually which we are seeking here. At least more extensive in one sense. That is, under the Harbours, Docks and Piers Act of the United Kingdom, in that the vessel can be seized and retained for charges incurred by a shipper.

Mr. GREEN: You have the right to seize the vessel for damage done and in addition to that you have the right to sue in the ordinary course.

Mr. FINLAY: Yes.

Mr. GREEN: And you have the right as a litigant has, or as anyone else has, to have the ship libelled so that it cannot leave the port until security is obtained.

Mr. FINLAY: That is the right we are attempting to provide.

Mr. GREEN: You have that right now. If a vessel damages your docks you have the right to seize it.

Mr. FINLAY: If the vessel does the damage. But, suppose the damage is not done by the vessel as a physical instrument?

Mr. GREEN: Why should the vessel be responsible for the damage not done by the vessel?

Mr. FINLAY: For the same reason the property of any person may be responsible for the damage.

Mr. GREEN: If you sue just as any other litigant would do you can have that ship seized before it leaves port and you can force security to be put up for the damages before the ship can clear.

Mr. FINLAY: Of course so can the agent.

Mr. GREEN: Of what?

Mr. FINLAY: So can the Canadian agent.

Mr. GREEN: Why should the agent have to do that? Why do you not assume some of your responsibilities? You are in business in these ports. Why not act like any firm has to do and go to the courts. Why do you want to have all these special checks?

Mr. FINLAY: As I say there is nothing new in the principle of seizing the vessel at all.

The ACTING CHAIRMAN: Might I make a suggestion to this committee. It appears that most of the objections have to do with clause 8. Would it be the wish of the committee to hear the amendments which are being suggested?

Mr. GREEN: My objection is not only to clause 8. I think this definition of an owner goes altogether too far. They have a law now and the owner is not defined at all. In other words, it is "owner" as an ordinary man would interpret that definition; that is as it should be. Here you have a section which is dragging in the agent and charterer. Then you go down to goods. The representations made today are being made on behalf of the shipping people. But come to the people shipping their goods. Look at how it defines owner of goods. It is much worse. It includes the agent, sender, consignee or the bailee of the goods as well as the carrier of the goods; they are defined as owner. Now, I think that that section goes much too far and the Act should be left as it is. There is no need whatever for a definition of owner, certainly as far as vessels are concerned. Mr. Finlay has proved that they do not need one thing further. They have collected everything owed to them and who else in the country has been in that fortunate position in the last 18 years. I think that when we go into this question of owner of goods we will find it is the same type of legislation, and that the National Harbours Board are trying to get a club to make it possible for them to seize anything whatever to do with the goods. I do not think it is good legislation and I think that the main purpose of this committee is to go over this question of the definition of an owner.

Mr. LANGLOIS (*Gaspe*): With respect to the question of owner of goods, if the honourable member will read the explanatory notes of the bill, he will see that in many instances the only direct contact which the board has, is with the carriers and bailees and not with the owner of the goods.

Mr. GREEN: You have the very proof by the statement of Mr. Finlay that the Harbours Board has been in this position for 18 years and has not lost a cent.

Mr. LANGLOIS (*Gaspe*): He was not talking about the owners of the goods.

Mr. GREEN: They have not lost one cent for damage done by vessels to their property. Why on earth do they have to come in and ask us for wider powers?

The ACTING CHAIRMAN: Has Mr. Finlay completed his statement?

Mr. WINCH: If I may, I believe that Mr. Green has pinpointed the reason why I asked if it is possible for us to have an understanding as to what is involved under clause 8. I did not mention it before because under section 1 we have the new definition of owner. I have read very carefully the explanatory notes on this section and, quite honestly, I cannot see how it is possible at all under the purpose and import as outlined by Mr. Finlay to place the consignee or the owner or the carrier or the agent that is handling the goods on a ship as having a responsibility for a claim of damage. I think that the whole thing is so important and involved that I would like to have a very

clear explanation, and I honestly think it would help us a great deal if either the executive assistant or Mr. Finlay would explain what they have in mind on other sections, because it may change my owner thinking on section 1.

Mr. LANGLOIS (*Gaspe*): I am in the hands of the committee.

The ACTING CHAIRMAN: Is it agreed?

Agreed.

Mr. LANGLOIS (*Gaspe*): Mr. Chairman, we consider that the main objection made to this legislation by the Shipping Federation of Canada is that they fear that section 16 (1) (b) and 16 (1) (c) of the bill, dealing respectively with damage to board property and obstruction to board operations, might permit the seizure of a vessel in instances where neither the vessel nor the crew was in fact responsible. I think that was the main point made here this afternoon by Mr. Brisset, counsel for the federation. The federation also considers that the effect of section 16 (7) of the bill is to confer upon the board a right which in the federation's opinion did not previously exist. That is the right to institute litigation against a charterer, agent and so forth, without power of seizure of the vessel. We are prepared to meet part of the representations made by the federation, and we feel that this could be done when clause 8 comes under consideration by the committee. For the purpose of enlightening and helping the discussion before this committee, we have prepared an amendment which we would be ready to accept, provided the committee is agreeable. It deals with clause 8. If I may be allowed to read it and put it on the record, I am ready to do so. The amendment would be to the following effect:

> That clause 8 of Bill No. 421 (An Act to amend the National Harbours Board Act) be amended by the deletion of paragraphs (b) and (c) of subsection 1 of the proposed section 16 and their replacement by the following:
>
> (*b*) Property under the administration of the Board has been damaged by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of his superior officers.
>
> (*c*) Obstruction to the performance of any duty or function of the Board or its officers or employees has been made or offered by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of a superior officer, as a result of which obstruction damage or other loss has been sustained by the Board.

Mr. WINCH: All you have done is take out the word "owner".

Mr. LANGLOIS (*Gaspe*): If you will look at clause 8, you will readily see the difference there.

Mr. WINCH: You have taken out the word "owner". That is the key point of it?

Mr. LANGLOIS (*Gaspe*): That is right.

Mr. BELL: I would like to point out that you have the word "owner" in section 18 in the National Harbours Board Act, to which this new section refers. There may be ambiguity there.

Mr. NICHOLSON: I presume that we are back in No. 1. We just had this for information?

Mr. LANGLOIS (*Gaspe*): Because the two clauses are closely linked to the representations made.

Mr. WINCH: Would the changing of this clause 8 under the proposed amendment come up for discussion under 8? Would that in no way conflict with the authority of the board as given under section 1 of the amendment, because you designate the powers?

Mr. FINLAY: No, it would not conflict. Let us say, assuming that amendment were made to the bill, that would not conflict with the definition of the terminology used in that subsection (*ea*).

Mr. WINCH: You could not use the powers of section 1 to be exercised under 8 as it might be amended.

Mr. FINLAY: You could not seize the vessel unless the vessel were the physical instrument of the damage, that is, either the vessel or its crew, but that has always been the case.

Mr. GREEN: You still have the word "owner" in clause (*d*), subsection (v) of section 16.

Mr. FINLAY: That is correct.

Mr. GREEN: You also have "owner in (*e*) and (*f*).

Mr. FINLAY: Yes, and those are cases—

Mr. GREEN: Under (*d*) you have the power to seize.

Mr. FINLAY: Yes, but as a matter of fact that is a provision which also exists in the United Kingdom and which in any event, I think, is perhaps of small practical, importance, because the amount of tolls would be small. In other words, these particular subsections are the cases where great damage might be done and great liability incurred.

Mr. HOSKING: Referring to section 1 (*ea*), if a foreign ship comes into our harbour and we have a company who are going to load that foreign ship with sand, they would be "in the case of goods, the sender". If this ship proceeded into a harbour and damaged a wharf, could this company that was going to ship the sand in that ship be sued for the damages done by the ship?

Mr. FINLAY: Oh no, because in that case, as you have it there, the sand company is the agent, you might say, in respect of goods, but it is not the agent of the vessel.

Mr. HOSKING: You could not be responsible for any damage done by the negligence of the captain of the ship?

Mr. FINLAY: No.

Mr. HOSKING: Now, suppose they start to load the sand on this ship.

Mr. FINLAY: Yes.

Mr. HOSKING: And they have got quite a quantity; but through some mishap they pour it into the harbour and close the harbour up with sand.

Mr. FINLAY: Yes.

Mr. HOSKING: Then, as in the case of goods within this shipping company, you could seize the ship, and you could hold the company loading the ship responsible. Is that what you desire to do? Is that what this bill is for?

Mr. FINLAY: Excuse me; is this the amendment?

Mr. HOSKING: No, I am trying to understand clause 1 of the bill.

Mr. FINLAY: In that case, in the particular example which you cite, we would not be able to seize the vessel because the people who would be giving them sand would be nothing more than suppliers; they would not be the agents of the vessel and we would not be able to seize the vessel in that case.

Mr. HOSKING: And you would only be able to deal with the loader of the ship?

Mr. FINLAY: Yes.

Mr. WINCH: As far as I am concerned, I am coming to a clarification as a result of a question which was asked a few moments ago. Mr. Finlay, in answering, commented on the collection of damages by the Harbour Board in the past and mentioned that either recently or now you are taking action for the collection of damages, and that was done, but it was not the result of the vessel

itself. The fact that you are taking that action now to me is conclusive evidence that you have already got the right or power to move under a circumstance where it is not the vessel itself; and in view of the fact that you must have the power now, because you have taken an action, then why are you asking for the extra power to be given you here?

Mr. FINLAY: There is a misunderstanding. In answer to the question which was asked at that time, I was referring to the situation where at present we are suing a company which ordinarily acts as a ship's agent; but I had merely pointed out that in this case no vessel was involved because the company, at the time, was not acting as agent for any vessel. They set one of our sheds on fire, but the vessel had nothing to do with it. The company was not acting as agent for a vessel at that time. Therefore we simply sue the company.

Mr. BOUCHER: Would this party become the owner now?

Mr. FINLAY: No, because in the example which was cited, it had nothing to do with any vessel. The vessel in that case was a firm of ships agents, but they were not acting as agents of any vessel at the tme the damage was done. They set fire to one of our sheds and we claimed that they did it through negligence.

Mr. WINCH: Would you not have exactly the same power if they were acting as agents of the ship?

Mr. FINLAY: Yes, certainly; but in that case our suggestion is that if they had been acting as agent of the vessel at the time they set the fire, if that had been the situation, then we are suggesting that we should be given authority to seize the vessel.

Mr. GREEN: How do you reach that conclusion? The vessel did not have anything to do with the setting on fire of your shed. How do you reach the conclusion that because a man on the dock sets a fire, you should have the right to seize the vessel?

Mr. FINLAY: Because all it amounts to in the final analysis is that you may say that we are able to seize the vessel beforehand by way of security; but in any event, in the example cited, or in the second example cited, where these people had been acting as the agent of the vessel at the time they set the shed on fire, if that had been the case we could have sued the owners of the vessel actually and obtained a judgment against them and then seized their ship. Even though they have nothing whatever to do with it, nevertheless, they are still liable for the negligence of their agent.

Mr. WINCH: What I cannot get through my head is the case such as you have mentioned, where the ship or the actual ship owners had nothing to do with it; these people were acting for them at the time and they set fire to your shed; therefore you can go ahead and sue. But supposing they had been acting as agents, where is the moral or ethical chain of responsibility that because they did it as a company by their own act, that you should, therefore, hold the ship responsible?

Mr. FINLAY: I think that is merely fundamental.

Mr. WINCH: I am trying to understand it and I want to understand it, but I find it difficult.

Mr. FINLAY: It is a principle of the law of agency.

Mr. LANGLOIS (*Gaspe*): Quite independent of this Act.

Mr. FINLAY: Yes, quite independent of the Harbours Board Act; it is a fundamental principle of the common law respecting agency. Let us say that you drive your own car on your own business, and you do damage, let us say, through negligence. Only you can be held liable. On the other hand, suppose you are in the employment of X, and while in his employment you are still

driving your own car, and you do the same damage; in that case your employer is held legally responsible notwithstanding the fact that your employer had nothing whatever to do with the accident.

Mr. GREEN: But you are asking for the right to seize the ship before you prove in court that there was negligence?

Mr. FINLAY: Only by way of security, to force the vessel owner to put up security.

The ACTING CHAIRMAN: Shall clause 1 carry?

Mr. GREEN: No, it certainly is not carried. You are asking for the right to seize the ship in that case where there was a fire started by an agent on the dock before you have got judgment against the agent of the ship or against anybody else; is that right?

Mr. FINLAY: Certainly. As a matter of fact, if it were necessary to wait until we obtained judgment against the ship, then in many cases we would have no security whatsoever for obvious reasons, because the vessel might be 3,000 miles away and it might take months to get judgment.

Mr. GREEN: Why should you be put in that preferred position? Why should the National Harbours Board be put in that preferred position over the man who owns the dock next door to your dock?

Mr. LANGLOIS (*Gaspé*): I think—

Mr. GREEN: I would like to have an answer to my question.

Mr. FINLAY: The only answer I can give is simply the fact that we are here dealing with public property. There is nothing at all unusual about the principle of making a vessel liable for damage done. As a matter of fact, that principle will be found in the Canada Shipping Act and in every Act dealing with shipping in the United Kingdom and dealing with vessels. The principle is that the vessel is liable to seizure for damage done to harbour property.

Mr. GREEN: Damage done by the vessel?

Mr. FINLAY: Damage done by the vessel where the vessel is the physical instrument used.

Mr. GREEN: You have got that power now.

Mr. FINLAY: You say we have got that power now. But I understood that your immediate point was this: you suggested that there was an injustice in it.

Mr. GREEN: No, no, no. Suppose there is an agent, and he has a truck driver who tosses a cigarette into your shed and a fire starts; as I understand it, you are going to sue the agent for the negligence of his truck driver; but you are asking in addition that you be given the power to seize the vessel as security for any possible judgment that you might get for the damages caused by the truck driver's cigarette. Is that right?

Mr. LANGLOIS (*Gaspé*): Is your objection not met by the proposed amendment?

Mr. GREEN: I am asking the witness whether that is right or not.

Mr. FINLAY: In effect, it is; but as has been pointed out, I submit that there is nothing actually unjust about it. If anybody needs protection on the matter it is actually the party who is injured and it is always open to the vessel owner and to the agent to protect themselves by their own contractual arrangements. The Harbours Board or the port authority has no such protection whatever.

The ACTING CHAIRMAN: I would like to make an observation. We are not seeking to rush the committee, but the committee will not be able to sit again, at least until tomorrow evening unless we sit tonight. What is the wish of the committee?

Mr. GREEN: On that point, Mr. Chairman, the estimates of the Department of Transport are up all day tomorrow and I think it would not be appropriate to have a sitting of this committee while those estimates are under discussion in the House.

Mr. CONACHER: Could we not have a word of explanation in respect to the shipping federation to see if the amendment would not be agreeable to the people who are more interested in it than we are?

The ACTING CHAIRMAN: We could sit tonight.

Mr. HOSKING: Would it be possible to have an explanation from the party representing the shipping federation to see if the amendment would be agreeable to people more interested than we are?

The ACTING CHAIRMAN: The clock is striking six. What does the committee wish to do?

Mr. HOSKING: Could we sit a few minutes and see if we can finish this up?

Mr. GREEN: We will never finish this up within a few minutes because it is much too vital and important.

The ACTING CHAIRMAN: Does the committee wish to finish it tonight? What is the wish of the committee?

Mr. CONACHER: Let us sit for another half hour.

Mr. GREEN: This question is too vital to have it cleared up in a few minutes. I think we had better just adjourn until whatever is the best time to sit again.

The ACTING CHAIRMAN: Order, please. Mr. Brisset is from out of town and it is suggested that for his convenience we sit this evening.

Mr. NICHOLSON: I think it has been suggested we sit for another few minutes now.

Mr. CONACHER: It might clarify the whole matter.

Mr. BRISSET: I would like the committee to know that I will be at its disposal if you wish to sit tonight. With regard to the proposal, it meets part of the objection but not all of it and far from it. I would refer the committee to subclause (7) of clause 16 which says this:

> (7) Whether or not all or any of the rights of the Board under this section are exercised by the Board, the Board may, in any case described in subsection (1), proceed against the owner of the vessel in any court of competent jurisdiction for the amount owing to the Board (or for the balance thereof in the event of any sale contemplated by subsection (3)) and may also exercise against the owner of the vessel any other right or remedy available to the Board at law.

Therefore, even with the new amendment, assuming that the vessel does damage board property, the Canadian charterer and Canadian agent will always remain liable under this amendment and I will say this to the committee, that it will be the only maritime country in the world where an agent or charterer will become responsible for navigation of the vessel. I do not think you will find such a piece of legislation anywhere else. I am speaking, of course, of a charterer in its widest sense and not a demise charterer. I do not see the distinction which my learned confrere wants to make here. The word is clear in itself. "Charterer" is not defined as what we call a "demise charterer" and I do not think any court would interpret the word in the strict sense that has been suggested to us here today.

Mr. BELL: May I ask Mr. Brisset a question? Would you care to express an opinion concerning what effect the tightening of the liabilities for agents in Canada might have on shipping generally in Canada?

Mr. BRISSET: It would increase the potential liabilities of agents and charterers beyond what any charterer or agent in Canada could bear. I am speaking, of course, of possible cases where the damages would be extensive. If you have minor damages you are not too concerned, but you might have extensive damages and I know of claims amounting to thousands of dollars resulting from ships striking harbour installations. I repeat, the agent or the charterer cannot possibly be covered by insurance for such a liability. He will cover his liability for operations that are his. For instance, the charterer will at times undertake an obligation to load and discharge the vessel he has chartered. Therefore he will appoint stevedores or will use his own servants to load the chartered vessel. In doing so he may cause damage to property. For instance, a heavy locomotive being lifted into the hold might be dropped in the harbour and that would have to be lifted from the harbour and it would be an expensive job. The shipowner had nothing to do with this, it was done by the charterer.

Mr. LANGLOIS (*Gaspe*): Would Mr. Brisset be satisfied if we clarify the word "charterer" of a vessel by amending the clause to say "a charterer by demise". Would he then be satisfied?

Mr. BRISSET: I would have no objection to the word "charterer" being clarified to be charterer by demise.

Mr. LANGLOIS (*Gaspe*): Would that be satisfactory?

Mr. BRISSET: Yes, but that would still leave the agent, and I see no reason to make the agent responsible.

Mr. HOSKING: Could he be agent by demise?

Mr. BRISSET: No. I think it is quite clear from the representation we have today that when they refer to agent—I think Mr. Finlay used the word quite often—he means a servant; an agent in the ordinary sense is not a servant. If the agent is a servant or if the damage is done by a servant the law of respondiat superior should apply; it is a common law that the employer should be responsible.

Mr. NICHOLSON: Is Montreal Shipping an agent at Churchill?

Mr. BRISSET: Yes, they have offices in various ports like Montreal, Quebec, Halifax and Churchill. They handle hundreds of ships a year foreign owned as well as Canadian owned. They have no connection at all with the operation of these vessels. When I speak of operation I speak of navigation and the choice of crews.

Mr. NICHOLSON: Montreal Shipping handled about 30 ships into Churchill last year, quite a number of them Italian and Greek, the crews of which speak a foreign language, and perform a very useful service in clearing these ships through Churchill. It seems to me to make them responsible for mistakes in navigation would be a very large burden to put on them.

Mr. WINCH: Is it possible for the present witness to appear before the committee sometime next week if the members have questions?

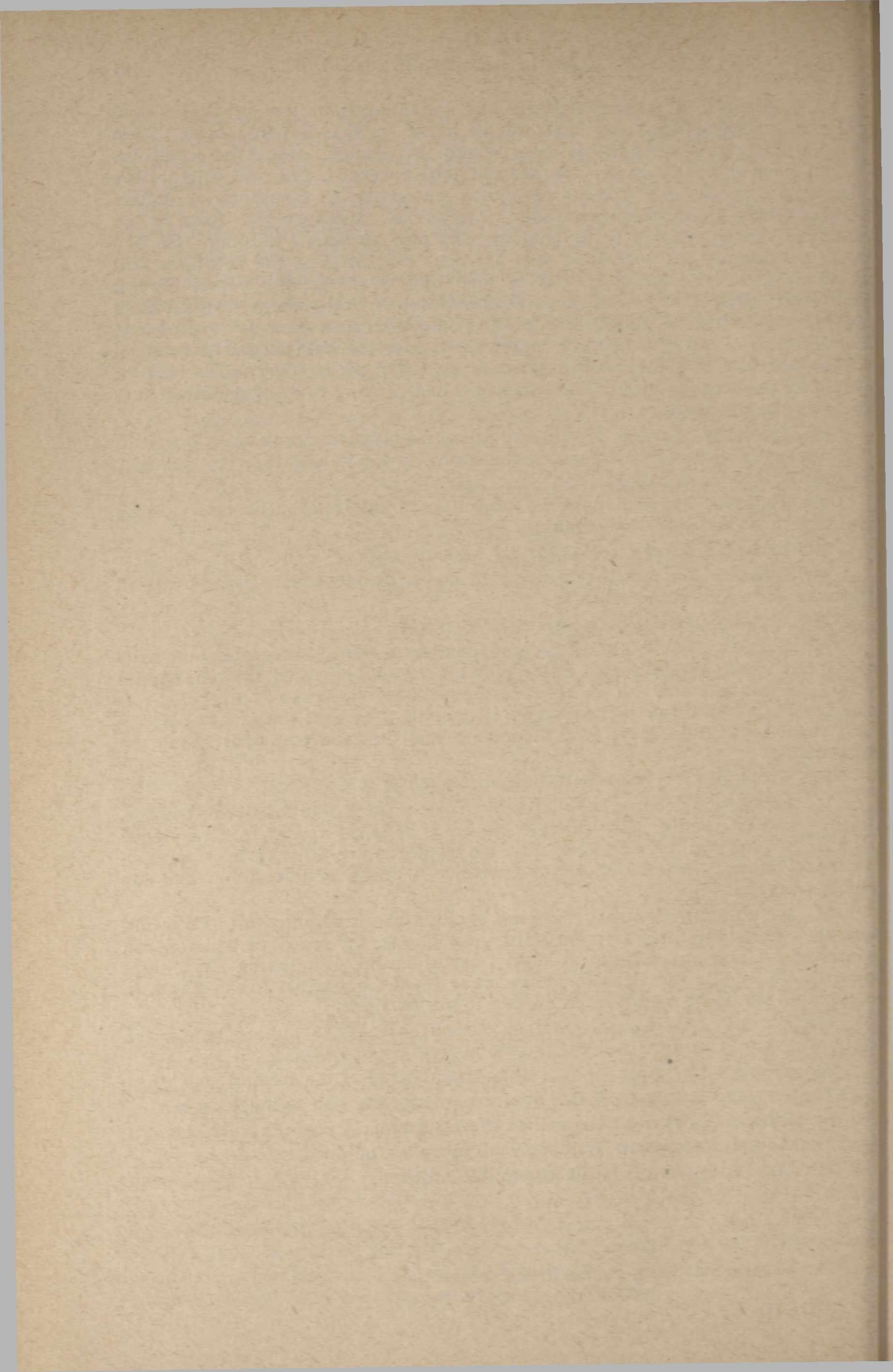
Mr. BRISSET: Certainly. I will be at the disposal of the committee.

The ACTING CHAIRMAN: When does the committee wish to meet again?

Mr. WINCH: Adjourn at the call of the chairman.

The ACTING CHAIRMAN: Will someone move we adjourn.

Mr. WINCH: I move that the committee adjourn.



EVIDENCE

May 31, 1954
2.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. It has been customary to print so many copies in English and French of the evidence. Would somebody like to move the number of copies to be printed?

Mr. LANGLOIS (*Gaspe*): I move that 500 copies in English and 200 copies in French be printed.

Mr. GREEN: I second that.

The CHAIRMAN: Is it agreed?

Carried.

Gentlemen, when we adjourned at the last meeting we were still considering clause 1 of Bill 421. Shall the clause carry?

Mr. WINCH: I understood that there was going to be an amendment.

The CHAIRMAN: On clause 8.

Mr. WINCH: On clause 1 there was to be an amendment, which I understood the parliamentary assistant was going to accept, that is, in subsection (*ea*) after the word "charterer", on the second line, that the words "by demise" be added.

Mr. LANGLOIS (*Gaspe*): That "charterer by demise" be substituted for "charterer".

Mr. WINCH: I would so move.

Mr. GREEN: I think that perhaps we might make better progress if we left some of these sections which are contentious stand and dealt with the others. Over the week-end I have had an opportunity to go over the brief submitted by Mr. Brisset, and I do not know how many other members have done so, but I think it makes the situation clear beyond the shadow of a doubt with regard to this proposed extension of power to seize a vessel.

Coming from one of the great ports of Canada, I cannot overemphasize the concern with which we see an attempt being made here to extend the power of the National Harbours Board to seize vessels. That right of actually seizing a vessel is going very far. They already have the right to seize for damage that is done to a dock by the vessel, but they are attempting in these amendments to get the power to seize a vessel for damage done by an agent living in Vancouver or any other port or by a charterer, in addition to a charterer by demise. I do not believe that there could be a more objectionable provision going into this Act.

You have ships coming in from all countries of the world. A government agency will have an arbitrary power to seize a vessel, not for something the vessel itself does or that its master does, which right they already have, but they go further and ask for the right to seize for things done by a local agent. I think it is preposterous. You will notice that this submission is made on behalf of the Shipping Federation of Canada and also on behalf of the Vancouver Chamber of Shipping. I cannot see why the National Harbours Board would ask for such a power.

The CHAIRMAN: What clause is that under?

Mr. GREEN: Clause 1 is the chief clause. Particularly when it was admitted last week that they had not lost one cent for damage done by a vessel, why on earth should there be any necessity to give them wider powers which can only interfere with the shipping business coming into the port.

You will have the same proposition when you get the St. Lawrence waterway opened up. You do not want to have in Fort William or the port of Toronto and all these other ports, which are not national harbours but which are important ports, any laws that will interfere unnecessarily with the shipping in and out of those ports.

This whole principle is contrary to marine law. The National Harbours Board has the right now under marine law to sue a vessel and have it seized by the sheriff, and in addition they have the right to seize it under their own Act for anything done by the vessel. That is the law of all the maritime nations at the present time, certainly of the British nations. I do not see why the National Harbours Board should be entitled to have any wider rights. Mr. Brisset summed it up in the last two paragraphs of his brief. After outlining the reasons in this brief, which I think cannot be answered and certainly were not answered by the National Harbours Board, he ended with these paragraphs:

> For all the reasons which we have outlined above, we therefore respectfully submit to you that the definition of the word "Owner" under the amendment in section 1 subsection 1(e)(ea) should be deleted and that section 8 purporting to repeal section 16 of the present Act and to substitute it by the new section 16 should also be deleted, except perhaps that the words "the crew while acting as the crew" could be advantageously replaced by the words "a member of the crew thereof acting in the course of his employment" and the reference to charterer, and agent at the end of subsection 2 of section 16 in the present Act could be deleted, and replaced by the words "charterer by demise".
>
> We repeat that during the 18 years the Act has been in force the wording of section 16 of the present Act has never been found to be lacking and that the board has always been able to obtain satisfaction for damage done to its property whenever it was entitled to do so under the common rules of justice and equity.

I would hope that the minister would have another look at that section. I think that in the meantime it should be allowed to stand and that we should deal with the sections which are not contentious. This goes so far in the way of interfering with the rights of the shipping people existing at the present time that I think it is very unfair in addition to being unnecessary.

The definition of owner also contains the definition of the owner of the goods, and I would like to have a further explanation of that by somebody on behalf of the National Harbours Board, because it seems to me to be just as objectionable as the definition of owner of the vessel. It includes the bailee and the carrier. That is a person who happens to be transporting the goods to and from the dock, and I think again it is taking much too wide powers. We did not deal with the question of owner of goods the other day. We dealt with the question of the owner of a vessel. I would hope that that section could be allowed to stand until we have a further look at it.

Mr. LANGLOIS (*Gaspe*): Mr. Chairman, I want to make it clear at this time that whatever I say now or later is subject to approval by the committee, and I do not want to give any directive whatsoever. Mr. Chairman, I think it should be first pointed out that the Shipping Federation of Canada has made representations to the National Harbours Board; these were made for the first time in a letter dated April 19. Following these representations the legal advisers for the federation were invited to come up to Ottawa and discuss their points with officials of the National Harbours Board, and they did that.

Quite a comprehensive discussion took place, and the wording of both clause 1 and clause 8, in so far as they had something to do with these representations, was carefully considered by the Board. The Shipping Federation make three points. Firstly, they claim that by introducing this definition of owner into the National Harbours Board Act we would change the purport of section 16, as amended by clause 8 of this Act, so that the owner of a vessel might be held responsible for damages caused by his agent even when the ship is miles away from Canada and the owner has nothing to do whatsoever with the action which resulted into the damage being caused to the board's property. That is one of the points they made. Following these discussions with the officials of the board and specially with counsel for the board, it was suggested that an amendment might be considered to clause 8 of the bill by which the owner of the vessel could be protected and the vessel made subject to seizure only when the act resulting in damages is caused by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of a superior officer; and also a second amendment to section (c) of the proposed clause 8, reading: "That obstruction to the performance of any duty or function of the board or its officers or employees has been made or offered by the vessel through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of a superior officer, as a result of which obstruction damage or other loss has been sustained by the board." That leaves the damages caused by the agent out, and the vessel cannot be seized for damages caused by the fault or negligence of the agent. I think that clears that point, and that meets it fully. I think that Mr. Brisset the other day agreed to that.

Mr. GREEN: I did not understand that.

Mr. LANGLOIS (*Gaspe*): If I am allowed to ask a question of Mr. Brisset, I would ask him if he is satisfied.

Mr. BRISSET: I agree that for this point it has been met.

Mr. LANGLOIS (*Gaspé*): For this point, yes.

Mr. BRISSET: Perhaps later on I may be allowed to make a few remarks.

Mr. LANGLOIS (*Gaspé*): Yes. This is why I respectfully submit that the changes could be made much better under clause 8, and any member of the committee could at the appropriate time move such amendments if he wishes to do so.

Now, the other point made by the Federation was that on the other hand the agent was going to be made liable for damages resulting from the actual operation of the ship, over which he has no control. Let us say, for example, the agent might be responsible for the faulty manoeuvre of the ship, which results in damages to one of the National Harbours Board's piers or jetties. I wish to say there that the agent has been responsible for damages caused to such property as public wharves, etc.—long before the board ever existed. For example, way back in 1913 the Vancouver Harbour Commissioners Act, Chapter 54, S.C. 1913, section 29(2), had the following disposition:

> In a case within paragraphs (c) or (*d*) of subsection 1 of this section the vessel may be seized and detained until the injury so done has been repaired by the master or crew or by other persons interested, and until all damages thereby directly or indirectly caused to the corporation, (including the expense of following, searching for, discovering and seizing such vessel) have been paid to the corporation; and for the amount of all such injury, damages, expenses and costs, the corporation shall have a preferential lien upon the vessel and upon the proceeds thereof until security has been given to pay the amount of such damages, whether direct or indirect, and of such injury and costs as may be awarded in any suit resulting therefrom, and the owner, charterer, master or agent of such vessel shall also be liable to the corporation for all such injury and damages.

This was repeated in other harbours legislation, for example in the Saint John Harbour Commissioners Act, Chapter 70, S.C. 1919; section 22(2).

The same thing was repeated in the Chicoutimi Harbour Commissioners Act, 1926, Chapter 6, S.C. 1926; section 17(2).

The same thing was repeated also, verbatim, in the Halifax Harbour Commissioners Act, 1927, Chapter 58, S.C. 1926-27; section 22(2).

Mr. GREEN: May I ask a question? That provision is in the National Harbours Board Act?

Mr. LANGLOIS (*Gaspé*): Section 16, yes.

Mr. GREEN: But the point is that you are changing that so that the vessel is to be made responsible and can be seized for damage caused by the agent, which has nothing whatever to do with the vessel.

Mr. LANGLOIS (*Gaspé*): This has been disposed of by the first suggestion that I made and by the amendment I explained before I came to this second point. Mr. Brisset agreed that the owner would be satisfied because his ship could not be seized if that amendment was passed.

Mr. GREEN: You mean the amendment you showed to us the other day?

Mr. LANGLOIS (*Gaspé*): Yes, the one I read a while ago.

Mr. GREEN: The amendment you showed to us the other day does not apply (*d*) of the new subsection which reads:

> (*d*) the owner of the vessel has committed an offence under this Act or the by-laws, punishable upon summary conviction by a penalty payable under section 21 to the board;

So that if the agent commits an offence under the by-laws or under the Act, then you can still seize the vessel. You have taken the word "owner" out of (*b*) and (*c*) but you have not taken it out of (*d*).

Mr. LANGLOIS (*Gaspé*): Counsel for the board reminds me that (*d*) is for an offence under the Act which cannot amount to more than $500; that would be the maximum.

Mr. GREEN: But you have the right to sue.

Mr. LANGLOIS (*Gaspé*): For a violation of the Act; that is not for damages; is it (*d*) you are referring to?

Mr. GREEN: The power you are asking reads as follows:

> 16(1) the board may, as provided in section 18, seize any vessel within the territorial waters of Canada in any case, where, in the opinion of the Board . . . .
>
> (*d*) the owner of the vessel has committed an offence under this Act or the by-laws, punishable upon summary conviction by a penalty payable under section 21 to the Board;

In other words, it is not the court which decides whether the Harbour Board has the power to seize; all that is done is that the board itself shall decide whether it has the right to seize. Moreover, (*d*) includes the word "owner".

Mr. LANGLOIS (*Gaspé*): (*d*) is for an offence under this Act or a by-law.

Mr. GREEN: You say that under (*d*) the Harbour Board can seize if the owner of the vessel has committed an offence under this Act or by-laws; and on the next page you confirm the right to detain the vessel by subsection 2 of the new section 16, which says:

> In any case described in paragraph a, b, c or d of subsection 1, the board may detain any vessel seized pursuant to subsection 1 until the amount owing to the board has been received by it, or, if liability is denied, until security satisfactory to the board has been deposited with it.

By leaving the word "owner" in (*d*), you have got the ship made liable for any breach of the by-laws or the Act by the agent.

Mr. LANGLOIS (*Gaspé*): The owner—and I think that you would agree with me, Mr. Green—the owner of the ship cannot be held responsible for an act done by his agent unless it is proven that the agent was acting within the exercise of his mandate as agent for that ship when the act was committed.

Mr. GREEN: It does not say that.

Mr. LANGLOIS (*Gaspé*): But that is the common law; that is so under agency law.

Mr. GREEN: Your definition of "owner" in section 1 is so wide that it covers the agent and the charterer. My submission is that you do not need any such definition at all, because the Act gives you ample powers as it is and it covers these other people for whose actions the ship can be seized.

Mr. LANGLOIS (*Gaspé*): That is why we are saying that the bill does not do anything to enlarge the provisions of the Act so far as the responsibility of the agent or that of the owner or the charterer of the vessel are concerned. That is why I quoted these provisions in the former Acts dealing with the Harbour Commissions of Halifax, Chicoutimi, Vancouver, and so on; they show that these provisions were in existence back in 1913 and were repeated in 1936 in the "National Harbour Boards Act." All we are doing now is to repeat the same thing. We are not adding any extra power, and I think that counsel for the board will vouch for that statement as well.

Mr. GREEN: Counsel for the board admitted the other day that in this amendment you are now taking the power to seize these vessels for actions by their agents, a power which you did not have before; and you are doing it because you are making the word "owner"—your definition of "owner" cover agent. The powers which you quoted from the Vancouver Harbour Commission Act and the other similar Acts are merely powers to sue the agent or to sue the charterer for any money which you do not realize by seizing the ship.

Now, nobody seriously questions that right. The trouble is with your amendment which would give further power to the board to seize the vessel for damage done by an agent. Mr. Finlay said the other day that if the agent has a truck on the dock and the truckdriver threw out a cigarette which set fire to the dock, then under this amendment the vessel can be seized because the word "owner" is defined very broadly to include agent. I think that is contrary to all marine law and contrary to everything that is fair and reasonable. The board has no right to get such drastic powers of seizure for actions done by an agent.

It is all right for them to seize for anything that the vessel does; for example, if the vessel runs into the dock and injuries it, then the vessel should be subject to seizure as under marine law; but this business of making the vessel liable for the agent's actions, I think is going much too far and the trouble really begins in the definition of the word "owner"; if you take the word "agent" out of the definition of owner and qualify "charterer" by restricting it to "charter by demise", then I think you will get away from a good deal of the trouble.

Mr. LANGLOIS (*Gaspé*): Mr. Chairman, I think that Mr. Green will agree that the objection to the right to seize a vessel for any act of the agent is met by the suggested amendment. Now I say that this amendment does not cover subsection (1) of the new section 16 dealing with fines which might be imposed against the agent or owner for non-observance of the sections of the Act or the by-laws. We have been told that it might amount to a maximum of $500. However, I am also told by the officials of the board that there would be no serious objection, if the committee feels that it should be done in that way, to an amendment to section (*d*) to make it even clearer that the owner is not responsible for violations of by-laws of the board or of provisions of the Act by the agent. So I would think that by accepting these two amendments, we are fully covering the points made by Mr. Brisset and by Mr. Green.

Mr. GREEN: Would you take out subsection (*d*) of section 16?

Mr. LANGLOIS (*Gaspé*): It is being suggested that we might add after, "the owner of the vessel as" the words "in respect of the vessel" and that would limit it to violations in respect to the vessel itself.

Mr. GREEN: As long as you make the word "owner" include "agent" then you are wrong in my judgment. The word "owner" should not include "agent" at all. If you want to make the agent liable under a section of this Act, then put the word "agent" in; but do not define owner with a blanket definition which includes agents and charterers. That is where the amendment goes wrong because you are trying to cover everybody by the word "owner". I do not think it is good business to do that and I would like to hear Mr. Brisset on that point.

Mr. CAVERS: Mr. Chairman, I was not here on Wednesday last and I did not have the benefit of hearing the submission made by Mr. Brisset; but from the discussion so far, it seems to me that even in Mr. Green's submission there are only two things with which he takes any disagreement; first, with regard to the matter of the charterer, and apparently that has now been settled and satisfactorily agreed upon by the amendment of Mr. Winch. In regard to the second point, the question of the word "agent", that is the situation where it stands at the moment and I think that the committee might be confused as to whom "agent" might be.

To my mind an agent, in this situation, refers not to any carter or any person who might come upon the jetty or the wharf; but an agent is the one who has been called upon by authority of the owner, and to whom has been delegated authority to act by the owner himself.

(The Committee adjourned for a vote in the House).

(on resuming)

The CHAIRMAN: Gentlemen, we have a quorum.

Mr. CAVERS: Mr. Chairman, as I was stating before the recess on the question of interpretation of the word "agent", as I see it the agent is some person who has been invested with authority by the owner to act for him in that particular jurisdiction in which the harbour might be situated. That being so, he is the owner in that particular area. He is given authority to carry out acts for the owner there and he deals with the port authorities and with all the persons in charge of the port. He is, in effect, the owner in that particular jurisdiction or harbour. It is the agent who knows with whom he is dealing. The agent in the port has probably had a long dealing with the owner for whom he acts and if he does not know the owner for whom he is acting, then it seems to me that he can protect himself by requiring the owner to give him a bond covering any loss that he might be put to under the Act. It seems to me, therefore, there are only two points to consider, one which seems to have been settled by reason of the amendment and the other question as to the word "agent" on which there might be some difference of opinion, and if we could deal with the clause it would seem there would be little more that could be discussed in the committee.

Mr. LANGLOIS (*Gaspé*): I was not finished. I was talking about the two first points made and now I would like to discuss the third point. However, before I come to that third point, may I make the following remarks concerning subsection (*d*) of section 16 (1) and the objections raised by Mr. Green. During this short recess we just had, for the division, I discussed this further with counsel for the board and he directed my attention to the fact that in subsection (*d*) we are dealing exclusively with penal law and surely the word "owner" cannot be interpreted as meaning agent or vice versa. When we are dealing with criminal or penal law, the owner can in no way be held responsible

for an offence committed by his agent. I think Mr. Green will agree with me on this point. Furthermore, if you look at subsection (*e*) of clause 16 (1) you will see that it reads:

> Judgment against the vessel or the owner thereof has been obtained in any case described in paragraph (*a*), (*b*) or (*c*);

—and it stops there—it does not add (*e*) because we cannot obtain a judgment against the owner of the vessel for a penal offence or violation committed by the agent. Although there seemed to be no objection to adding, as I suggested earlier, after the word "has" in (*d*)—the first line—"in respect of the vessel", I am of the opinion it would not be necessary to do that even, because I think it is clear that the owner cannot be held responsible for a penal offence committed by an agent, and the word "owner" in this subsection (*d*) must be interpreted in regard to the context and that deals with penalties.

Mr. GREEN: This shows very clearly that my argument was right about this business of defining an owner to include agent. The parliamentary assistant is now arguing that where the word "owner" is used in this subclause (*d*) of clause 16 it only means the actual owner and does not mean the agent. That is what he is arguing—

Mr. LANGLOIS (*Gaspé*): No. An act committed by the agent—

Mr. GREEN: —because it is a penal section it does not include the word "agent." If he is right, where you find the word in that particular subclause it does not mean "agent" but where you find it in the other clauses and subclauses it means or includes agent. That just shows you how ridiculous that argument is. The owner is defined in the new subclause 1 as including the word "agent" and therefore everywhere "owner" appears throughout the bill it includes agent. I have never heard the law the parliamentary assistant is suggesting now, that because it is a penal section it does not include the word "agent", although the definition clause says it does; the way to get around this is to cut out the business of trying to make the word "owner" mean something else. Let us use the word "owner" as meaning the man who owns the ship, and let us not try to have it cover two or three other people who are no more the owners of the ship than you and I are, Mr. Chairman. I think that is where the draftsman of this particular statute has gone wrong.

Mr. LANGLOIS (*Gaspé*): I do not know if it is because I did not make myself clear, but I never said the owner did not include the agent under subclause (*d*). All I said is that, since we are dealing with penal law, the owner of the vessel could not be held responsible for a violation committed by the agent and vice versa. The agent for a violation by the charterer or the owner, because the person who commits the offence or violation can be prosecuted before a court. We cannot hold the agent responsible for a violation by the owner, and I think it would be hard to prove the contrary.

Mr. GREEN: Could I ask the parliamentary assistant a question? Does he contend that the vessel cannot be seized where, under subclause (*d*), the agent has committed some breach of the Act or the regulations?

Mr. LANGLOIS (*Gaspé*): Quite right.

Mr. GREEN: Quite right? That is, the agent breaks the rules under this Act and then the vessel can be seized for his having broken the rules?

Mr. LANGLOIS (*Gaspe*): It can not be seized.

Mr. GREEN: But clause 6 says: "The board may, as provided in clause 18, seize any vessel within the territorial waters of Canada." Subclauses (*a*), (*b*) and (*c*) are mentioned and then we come down to subclause (*d*) where it says the owner of the vessel has committed an offence under this Act and so on, and the owner is defined as including the agent. That means the vessel can be seized for any breach of the regulations by the agent?

Mr. LANGLOIS (*Gaspé*): That is not right. You see, we cannot seize the vessel for an offence committed by the agent but, if the offence is committed by the owner we will be able to prosecute him and also seize the vessel. That is, the party who committed the offence. You know that from your knowledge of law. By looking at the definition of owner in clause 1 you can see that owner includes owner, charterer or agent. My point is that, since we are dealing with penal law, we can only pin the offence on either the charterer, the person who actually committed the offence, the agent or the owner of the vessel as the case may be. Is that clear? I am trying to make it as clear as I can.

Mr. GREEN: What you are saying is clear, but it is completely wrong in my judgment.

Mr. WINCH: Mr. Chairman, I most certainly want to get a clear understanding of this in my mind. I had some doubt about it when the committee last met, and I will quite honestly admit that I am becoming more and more confused and am finding it more and more complicated. I do not know whether it is because we have two lawyers trying to explain two sides of the same word or not—

Mr. HABEL: There is something in that!

Mr. WINCH: —but in an endeavour to clear this up, may I ask the parliamentary assistant if I am correct or wrong in my understanding. As I see the key of having the word "agent" in now, under the interpretation of owner, strikes me—or, I will put it as a question. Does this mean that if there is a company outside of Canada, let us say in country "X", which is incorporated and is a company which perhaps does not have any physical assets and it charters a boat or boats—I will say a boat—of a company that is in country "Y" and this boat comes to Canada and does damage to any of the installations or property of the Harbour Board and before it can be seized, or for other reasons, it gets outside the territorial waters of Canada and there is a claim by the Harbour Board then against that ship, that you cannot collect because the company is outside of Canada and may not have any physical assets in any way? You cannot touch the ship itself, or the owners of the ship, because that is country "Y" and you cannot touch the actual ship itself unless it happens to land again in Canada. In other words, if they keep that ship out of Canada, you would have no way of collecting either from the charterer, from the owner, or by seizure of the ship itself and therefore—and this is the point I am coming to—is it because of a situation like that that you are asking for the power of putting in the agent as an owner so that you can lay a charge against the agent, and if that is correct, are you saying you have not had that power in the past?

Mr. LANGLOIS (*Gaspe*): We have had it all the time.

Mr. WINCH: If you have had it all the time why do you need this change now? That is the point I cannot get clear.

Mr. LANGLOIS (*Gaspe*): We are not changing anything. It is just a re-wording, and if you look again at the explanatory note you will see the prime purpose of clause 1 in which we put a definition on the word "owner":

> The prime purpose is to enable the Board charges made under other provisions of the Act (see clause 6(2)) to be imposed directly upon carriers and bailees of goods as contrasted with the actual owners thereof; in many instances the carriers or the bailees are the only persons with whom the Board has any direct dealings. An ancillary purpose is to eliminate the necessity for use, elsewhere in the Act, of cumbersome phrases such as "agents, owners, masters or consignees, etc." of goods or vessels.

Another purpose or secondary purpose is to avoid the use of repeating phrases over and over again throughout the Act, where we have to repeat "owner, charterer, agent, master of the vessel, etc." You see from the note that the primary purpose is not to add anything to the Act, nor to enlarge the powers of the board as they exist under the present Act. That is why we claim that this adds nothing to the Act. It is merely a new definition to avoid repetitions further on in the Act and it is far from our mind to increase the power of the board in that direction. Does that answer your point, Mr. Winch?

Mr. McIVOR: Carried.

Mr. BELL: I am inclined to agree with Mr. Green and the main difficulty is that we have taken the word "owner" to loosely mean the owner of a vessel. We have taken it and have given it this particular meaning in the interpretation section now and I suggest we will have to go all through the Act and examine the word "owner" as it was used before and see what the ramifications will be with the new definition and whether it increases the powers—which of course has been admitted today and was admitted the other day—there was an increase in the powers given by this definition of the word "owner". I suggest that instead of making all these amendments, Mr. Chairman, it might be better to take the clauses in which you feel the word "owner" is weak and does not give you sufficient powers and spell out in those sections any addition to the word "owner"—ships' agents and charterers, etcetera. Otherwise, we will have to change and argue each section of the old Act and examine its present meaning and it will take us days to do that because the word "owner" is used, for example in section 18, I happen to note, and in other sections. It will have to be examined in the new light, and therefore I suggest that the sections that are bothering you are the ones about seizure, and if there are other ones that you feel the word "owner" alone does not give you enough powers under, let us know what those are and we can spell them out.

Mr. LANGLOIS (*Gaspé*): What Mr. Bell is suggesting now is what we have been trying to avoid, those numerous repetitions of owner, agent and so on in other sections of the Act, and that is why we have to define "owner". Counsel for the board and the lawyers of the Department of Justice have been very careful in drafting the wording of the new section 16, since we were defining "owner" and this has been, as I said before, argued at quite some length with the representatives of the Shipping Federation when they came up to Ottawa some time ago. Let me illustrate a point by giving you an example. Some years ago a ship on her departure from the port of Vancouver crashed through one of our jetties going out of the harbour doing over $\$\frac{1}{2}$ million damage to our property, miraculously with little or no damage to the ship. The ship, however, remained in harbour and the amount of the damage involved was settled, but had that ship sailed—she was able to sail, she had very little damage—had she been a foreign ship then we would have welcomed our recourse against the agent. That is why we do not want to do away with that particular power that we have now under the existing Act to get after the agent, when the ship has sailed and the shipowners have no physical assets in Canada on which we might make good a judgment in court.

Mr. GREEN: A ship cannot creep out of a harbour like a thief creeping out in the night. If your local harbour officials are on the job no ship can get away; she has to be cleared. It just could not happen that a ship could get out like that. The Board admitted the other day that they have not lost one cent in the eighteen years they have been in existence by reason of damage caused by a vessel to your docks, so needing this power to prevent loss does not carry very far.

Mr. LANGLOIS (*Gaspe*): Let me give an example to Mr. Green to illustrate why I do not agree with him, when he says if the employees of the board are

on their toes they should see all those damages because a ship to obtain clearance. Take the case of the ship that clears through customs and gets also its clearance from the port authorities at six o'clock p.m. just before the office is closed. She is due to sail at midnight and clears at six o'clock. She sails, for example, from a berth near the Victoria basin in Montreal, which is the western section of the harbour in Montreal. The board's properties extend some 30 miles. That ship sails and half an hour later, when some eight miles down, she passes too close to a jetty and causes extensive damage to the jetty, but she is not damaged too much and can carry on and proceed to sea. The next day somebody will discover that jetty has been damaged and before this damage is linked to the ship, an investigation must be carried out when we are in a position to determine that such a ship has caused the damage she then might be quite a way out and outside the territorial waters of Canada. It is exactly cases like that that we want to cover. I must add the fact that we have had no bad experience in 18 years does not mean that we might not have a case where the board might lose a lot of money in the future. We have been lucky so far that the accidents were caused by responsible Canadian shipping companies or foreign shipowners that were not trying to evade their responsibility. But, just the same, in one case given the other day, the board had to incur quite heavy legal expenses in order to recover its losses. I think that with the development of our inland navigation network through the deepening and widening of the St. Lawrence seaway, that Canada may expect more foreign ships visiting our ports in the future and it may be a good thing not to deprive the board of the power it already has under the Act to sue the agent, when the owner of the vessel does not want to submit to Canadian courts. That is the party we are protecting the board against; the owner who is a foreigner and does not want to submit to Canadian courts. In that case we are able to go after the agent. Someone said the board might lose some business. If we lose that kind of business, that of owners who are trying to evade the responsibility in those cases, then we do not want that kind of business.

Mr. DECORE: This would apply to foreign vessels?

Mr. LANGLOIS (*Gaspe*): Yes.

Mr. DECORE: I think Mr. Winch's point was well taken with reference to foreign ships.

Mr. NICHOLSON: Mr. Chairman—

The CHAIRMAN: Mr. Decore had the floor.

Mr. DECORE: I just wish to bring out one point. I thought Mr. Winch brought out a matter that while you said that Act gives enough protection as it is right now, it is a matter of giving a clearer definition.

Mr. LANGLOIS (*Gaspe*): Yes. We are not changing a thing as far as the agent is concerned.

Mr. DECORE: And you are trying to get protection from foreign ships who may go out of territorial waters of Canada—the right to protect our property here in Canada to prevent those ships from going out of Canada.

Mr. LANGLOIS (*Gaspe*): We want whenever possible to be able to seize the ship before it sails.

Mr. DECORE: Do we have that power now?

Mr. LANGLOIS (*Gaspe*): Yes. We want no new power. We want the ship to put up the security and if the ship is gone, we want to be able to go against the agent, and we have been able to do so under the existing legislation.

Mr. GREEN: The parliamentary assistant has got this mixed up. The board has the power now to seize any ship, Canadian or foreign, for any damage

done to harbour board property by the vessel or by a crew acting as crew of the vessel. They have that power right now.

Mr HARRISON: Providing they can find the ship.

Mr. GREEN: They admit that they have not lost a cent yet. It is not so easy for the ship to get out of the port. As a matter of fact, the ships are covered by insurance for complaints of this kind anyway, so there is very little prospect of the board losing that money. They have that right now and in addition have the right to sue in the Admiralty court and the minute they sue they can get a libel which is pasted on the ship and the ship is stuck in harbour under those conditions.

Mr. DECORE: Suppose it is a foreign ship and it takes some time before we obtain judgment for damage and in the meantime this foreign ship is 200 miles away, what happens then?

Mr. GREEN: They have the power now to seize a foreign ship.

Mr. DECORE: Atfer you get judgment.

Mr. LANGLOIS (*Gaspé*): And before too. I am sorry, I have been told that by mistake I might have inferred that this power to seize the vessel before judgment is new. It is not new.

Mr. GREEN: They have the power under the present Act to seize the vessel the minute it smashes a dock.

Mr. DECORE: Foreign vessels?

Mr. GREEN: Any vessel, Canadian or foreign; they also have the right to sue; and the minute they sue they get a libel issued and the ship is stuck in port until it puts up a bond to cover the damage. They have those rights now, and in addition they are asking here for the right to seize that vessel for damage done to the docks by an agent. For example if the agent's truck smashes into the dock and does damage which has no connection with the vessel at all they want the right to seize the vessel for the damage done to the dock by the agent; this right of seizure of a ship is a mighty drastic right. It is about the most drastic right there is in Canadian law, and we do not believe they should have any right to seize those vessels except for things done by the vessels themselves. The trouble is they define an owner as including agent and in that way bring the ship in as security for any damages done by the agent.

Mr. Cavers referred to the agent as being the agent for all purposes of the vessel and being the agent of the owner. That is not the case at all. Mr. Brisset dealt the other day with the status of these shipping agents.

Mr. CAVERS: The agent is the man they deal with.

Mr. GREEN: You are trying under the law to make the agent responsible as well, and in the brief Mr. Brisset said what these agents are. He said: "It is interesting to note as regards the agent, for instance, that the words used are not 'the agent of the owner' but 'the agent of the vessel'; therefore it is quite clear that reference is had to what is known in common parlance as 'vessels' agents' or as 'husbanding agents'. 'Vessels' agents' or 'husbanding agents' are not in any sense of the word the representatives of the owners of the vessel."

Mr. LANGLOIS (*Gaspé*): We will never obtain a judgment under those circumstances.

Mr. Green:

They are simply co-ordinators of services and will, for a modest fee, provide certain services to vessels coming into a port to load and discharge cargo. He said it would run perhaps as high as $200. They will

> act as agents do liaison between the master of the vessel and the stevedores who will load and discharge the vessel, the ship-chandlers who will replenish her stores, the coal or oil merchant who will fill her bunkers, the shipping master who will sign off or sign on her crew, the customs officer who will grant a certificate of clearance, the tug owner who will provide towing services in and out of berth, the pilotage authority who will provide the pilot to take the vessel out to sea.
>
> Vessels' agents in this manner will handle scores of vessels during a year, and in the performance of the services which they render their servants will of course have occasion to utilize board facilities. If, in the course of the performance of their job, they cause injury to board property we submit that there is no reason to make the vessel for which they may be acting as agent at the time liable to seizure for the damages they have caused.

Yet this bill gives the power for the board to do just that.

Mr. LANGLOIS (*Gaspé*): With respect to Mr. Green's last remark I think this has been said over and over again. I will ask him again to look at section 16, subsection (2) of the National Harbours Board Act as it exists now and I will even read it for the benefit of this committee. It goes:—

> In a case coming within paragraphs (*c*) or (*d*) of subsection (1), the vessel may be seized and detained until the injury so done has been repaired and until all damages thereby directly or indirectly caused to the board (including the expense of following, searching for, discovery and seizing of such vessel), have been paid to or security for such payment accepted by the board; and for the amount of all such injury, damages, expenses and costs, the board has a preferential lien upon the vessel and upon the proceeds thereof until payment has been made or adequate security has been given for such damages, whether direct or indirect, and for the amount of all such injury, damages, expenses and costs as may be awarded in any suit resulting therefrom, and the owner, charterer, master or agent of such vessel is also liable to the board for all such injury, damages, expenses and costs.

It follows the exact wording as in the definition of owner in clause 1 as it now stands. I repeat: "The charterer or agent of such vessel shall also be liable to the board for all such injury, damages, expenses and costs". I think it is clearly indicated that we are not handing over one parcel of power to the board. We are merely repeating what exists now and what has been in existence, as I explained in the earlier stages of this meeting, since 1913 in Canada, and was repeated in many harbour statutes since that year. We are not handing anything to the board. I think, Mr. Green, in the face of this subsection, you must agree with me that we have the exact wording, and I repeat it:

> and for the amount of all such injury, damages, expenses and costs as may be awarded in any suit resulting therefrom, and the owner, charterer, master or agent of such vessel is also liable to the board for all such injury, damages, expenses and costs.

If that does not make the agent liable now under the Act as it exists, I do not know what would make him liable.

Mr. GREEN: That allows the board to sue for any deficiencies after seizing the vessel. At the moment I am not quarrelling with that. But the bill, as you are bringing it in now, gives you power in the opposite direction. In other words, it enables you to seize the vessel for injuries done by the agent, and that is what we say is unfair, that the acts of the agent should not result in the ship being seized. There is not that power in the Act, and in the way you have drawn the bill there will be that power for the board to seize the vessel for action done.

Mr. LANGLOIS (*Gaspé*): May I suggest, Mr. Chairman, that the counsel of the board try to explain this again.

Mr. GREEN: I wonder if we can hear from Mr. Brisset, who is representing the people who will be hurt.

Mr. CAVERS: He has already appeared as a witness.

Mr. DECORE: Supposing that the actions of the agent are such that they contributed directly or indirectly to the damage, why should the agent not be liable?

Mr. GREEN: He should. I am not quarrelling about the agent being liable for his own actions for the moment, but I am quarrelling with the fact that the vessel can be seized for the agent's actions. If the agent is negligent on the dock, the vessel can be seized.

Mr. DUMAS: He is representing the owner.

Mr. GREEN: The agent is not responsible for the ship doing damage to the dock.

Mr. DECORE: He is acting as agent for the ship, a foreign ship. If that agent has been negligent in something, why should not the company be responsible?

Mr. CAVERS: Certainly they should.

Mr. GREEN: It is a fundamental law of this country, this right against a ship. You are from the prairies and do not know the shipping law. It is a right against a ship for damages done by a ship. When the law goes further and gives anybody the right to seize a ship for things done by somebody else, that is an entirely new departure in Canadian law.

Mr. DECORE: I admit that I come from the prairies and do not know much about shipping, but this is a matter of common sense, whether it is in shipping or anything else. If an agent has done a certain thing acting for the ship owner, the ship owner should be responsible for the actions.

Mr. GREEN: If the board could get a judgment against a ship owner for an action done by the agent, that is all right, but that is not the question. We are questioning the right to seize a ship before the harbours board has even gone to court. They are given here the right to seize that vessel without even commencing any action.

Mr. LANGLOIS (*Gaspé*): May I add this? I suggest that we are now turning around in circles. In this exchange between Mr. Green and Mr. Decore we are coming back to the point that has already been met. Mr. Brisset has admitted that it has already been met by one of the proposed amendments. If this amendment is accepted by the committee, in such a case as the one Mr. Green gives us, the ship would not be seizable under the amended act for something done by the agent, because in the new (*b*) and (*c*) we are going to eliminate that objection, and I thnk that Mr. Brisset has agreed that he was satisfied. We are going around in circles.

Mr. BELL: It seems to me that some of the points that Mr. Brisset brought to our attention last week still have not been cleared up. Could we not hear from him now? We have had a good deal of discussion. The lawyers on our committee apparently cannot agree. Could we have one more lawyer?

An Hon. MEMBER: To disagree?

Mr. LANGLOIS (*Gaspe*): When I was talking before the division, I was trying to explain the three points made by Mr. Brisset. The first one was the point Mr. Green was making a while ago, that the ship should not be seized for damage done by the agent. This point is met by the proposed amendment. The second point was that he did not want us to make the agent responsible for the doings of the ship owners. In answer to that, we say that it is in the Act, it has

been in our harbour legislation since 1913, and I do not think that we should deprive the board of the right it now has. The third point was the "charterer" being included in the definition of owner. His point was that the word charterer could also be interpreted as meaning the time charterer or voyage charterer. I am of the opinion, and counsel for the board is of the same opinion, that it means only such a charterer who has the physical possession of the ship and is, if I may express myself in that way, a temporary owner and therefore has the actual control of the ship, and that is the charterer by demise. I would respectfully submit that we are ready to meet that point too. We think that it does not change anything, but if it pleases Mr. Brisset and if it pleases the committee, we are ready to change "charterer" to "charterer by demise". I think that there we have a complete answer to the three main points made by the Shipping Federation of Canada.

Mr. NICHOLSON: Could we hear from Mr. Brisset?

The CHAIRMAN: No, he has given evidence already.

Mr. NICHOLSON: Mr. Chairman—

Mr. LANGLOIS (*Gaspé*): Ask him a question.

Mr. NICHOLSON: I think, Mr. Chairman, that it was the understanding of the committee when we adjourned last week that Mr. Brisset would be available. There have been a great many questions raised, and I think we could stand another hour. Mr. Brisset has been taking notes. I think he should have permission to discuss the question.

Mr. WINCH: May I ask a question of Mr. Brisset? The parliamentary assistant said a few moments ago, in his outline of the three points, that he had met all the objections of Mr. Brisset who was at the time shaking his head. So I now ask Mr. Brisset this question: in what way have these three points not met your submission?

Mr. BRISSET: I will answer you by saying that two points have been made. Under the amendment proposed by the parliamentary assistant, we no longer—

Mr. LANGLOIS (*Gaspe*): "Suggested" would be a better word.

Mr. BRISSET: The board no longer has the right to seize a vessel for injury caused by an agent or a charterer. That is a good point. The second point made arises out of the fact that now it is submitted that the word "charterer" should read "charterer by demise", and therefore we no longer make responsible the time charterer or voyage charterer, if I may use the common expression to indicate both. So the ship is liable for what the owner does, or what the charterer by time does. In other words, we no longer make the shipper responsible for the navigation of the ship.

But where the third point has not been met is here: as I have in my submission the other day, under the present Act the primary recourse is against the vessel, if the vessel causes damage, while the subsidiary recourse or secondary recourse is only against the agent, provided the first recourse is exercised.

I explained to you that in practice it is of no consequential effect because it never happens. With a ship in the harbour—I am speaking of the ordinary commercial ship, not the ship worth $1 million or $2 million—the board cannot get out of that ship enough security to cover its claim. Therefore, in practice there has not been any recourse exercised against the agent.

What we are seeking here is primary recourse against the agent instead of going against the ship first. I will use the illustration given by the parliamentary assistant. I am speaking of the extreme illustration he gave of a ship hitting all sorts of things and finally getting away without being caught.

I would say it was most unfortunate although, in practice it will never happen—why in such cases would you catch the agent for that? Why, if the

foreign ship should come here and does all that, why would you put the burden of liability on the Canadian agent who would not be covered by insurance and would never expect under ordinary Maritime law to be saddled with such liability?

I say it is perfectly unjust. Any provision of this sort would have the effect of putting the agent out of business entirely.

Now, to proceed a little bit further, I would like to clear up some confusion in perhaps some of the members' thinking.

Mr. LANGLOIS (*Gaspé*): Are you leaving that point?

Mr. BRISSET: No. I was just dealing with this point, that the third point is not met. I would like the board or this committee to understand what is meant by the word "agent". We have been given many definitions of the word "agent" here and they do not all agree.

I would like everybody to have a very clear understanding of what the word means. I think the best way we can do it is by giving an illustration and I will give an illustration that will appeal even to a "land-lubber".

Let us assume that I am the owner of an apartment house in this city but I do not have the time to look after it and run this apartment in the sense that I have no time to run after tenants.

I go to a real estate agent and I say to him: "Get me some tenants to fill up this building; sign the leases and collect the money"; and I also say to the agent: "I have a janitor who runs this building, and when he wants coal or wants paint, will you provide the coal and the paint for him?"

That is the extent of the agent's function in that case. And I say that it corresponds to the function of the agent in the ordinary sense of the word in a port when dealing with a ship.

Let us assume that my janitor, in running the building, puts too much pressure on the boiler.

Mr. HABEL: I would ask the witness this question: do you mean to say that you think that the comparisons are really parallel as between the man who owns real estate or an apartment house and a shipowner? Do you mean to say that the comparison is sound?

Mr. BRISSET: Every comparison is odious when it is made between a ship and land. We compared the actions of the ship the other day with those of an automobile, so I submit that I be allowed to pursue my illustration.

Let us assume that this boiler explodes through the negligence of my janitor and causes damage to city property or to the sidewalk. I do not think it would be fair to say that the city authorities have the right to proceed against the real estate agent, not any more than the board would have the right if the master of my vessel who is running my vessel collides with a wharf, or to say that the agent who handles the ship in any port and provides her with bunkers and cargo and therefore leases her space should be held responsible for the damage.

Now, let me give you another illustration.

Mr. LANGLOIS (*Gaspé*): May I ask you a question at this point.

The CHAIRMAN: Yes.

Mr. LANGLOIS (*Gaspé*): Does the witness think that, in his experience as a lawyer, he would stand a chance, no matter how slim it might be, of winning a case in a court of law without being able to satisfy the court that the agent had a mandate from the owner as his legal agent, and that he was in the exercise of this mandate when he caused the damage that he is being held responsible for?

Mr. BRISSET: Let me explain.

Mr. LANGLOIS (*Gaspé*): Yes, would you please explain.

Mr. BRISSET: Let me explain by answering the question. Under the Act as it stands, or under the amendment proposed, I would say yes, that is what is going to happen; but let me explain that.

Mr. LANGLOIS (*Gaspé*): You think there must be a mandate?

Mr. BRISSET: Here is what is going to happen: I used the illustration of the ship going into the port of Churchill and causing damage to the dock, with Montreal Shipping Company as the agent.

Assuming that the ship goes away and assuming that the National Harbours Board sues the Montreal Shipping Company as a worthy agent of the vessel, the National Harbours Board would have to prove that Montreal Shipping Co. were the agents of the vessel in order to come under the Act.

They will ask someone in the Montreal Shipping Company office to come into court. They will summon him and put him in the box and ask this question: "Was the Montreal Shipping Company the agent of the vessel or not?"

The witness will surely say "yes". He would never say "I call myself the vessel's agent; everybody calls me the vessel's agent, but Mr. Finlay and Mr. Langlois have said before a committee that the agent of the vessel is not the agent of the vessel but that he is the legal representative of the owner. He was the one who stood in the shoes of the owner, and I do not stand in the shoes of the owner; I am not the agent of the vessel."

I am sure that no witness will try to get around the very plain terms of the Act as proposed and the words used, "agent of the vessel".

Mr. LANGLOIS (*Gaspé*): Assuming that you are right in your interpretation, Mr. Brisset, do you not think that subsection 2 of section 16 of the present Act as it stands now does not give the same power to the board as the one you claim is sought by the amendment?

Mr. BRISSET: I am sorry to disagree.

Mr. LANGLOIS (*Gaspé*): You have the exact wording there, and I have given it before, but I will repeat it again:

> ...and for the amount of all such injury, damages, expenses and costs, the board has a preferential lien upon the vessel and upon the proceeds thereof until payment has been made or adequate security has been given for such damages, whether direct or indirect, and for the amount of all such injury, damages, expenses and costs as may be awarded in any suit resulting therefrom, and the owner, charterer, master or agent of such vessel is also liable to the Board for all such injury, damages, expenses and costs.

It is the same thing exactly.

Mr. BRISSET: I most respectfully disagree. It is not the same thing at all because you have to consider the present Act in its context. You have to read the whole section and a change has been made which is of the utmost importance in the amendment and I want to draw the committee's attention to the change. In the former Act it was stated in these words: "The board will have the right to seize a vessel under the following circumstances:"—and I will quote one—"If damage is done by the vessel to board property,"—and then the Act goes and says: "—the board shall have a lien on the vessel for the damages caused, for the expenses of seizing the vessel and of pursuing its claim." And then the Act says: "And furthermore the owner of the ship, the charterer and the agent shall be responsible for such injury, damages, costs, expenses,"—and I say this means that before you go to the agent you have first to seize the vessel because you would not use in the wording making the agent liable the words "costs of seizing the vessel and liening the vessel"

if it was not intended that before going to the agent you would seize the vessel. I say once you seize the vessel, which is the normal procedure, the matter of insurance comes into play. Security is given, and the board has a guarantee in its hand just as good as the ship to cover its damages. Having this guarantee there is no necessity to go against the agent. You do not drop money you have in one hand to run after somebody against whom you only have a subsidiary remedy, but the new Act or the amendment is quite different. We start with these words in subclause 7 of clause 16—and these are very important words and full of consequence—"Whether or not all or any of the rights of the board under this section are exercised, the board may proceed against the owner, the agent and the charterer." Therefore it means where we do seize the vessel when damage is done we can nevertheless go against the agent. Under the new amendment it is sought to exercise a primary recourse against the agent and therefore to let the ship go and sue the agent, and the Canadian agent here without the ship cannot go over the claim.

Mr. LANGLOIS (*Gaspé*): We can do that now under the present Act. There is no difference. The gentleman must agree.

Mr. BRISSET: I must say I entirely disagree.

Mr. LANGLOIS (*Gaspé*): The words mean something or they mean nothing at all, and we have here in section 16, paragraph 2, which I have quoted three or four times this afternoon, the following words: "The agent of such a vessel shall also be liable to the board for all such injury, damages, expenses and costs." It is all inclusive.

Mr. BELL: Yes, but that only applies to isolated subclauses (*c*) and (*d*) of clause 16. It only refers to the crews of the ship. It is not a case of liability at all. What you say is very true but it only applies to isolated cases.

Mr. BRISSET: Yes, you have to read the whole clause which says that you can seize the vessel under these circumstances, and it is only after you seize the vessel that you may have, under the present Act, an alternative course. I question the logic of such a recourse and as I have explained to the board many times on previous interviews it is of no consequential effect and the proof of that is that in the 18 years the Act has been in force not one claim has ever been made by an agent. We have always pursued the normal procedure of seizing the vessel and getting security. If I may just add these words to close my remarks, I have submitted to my principals—the Shipping Federation of Canada and the Vancouver Chamber of Shipping—the amendments suggested by the board here and I say for the interests I represent the amendments are quite satisfactory and the only one we are still seeking is the one already suggested by a member of this committee that the word "agent" be simply taken out of subclause (*e*) which we are now discussing. I maintain that if this word was taken out the board would still attain what it is seeking to attain. We have heard now a number of times what is meant by the word "agent"—a legal representative of the owner. That expression has been used many many times—the one who owns the ship, the one who can tell the ship where to go. Well, how is this man or this person called? He is called a charterer by demise and the most elementary book—Scrutton on "Charter Parties"—indicates that you do not have to use in your contract the words "charterer by demise." The court will look at your functions, at your contract, and even although you do not use the words "charterer by demise" the court will say that this person is a charterer by demise. This person has the functions of a charterer by demise and is liable for the owner. He is the owner pro hâc vice and is therefore responsible like an owner is.

Mr. LANGLOIS (*Gaspé*): Could we ask counsel for the board to briefly give the board's position regarding the last suggestion. Apparently we have only one point before us now, and perhaps counsel for the board could give us a word of explanation on it.

Mr. NICHOLSON: Agreed. We are making progress!

Mr. FINLAY: I think it is agreed then there is only one point which concerns the federation and that is the matter of proceeding against an agent for damage done by the vessel. That is the only serious point remaining. Am I correct?

Mr. LANGLOIS (*Gaspé*): Yes.

Mr. FINLAY: The only remaining point so far as the federation is concerned is that of proceeding against an agent of the vessel for damage done by the vessel. Now, as has already been pointed out, this is not new. The comment has been made on several occasions by counsel for the federation that ordinarily an agent is not held responsible for the acts of his principal. The principal for the acts of the agent, yes; but not the agent for the acts of the principal. That is absolutely correct. That is not disputed. This is a special statutory power which has existed, as was pointed out by the parliamentary assistant to the minister, since 1913 in Canadian harbour legislation. Ordinarily one cannot proceed against an agent for damage done by his principal, but that protection was considered necessary and has apparently been considered necessary since 1913. There is nothing new in that respect. We are merely reiterating—merely repeating what already exists in the present Act. Now, the prime point of counsel for the federation in that regard—I think I am correct in saying this—is that he says that before (under the existing Act, that is) it would have been necessary for us to seize the vessel before we could proceed against the agent, whereas now under the proposed amendment he says the situation has changed. That is, it would now be possible for us to immediately sue the agent without bothering to seize the vessel. His contention is that that constitutes a change and that previously it was necessary to seize the vessel before we could proceed agains the agent. Now, it is on that point that the board very definitely disagrees and I can only refer the members of the committee to the express terminology of section 16, subsection 2 of the present Act and to the corresponding sections which were quoted by the parliamentary assistant in the harbour commission statutes. There is nothing there that says that the board must seize the vessel and can go after the agent for the balance. That is the interpretation which Mr. Brisset has placed upon it, but I suggest it is absolutely impossible to find any case in the history of Canadian or English courts where it has ever been held that a person is obliged to exercise both recourses. You very often have a case where two remedies are available to the Crown and the courts have held that if the Crown has exercised one it may be precluded from exercising the other. But, I have never heard of a case where you are obliged to exercise both. That is what was argued here. We are told that unless we seize that vessel we have no recourse against the agent. But we are merely reiterating what already exists.

Mr. LANGLOIS (*Gaspé*): If the board proceeds against the agent without bothering with the owner, the agent can call the owner in warranty.

Mr. FINLAY: I was coming to that point. A good deal of emphasis has been laid upon the unfortunate position of the Canadian agent in that respect. He has been represented as rather an unfortunate chap who for a pittance represents the vessel in Canadian waters.

Mr. LANGLOIS (*Gaspé*): That is an understatement.

Mr. FINLAY: Yes, it is an understatement. If there are any pittances involved it is the pittance paid to the port authority whose property may suffer half a million dollars damage. In any event, the Canadian agent is in a far

better position to be well aware of the financial status of any foreign shipping line than is any Canadian port authority. That Canadian firm is not obliged to act as the agent for any vessel, but if it does, it does so at a profit and at a considerably greater profit than anything derived by the government for harbour dues. It would be actually nothing more than an inconvenience from the agent's standpoint. There is a certain amount of financial expenditure involved in that he must join his principal in warranty, but if his principal is Canadian there is practically no problem; if he is foreign he has to join him in warranty, and it is true that the Canadian agent may find himself held liable for amounts which he cannot recover, but why should the injured party be placed in a worse position than the agent who has voluntarily entered into the relationship?

Mr. CAVERS: There is nothing to stop the agent from getting a bond from his principal to protect himself.

Mr. LANGLOIS (*Gaspé*): We cannot prevent the entry of a vessel into a port.

Mr. GREEN: That sounds very nice. Here is a government body sitting here in Ottawa which has the right to seize these ships and a right which they should exercise and if they do not exercise it it is their own fault.

Mr. LANGLOIS (*Gaspé*): Not all the time.

Mr. GREEN: The agents cannot seize the ship, and yet the harbour board here takes the position: well, the agent is getting money out of handling the ship and therefore it is up to him if the ship does damage amounting to $100,000 and if we are not smart enough to seize the ship then the agent should have to pay that $100,000. Mr. Finlay compares those fees to the harbour board which are a good deal less than the fees received by these agents. There is no comparison. You have the whole attitude of governmental bodies that we give them every club to handle these shipping people. But remember out in the ports the result is that Vancouver harbour loses business because this harbours board here arbitrarily take power that they do not require. It is mighty serious from the point of view of the harbours.

Mr. LANGLOIS (*Gaspé*): You will agree that this has been in existence since 1913 and we have lost no business for the port of Halifax or Vancouver or any other port.

Mr. DECORE: Would it not be proper to empower the agent to seize under this Act?

(The committee adjourned for a division in the House).

The CHAIRMAN: Gentlemen, we have a quorum.

Mr. LANGLOIS (*Gaspé*): Before we proceed any further, I do not know if I was understood by the stenographer when I gave my last sentence in respect to Mr. Green's argument to the effect that we may be losing business for the port of Vancouver. I want to repeat what I said. The committee was rising when I said that. I wish merely to repeat that this has been in the Act since 1913. It has lost no business to any national harbours, and it was the law of Canada when the old Harbour Commissions were in business since way back in 1913.

Mr. WINCH: If what the parliamentary assistant says is correct, and I have no reason to doubt him, and what Mr. Finlay said a few moments ago is correct, that you had this power since 1913 and that in this amendment there is no difference in principle, you are not asking for any more power than before. Will the parliamentary assistant then tell me why you cannot leave it the way it is in the existing Act. Why insist on this change in view of your statements?

Mr. LANGLOIS (*Gaspé*): I repeat again what I said earlier. The purpose of this definition of "owner" in clause 1 is not to amend the Act as regards the power of the Board to sue the agent and to seize the vessel. The prime purpose,

as mentioned in the explanatory notes, is to avoid repetitions in connection with the other sections of the Act of the words agents, owners, and so on. That is all. It is there in the explanatory notes very plainly.

Mr. GREEN: I do suggest that the department give further consideration to using the words in each section rather than try to have the definition. If they want to bind the agent in any particular section, then I think it would be much better to put the word "agent" in so that everybody knows exactly what the liability is. I would point out that in section 13 of the present National Harbours Board Act we have there the words, agents, owners, masters, or consignees. They will remain in the Act even after these amendments are passed because that section is not being changed at all.

Mr. LANGLOIS (*Gaspé*): Which section are you referring to?

Mr. GREEN: Section 13 of the Act, subsection 1, clause (*b*). Then, in section 19, which is not being changed at all, you have there the words owner or master or other person in charge of any vessel. I suggest that it will be much better if we have the words used in each place so that there can be no question of interpretation because with the bill as it is drawn now and the broad definition used, I think that you are covering agents where there is no need to cover agents, and it is only going to lead to trouble. That is true not only of the owner of the vessel but also of the owner of goods. You have covered bailees and carriers of goods, and I am very doubtful whether they should be considered in the same category as owners.

Mr. LANGLOIS (*Gaspé*): In reply to this, Mr. Chairman, I am no expert in drafting legislation, and I think I can give very little advice to the committee in this respect, but I must say that this proposed bill, as far as the drafting is concerned, has been carefully studied by the lawyers of the Department of Justice, who have extensive experience in that field, and they are apparently of the opinion that we should keep the proposed amendments in very concise terms and avoid repetitions. They did not feel that it was necessary to make any change to section 13 in regard to the suggestion made by Mr. Green. Here again I must confess that it is a matter of drafting legislation, and I am no expert at it.

Mr. GREEN: In section 13, the Governor in Council may make by-laws and so on for the direction, conduct and government of the board and so on, and the management of the harbours. Then we find:

> "the use of the harbours and their facilities by vessels and aircraft and the agents, owners, masters or consignees of the same".

I think it would be much wiser to have the actual words in each of these sections that are being changed, so that we know exactly what is covered. You said yourself that the word "owner" contained in the new 16(*d*) could not cover an agent or was never intended to cover an agent. If that is the case, put the word "agent" in where we want them covered and leave it out where we do not want them covered. Then there will be no misunderstanding.

Some Hon. MEMBERS: Question!

Mr. LANGLOIS (*Gaspé*): It is a matter of drafting.

The CHAIRMAN: There is an amendment moved to section 1.

Mr. LANGLOIS (*Gaspé*): There is no amendment moved. If someone wants to move it.

Mr. WINCH: I move it.

Mr. LANGLOIS (*Gaspé*): You moved it, Mr. Winch?

Mr. WINCH: Just on the "charterer by demise".

The CLERK: Mr. Winch moved that clause 1 of Bill 421 be amended by adding the words "by demise" after the word "charterer", in line 9 of page 1 of the bill.

The CHAIRMAN: All those in favour of this amendment, hold up their right hands.

Carried.

Mr. GREEN: I would move that the word "agent" be struck out in line 8.

Mr. LANGLOIS (*Gaspé*): Have you a seconder?

Mr. GREEN: The definition "owner" includes, in the case of a vessel, the agent, charterer by demise or master of the vessel. Just strike out the word "agent".

The CLERK: Mr. Green seconded by Mr. Bell moves that clause 1 of Bill 421 be amended by deleting the word "agent" where it appears in line 8 on page 1 of the bill.

The CHAIRMAN: All those in favour, raise their right hands.

Amendment lost.

Does clause 1 carry?

Mr. GREEN: Before clause 1 carries, I would like an explanation from the board as to why they need this broad definition of the owner of goods; why they are putting in such a broad definition for the owner of goods, covering not only the owner but the agent, the sender, the consignee or bailee and the carrier.

Mr. LANGLOIS (*Gaspé*): Do you want that as applying to the goods?

Mr. GREEN: To the goods.

Mr. LANGLOIS (*Gaspé*): The explanation for that is given in the explanatory notes. I wanted to add this, that in many, many instances the only person we have dealings, with whom the board is in contact, is the consignee and bailee of the goods. We do not know who the owner is or where he resides. The only person with whom we have dealings, for the renting of our property, is the bailee or carrier of the goods. That is why we have added these to the definition.

Mr. GREEN: Why do you include the carrier of the goods? He cannot be in any sense regarded as the owner.

Mr. FINLAY: As explained in the notes, the inclusion of carrier in the amendment is something new. The rest is nothing more than a clarification. I am speaking now of the agent of goods. The matter of the carrier is an amendment, and the purpose of that is that it is in relation to section 13, that is, the section which empowers the Governor in Council to impose charges.

Mr. LANGLOIS (*Gaspé*): Under section 13?

Mr. FINLAY: Under section 13 of the existing Act, the section which empowers the Governor in Council to impose charges on the owner of goods and so on. It is desired to obtain the power for the Governor in Council to make a by-law which may impose a charge directly upon the carrier. At present there could be considerable doubt as to whether or not we can impose the charge on the carrier. For instance, we may have a situation where it may be a railway line moving goods down to dockside. The board would wish to be clearly in the position where, instead of imposing the particular charges on the owners of those goods, we could impose the charges directly on the railway line for their use of board property in transporting those goods. We would impose the charges on the carrier. This would be done by the Governor in Council, by by-law. That is the purpose of including "carrier" in that instance. It is with reference to the by-law section, the imposition of charges. At present it is not entirely clear that the Governor in Council would have the right to impose the charges on carriers of goods in respect of those goods. That is an additional right which we are seeking to obtain. That is the explanation of "carrier". The rest is only repetition.

Mr. GREEN: Is this in the nature of a second string to your bow? In other words, if you cannot collect the tolls from the goods, then you will be able to collect them from the railway or trucking company?

Mr. FINLAY: As a matter of fact, in many instances under the by-laws as they stand the charges are not imposed upon the owners of the goods; they are imposed upon the party who deals with the board. That authority we already have. We are not changing it. But there is some question as to whether the Governor in Council can directly impose charges on the carrier of the goods, and it is that power that we are seeking to obtain.

Mr. GREEN: Why should you be able to charge tolls covering the goods, on the railways or the trucking lines that bring the goods to your dock?

Mr. FINLAY: In some cases in order to bring them on to our docks they are using our facilities. In practice the charge would be imposed on the railway line instead of the owners of the goods. We can already impose it on the owners or bailees and so on.

Mr. LANGLOIS (*Gaspé*): I will give another specific case. If you have goods which are to be forwarded, for example, from a railhead to a destination by ship, and the goods have to be stored in the National Harbours Board sheds for three or four days pending transshipment to a ship, that would be a case where there would be some charges on the goods and the carrier would have something to pay.

Mr. GREEN: Do you charge the railways anything now?

Mr. FINLAY: No. There are by-laws which, I may say, are very ambiguous. The carriers are not "taxed". But, simply because it has not been clear that we could "tax" the carriers the charge is regarded as a charge on the owner or the shipper of the goods. The railway lines up to a fairly recent date—as a matter of fact, now in practice—will pay those charges, but only as the representative of the owner of the goods. They will bill the owner of the goods for that amount.

Mr. LANGLOIS (*Gaspé*): They add it to the freight, as a back charge.

Mr. FINLAY: Exactly, as an additional charge. We are merely seeking the power to impose that charge directly on the railway. In some cases it is felt that the carrier, or the railway, should bear the charge rather than the owner of the goods, and it is that power which we are seeking to obtain.

Mr. GREEN: I could undestand you making a charge against the railways for the use of your railway lines, but surely that should not be in the nature of a charge on the goods.

Mr. FINLAY: It is not necessarily a charge on the goods. As a matter of fact, it may or it may not be computed on the quantity of the goods. At the present time in Montreal, for instance, the charge is, assessed back against the owner and it is computed in relation to the railway carriers, that is to say, so much per car. But, in fact, the railways argue—and perhaps correctly—that we do not have the authority or that the governor-in-council does not have the authority to impose the charge on the railways. The result is that although they have been paying the charge, they simply add it to their charges and bill the owner of the goods.

Mr. GREEN: Have you got any authority of that kind in the Act at the present time?

Mr. FINLAY: Authority to charge the carrier?

Mr. GREEN: To charge the railway.

Mr. FINLAY: That is dubious.

Mr. GREEN: Where is it in the Act now?

Mr. FINLAY: It is not; that is the point.

Mr. GREEN: You say it is "dubious"?

Mr. FINLAY: Yes. The only section under which it might conceivably perhaps be justified would be section 13 subsection 1, paragraph (*e*) which deals with the imposition of charges on goods shipped and so on, or shipped across harbour property. But it is questionable whether than can be interpreted as allowing us to charge the carrier as such. That is the difficulty or ambiguity which we want to remove by making it clear that we can charge the carrier directly.

Mr. LANGLOIS (*Gaspé*): Did I understand you to say that it is done in fact, but that the railway companies object to it and that is why you want to make it clear now?

Mr. FINLAY: Yes; it is done in practice. We do charge the railway companies and they simply pass it on to the owner, alleging, of course, that they are not subject to the charge.

Mr. GREEN: What sort of charges do you levy under this provision now? Storage charges, or what are they?

Mr. FINLAY: The various types of charges that might be imposed in so far as they relate to the carrier of goods in relation to the railway line. About the only charge I can think of off-hand that would likely be applied would be a charge for the use of the tracks. That is the most important use made by the railway company of any harbour property.

Mr. GREEN: Are you planning to charge the railway any storage charges on goods?

Mr. FINLAY: If the railway stores goods, that is, if the railway is the bailee of goods, they are chargeable in any event under the Act. But we merely wish to make them chargeable in their capacity as carriers. The railway may be a bailee in possession of goods and it may store goods. As a storer they are liable anyway. Quite apart from their capacity as a carrier, we can charge them the storage. There is no difficulty about that. But we are merely seeking to charge them as a carrier in their capacity as a carrier. To the extent they are acting as bailee and storer of goods, we already have the power to charge them. There is nothing new there.

Mr. GREEN: You are getting in position to levy new charges?

Mr. FINLAY: No. It is the same charge. The only difference is that the railway will now pay, not the owner of the goods.

Mr. GREEN: You said you are not charging any toll for the use of your railway lines?

Mr. FINLAY: I said we were imposing it on the railway. We charge it and the railway pays it, and then they assess the owner of the goods in the railway cars. We wish to make it clear that the railway itself is responsible for those charges. In fact, the railway will then be in a less favourable position to pass them on to its customers.

Mr. LANGLOIS (*Gaspé*): They will still charge them back to the customers?

Mr. FINLAY: That is possible.

The CHAIRMAN: Shall clause 1 as amended carry?
Carried.

Shall clause 2 carry?

2. Subsection (11) of section 3 of the said Act is repealed and the following substituted therefor:

(11) *Where* any member, by reason of any temporary incapacity *or temporary delegation to other duties by the Governor in Council,* is

> unable at any time to perform the duties of his office, the Governor in Council may appoint a temporary substitute member upon such terms and conditions as the Governor in Council prescribes.

Mr. BELL: This is another case where the explanations do not seem to justify the change. I wonder about it here when you say that due to wartime conditions it was necessary to have powers such as are asked for here, I ask if it is necessary now. In section 2, subsection 1 and section 3 of the Act, it is suggested because of "temporary delegation to other duties by the governor in council, . . ." I ask why, if this power was necessary in wartime, it is not mentioned in wartime? Is it planned to use it other than in wartime, and if so, why?

Mr. LANGLOIS (*Gaspé*): Mr. Chairman, as explained in the explanatory notes of the bill, this is to cover the case when a board member is delegated to some other duty. Before that a substitute could be appointed under the War Measures Act. It was just done in one case, only in one case. Now that the War Measures Act is going out of existence we want the governor in council to be able to appoint a temporary substitute member and that is all.

The CHAIRMAN: Shall clause 2 carry?

Carried.

Shall clause 3 carry?

3. The said Act is further amended by adding thereto, immediately after section 4 thereof, the following section:

Mr. WINCH: I was interested in this section when it came up before the House and I would like to say a few words about it. I can very definitely understand the desire of the board and the department to give certain powers for policing on their own property and with effect to any property that comes under their jurisdiction or administration. I cannot understand why a law enforcement officer of the board who has been brought within the meaning of the Criminal Code as regards a police officer should have that same jurisdiction up to 50 miles away from the board property. Now that means—although as I have heard several times that the waterfront under the jurisdiction of the board in Montreal is some 30 miles—they are covered under this Act not only within the 30 miles, but it would mean they would have the same jurisdiction as a police officer 50 miles beyond the actual property. I have made several inquiries of lawyers amongst the members, and they all agree that is the interpretation of the wording of this section. That is, 50 miles beyond the property limits of the board. I cannot under any consideration see the necessity of granting that much authority for that distance and I would like to suggest for the consideration of the committee an amendment by striking out the word 50 and inserting the word 5, or perhaps 10—but in order to make a suggestion I suggest 5 miles instead of 50 for the purposes of discussion—and if I could have a seconder I will so move.

Mr. LANGLOIS (*Gaspe*): Could I give you a short word of explanation? This 50 mile limit was put into the amending clause in order to cover a case like the one in Montreal where the board's property extends for 30 miles, and to cover the specific case which we had recently in Montreal, I think, where some goods were stolen from the board's property and were taken some 30 miles away from the property and hidden there. Before we could get the wheels in motion to go and search the property for the goods, the goods were gone. We also have this other example which I gave in the House the other day when speaking on the second reading. We have violations of the speed limit on the Jacques Cartier Bridge in Montreal. We have to chase these offenders—these motorists—and we may have to cover several miles before we can catch up with them, particularly if they are travelling at a great speed, otherwise, you see, there is no

possibility of arresting the offenders. So these are some of the cases which we envisaged by this section and which we want to cover in order to give the board's constables effective jurisdiction to apprehend those violators of the speed limit and with regard to goods stolen and taken away from the board's property. However, I personally have an open mind on the subject, and I must confess I have even drafted an amendment leaving the mileage blank. I am in the hands of the committee, but I do not think we should cut it down too much, because in doing so we might prejudice the position of the board in future cases by rendering null the jurisdiction we are giving the constables.

Mr. WINCH: Could I ask a question there? On the case you stated in Montreal where this man stole some goods from the property and hid or stored them some miles distant, did you have to swear out a search warrant before you could go into the other property?

Mr. LANGLOIS (*Gaspe*): Yes.

Mr. WINCH: Then if you have to go through the process of swearing out a search warrant can you not get an officer right there who is inside that jurisdiction for the serving of that warrant and for the making of the search?

Mr. LANGLOIS (*Gaspe*): Counsel for the board is probably in a better position to answer that than I am.

Mr. FINLAY: The explanation is only this: it is quite true, as you say, that it would be absolutely necessary to get a search warrant. Actually the jurisdiction of the police constable is not enlarged in that respect. The only advantage—and that of course is why the parliamentary assistant said the range was not terrifically important—is that in the Montreal case had our police been able to go before the magistrate and get the warrant and then proceed we believe we could have acted in time, but it so happened that we found it difficult to get cooperation from some of the local police officials in actually making the search. You see, after having obtained the warrant our men were still not police officers in that area. It is not suggested that our harbour police should be able to do anything in the way of searching without authority from the court. There is nothing in the Act to that effect. They must go to the court like any other police officers. It is merely that our own police would be able to act instead of delegating it to local police; that is, within a certain range. That is the only purpose of it, but then again, as has been pointed out, the offence must be committed on board property or in relation to board property. That is the only purpose of this 50 miles.

Mr. DESCHATELETS: Do you not use the servces of the mounted police presently in the execution of these warrants?

Mr. FINLAY: No. As a matter of fact, the mounted police, I might say, are far too busy with various other matters—they are a relatively small force—and they are simply not in a position to attend to a good many of the relatively minor affairs that do arise in connection with port administration.

Mr. DESCHATELETS: Then I suppose you have to go through the ordinary execution by the justice of the peace in Montreal?

Mr. FINLAY: We would not change that. We would still have to go to the court.

Mr. DESCHATELETS: Then I am perfectly aware of the situation and I admit that most of the time action would be delayed for one reason or another. I am perfectly aware of the situation.

Mr. BELL: I feel quite strongly about the increase in jurisdiction and to my mind the difference between 5 miles and 50 miles is a point that should be argued. Fifty mlies is a serious extension of jurisdiction. There might be some small excuse or justification for this extension, but I do not think we

should go so far and give the National Harbours Board complete jurisdiction over an area. For example, take Saint John or Vancouver. The policing of the Harbours Board cops there is generally in connection with pilfering and liquor traffic and small things like that where the relations of the longshoremen and the police come into contact all the time. The longshoremen probably pinches a case of liquor, takes it back and hides it somewhere and the Harbour Board police start to completely take over the jurisdiction of the entire city. Added to that is the possibility that under section 2 you might go out and appoint a lot of temporary officers and in that way you could completely take over and police an entire town. Now, I am being absurd about it and I realize there might be small difficulties which would be overcome by the increased jurisdiction and by which you could quickly apprehend a criminal, but I feel you have gone quite a long way, Mr. Chairman, in this regard in carrying it—to take another example—to almost the point of a police state, if you wanted to act in this way.

Mr. LAFONTAINE: Do you have to get warrants?

Mr. LANGLOIS (*Gaspé*): Yes, to search.

Mr. HOSKING: Would the Harbour Board policemen not be still under the control of the local authorities in that they have to go to someone in the local court to get their search warrant and if they were taking on powers beyond their intended powers, the local authorities would just say: "You will have to give us some proof of that." They would be so awkward and slow they would not get anywhere anyway. This is purely and simply a case of giving the policemen of the Harbour Board the right to go to any place within a reasonable distance without going through two or three different magistrates to get a search warrant.

Mr. WINCH: You would still have to go for a search warrant.

Mr. HOSKING: I believe there is a restriction that it stays within the province. So that it would stay in provincial jurisdiction. With those safeguards I see no reason why we should have any difficulty. All we want to do is supply the legislation which will permit the person who committed the act to be caught. It is purely a case of expediency to do the right thing.

Mr. WINCH: It gives them authority over all of Vancouver.

Mr. BELL: These policemen would not come under ordinary criminal jurisdiction. It is small local affairs we are concerned with, and the relationship between the people of the municipality and the police is the important thing. These police officers are subject to the board and they might use their power arbitrarily with not the same consideration that an ordinary member of the police force who has to recognize the community itself would. They might not appreciate their powers; and the fact that they are responsible to a government body and have a certain arbitrary nature about themselves to my mind could have a bad effect on the community.

Mr. CAVERS: Does that apply to special constables appointed under the Railway Act?

Mr. GREEN: That brings up a point which I think is important. The explanation of the clause is as follows: "The purpose of the new section is to eliminate the current necessity for swearing in harbour police as special constables of some municipal or provincial force or of the R.C.M.P. The status created would be analogous to that established by the Railway Act as regards railway constables." Then, if you turn to the Railway Act you find it only gives railway constables jurisdiction in all places not more than a quarter of a mile distant from such railway. Here we have the difference between a quarter of a mile and 50 miles, and from my point of view, that is where the bill is at fault.

The harbour police are not police in the true sense of the word. I know in Vancouver they are not like a regular police force, they are not trained in the same way; they cannot be. They are just a local force which everybody thinks is to prevent stealing on the harbour board property. The railway police are in much the same category. We have railway police in Vancouver, both C.P.R. and C.N.R., and the general public opinion is that the place for the railway policemen is on the railway property in the case of the railway police and the harbour board property in the case of the harbour police, and we do not want them running into the city making arrests.

If people have to be arrested outside for crimes committed on the waterfront then let the regular police force handle it. They are trained for that sort of thing and it will only lead to confusion if we are to have harbour police rushing out to arrest people in the middle of the city, or railway police doing the same. As a matter of fact, railway police are particularly careful not to get involved. I have never heard of a case where the railway policeman has gone into the city to arrest a person.

Mr. LANGLOIS (*Gaspé*): How far would you suggest he should go?

Mr. GREEN: I would think that the same provision should apply here as in the case of the Railway Act. That has been in effect for many many years and there has been no trouble from it. It is an analogous situation just as the explanation says and I would think that if they had the same right of going a quarter of a mile off the harbour board property nobody is going to be very badly hurt. There might be a case where they could not catch a speeder.

Mr. LANGLOIS (*Gaspé*): Do you think they could catch a speeder in a quarter of a mile?

Mr. GREEN: No. There might be a case like that where they could not apprehend an offender, but the regular police can always do that, and I think this change is going much too far. I think it will only lead to trouble.

Mr. LANGLOIS (*Gaspé*): As I said I have an open mind on the subject, but I just want to warn the committee that we should not on the one hand give powers to the constables by making them peace officers and yet on the other hand take these powers away by not giving them enough jurisdiction. A speedster on the Jacques Cartier bridge would make the constable the laughing stock of the town, if he could only go a quarter of a mile and then has to ask somebody else to go after the speedster.

The other point made by Mr. Green was that he said constables are only glorified watchmen. I agree with him on that point but I must say that since we are going to make them police officers it is the intention of the board to give them training as such. We cannot give them the power to act as police officers without training them for that job. I just want to warn the committee that we should not cut it too much because otherwise there is no use giving them the power.

Mr. CAVERS: I do not know that I am entirely in agreement with the 50 mile limit placed here, neither do I know that five miles is far enough. I would suggest that probably 25 miles would be a reasonable compromise. The railway, it seems to me, is a little different. The railway police are in a little different position from the police under the provisions of this Act with regard to national harbours because the railway police constable has jurisdiction to follow a criminal all the way across the line; he might have to go from Sydney to Vancouver, but can follow him all the way across the railway line. In this case the jurisdiction is confined, for instance, in Montreal to 30 miles, in Halifax to probably 10 or 12 miles, and in St .John to considerably less. So, their jurisdiction is limited to some extent, and I do not think we are doing

too much here if we give them some jurisdiction beyond the harbour property in order to follow someone who commits an offense on the harbour property.

Mr. McIvor: I do not see anything to be gained in cutting down the distance. I think the only thing is you are hampering the police officer.

Mr. Carter: 25 miles is just the same as 50 miles. 25 miles would cover any town or city. The question I would like to ask is does this 50 mile limit extend seaward as well as landward? Can you chase a man 50 miles out to sea and catch him. Is that not outside of the territorial waters?

Mr. Finlay: It is quite true that it is outside the territorial waters, but suppose the offender is a Canadian, there is nothing to prevent a police officer from apprehending a Canadian anywhere either 50 miles or 100 miles, assuming the police officer had the jurisdiction in the first place. If you are dealing with foreign vessels, you may run into ramifications of international law, but that is a separate issue.

Mr. Carter: This law is meant to be applicable to anybody, not merely to Canadian citizens.

Mr. Finlay: Let us say that the mounted police have jurisdiction, but that jurisdiction does not necessarily empower them to act against foreigners outside the limits of Canada. It must after all be read subject to those limitations.

Mr. Green: Suppose a murder were committed on the waterfront on harbour property. I do not think there is any question but that if it was a serious crime it would be handled at once either by the city police or, in our province, by the mounted police, who police the province. These harbour police are only for the protection of harbour board property. It says that, actually, in the section.

I am a little worried about the parliamentary assistant's statement that now they are going to build up a police force and train them and so on, because I do not believe that the National Harbours Board should have a police force of that kind. I think they should be restricted to a police force to protect waterfront property. If that is all they are to be, then they certainly do not need to go any further off the harbours board property than the railway police can go off the railway property.

It is a very serious matter to have harbour police running into the city and arresting people. That is only going to make trouble. In the first place, the Dominion is supposed to keep out of the police business. That is primarily the responsibility of the provinces and municipalities. Here we have a federal police set up with power which is almost certain to bring them into conflict with the local police. I do not see any justification for a move of this kind whatsoever. Only seven harbours in Canada come under this Act; the other cities that have harbours do not come under the Act and will not have harbour police coming around arresting people. I do not think cities which happen to be under the National Harbours Board Act should be subject to an additional police force, which will be the result if this amendment goes through.

Mr. Langlois (*Gaspé*): I wish to say here that Mr. Green's objection in regard to the arrest of a murderer will still hold for a murder committed on our property. It would still hold good if the jurisdiction were five miles or one mile, and even in Montreal, for example, our constables are presently sworn as municipal officers, and they have the power to arrest. As far as the training of a police force is concerned, I do not think that is the interpretation that should be placed on what I said. I said it was the intention of the board to train our officers in order to put them in a better position to discharge their additional duties that we are going to give them, and I do not think anybody here would object to that. If we are going to give them the power of peace officers, I think it is a good thing to train them, and it is a good safeguard for the board to act in that way. I just want to repeat that we are in the hands of the committee, and it is up to the committee to decide.

Mr. WINCH: I do not quite see that last phrase of the hon. member's statement. If there is anyone at all who is caught in the commission of any kind of a crime, a private citizen has the right of arrest.

Mr. LANGLOIS (*Gaspe*): Yes.

Mr. WINCH: But, as I view this, I am rather doubtful of it, because I do not know the situation too well in Montreal and I have to accept what you said. From what I have heard said by yourself and others, it is time something was done in Montreal to place the police force on a proper basis. I know that in Vancouver it is not perfect; I think we have a fairly good and efficient police force and I think there might be some degree of antagonism perhaps if you had a conflicting force. I also think that it does not make for a good and efficient service. I am speaking now of towns or cities, and especially those who are responsible for the administration of the law enforcement in towns or cities, having not only alongside it but right within it some other law enforcement body that can move in with the identical powers of the regular police force of that city. Under this section your harbours board policemen would have the complete power of police officers or peace officers within the meaning of the Criminal Code for doing anything that a law enforcement officer can do as long as the actual act was committed on the property of the board or under the administration of the board. As long as the criminal act was done on the board's property, you can then under the present wording, inside 50 miles, use the complete powers of any other police officers, and I must admit that I am a little doubtful of that. I personally would very much go along with the suggestion of Mr. Green that it be the same as under the Railway Act. I think it would be a good idea if the members could see their way fit to accept that.

Mr. BELL: Is it not conceivable that in the case of a suspected seaman or longshoreman, or something of that kind, the harbour police would go and sweep through a town completely with perhaps the powers of the local police? They could shadow and question and bother the general residents of the community, whereas—

Mr. LANGLOIS (*Gaspe*): They can do that now. They can question anybody now when they are investigating something that has happened on the board's property.

Mr. BELL: They would not go far if they knew that they could not carry on their questioning into actual arrest. The tendency now—

Mr. LANGLOIS (*Gaspe*): In Montreal they are municipal officers. They can do that now and arrest them.

Mr. BELL: They know they cannot arrest.

Mr. LANGLOIS (*Gaspe*): In Montreal they can.

Mr. BELL: It is an exception.

Mr. LANGLOIS (*Gaspe*): It is a big exception. It is the largest port in Canada.

Mr. BELL: If you gave us some business around Saint John, we would be a large port. However, the tendency now is for the harbour police, when they have a suspect who is causing trouble, to go to the local police and let them handle the whole situation. They are the people who are dealing with the community. They know the local conditions and they will conduct it in the way in which they conduct all the business.

Mr. LANGLOIS (*Gaspe*): Are you speaking of an offence not related to the board's property? The offence must be related to the board's property.

Mr. BELL: If they suspect someone might have something to do with the waterfront in their area, under the Act as it now stands, they would go to the local police, turn the whole thing over to them and let them know their supicions. They would let the local police carry it out in the way all the business of the

community is carried out. If this further power is given, I suggest that what might happen is that if these people, seamen and longshoremen, are suspected in any way, they will immediately begin to shadow and follow them around town. In an extreme it may well be that there will be a police state. There is a tendency to do it now where they have the power to arrest.

Mr. LANGLOIS (*Gaspé*): I am just being told that the same situation prevails in Halifax and Saint John where our constables are presently sworn as municipal officers and have all the powers now to which you object.

Mr. BELL: I cannot understand why these changes have to be made. It is suggested that the change was justified purely because of a certain Act in Quebec, and that the harbour police were embarrassed because they could not continue over a certain limit or area. I respectfully suggest, that we are being asked to change our Act and to cause the police and the government to come into disfavour in a community just because of one incident or exception, that is, because of just one time when it was necessary to go out of the area. Therefore I suggest it should be left over.

Mr. LANGLOIS (*Gaspé*): We suggest that the present Act be amended in that way because in some quarters we found a reluctance on the part of the municipal authorities to swear our constables as municipal police; and there is another reason. Take for example Montreal where there are four municipalities in the district covered by the property of the National Harbours Board; and take Vancouver where you have three municipalities: Vancouver city proper, Vancouver north, and Burnaby; and you can see that it could create at times great inconvenience; and besides there is a reluctance which we find in some quarters to swear our constables as municipal officers.

Mr. GREEN: What would be the difficulty in swearing in your officials in that regard?

Mr. LANGLOIS (*Gaspé*): If he is sworn in one municipality, then he is restricted to the limits of that municipality and he would have to be sworn in all three to be effective.

Mr. GREEN: Well, it is not much of a job to get the constable sworn in all three of them.

Mr. LANGLOIS (*Gaspé*): Providing the municipal authorities did not object.

Mr. GREEN: Has there been any objection?

Mr. LANGLOIS (*Gaspé*): There has been reluctance to doing it.

Mr. GREEN: Reluctance to doing it in Vancouver?

Mr. LANGLOIS (*Gaspé*): We would rather not name the municipalities. In some provinces we have our troubles with the provinical police, but not in Vancouver at any rate. We can say that we have no trouble in Vancouver.

Mr. GREEN: Under this amendment they would get wide-open jurisdiction as peace officers within 50 miles of harbour property, in every direction. Is that right?

Mr. LANGLOIS (*Gaspé*): That is right.

Mr. GREEN: I cannot see it.

Mr. LANGLOIS (*Gaspé*): Well, we are in the hands of the committee.

Mr. HOSKING: Mr. Chairman, I hereby second Mr. Cavers' motion that it be restricted to a 25 mile limit.

Mr. CAVERS: I so move.

The CHAIRMAN: Will you please read the amendment.

The CLERK OF THE COMMITTEE: Mr. Winch's amendment was that clause 3 of bill 421 be amended by deleting the word "fifty" in line 11 on page 2, and

substituting the word "five". Mr. Cavers moved in amendment that the word "five" of Mr. Winch's amendment be deleted and the words "twenty-five" substituted therefor.

The CHAIRMAN: All those in favour of Mr. Cavers' sub-amendment will please signify.

Mr. GREEN: What are we voting on, Mr. Chairman?

The CLERK OF THE COMMITTEE: Mr. Cavers moved that the word "five" be deleted from Mr. Winch's amendment and the words "twenty-five" substituted so that it reads:

not more than twenty-five miles distant from property. . . . .

Mr. GREEN: I cannot move a further sub-amendment, can I?

The CLERK: Not at this time.

The CHAIRMAN: All those in favour of Mr. Cavers' motion will please signify? Those against?

Carried.

Mr. GREEN: Mr. Chairman, I would like to move that "twenty-five" be reduced to a quarter of a mile, as it is in the railway act. I move that the paragraph be amended by inserting "a quarter of a mile" as the distance, as it is under the railway Act.

The CHAIRMAN: The amendment has been carried.

Mr. GREEN: No. You said that the sub-amendment was carried, "five" being deleted and twenty-five being inserted. Now I move in amendment to that, "a quarter of a mile."

The CHAIRMAN: The "twenty-five" was carried.

Mr. GREEN: It was carried as a substitute for five miles.

Mr. LANGLOIS (*Gaspé*): I do want to oppose Mr. Green's suggestion, because I think that this matter has already been decided by the sub-amendment which was carried and which sets the distance at twenty-five miles. I think that the committee can hardly now entertain any further amendment since the committee has already voted on the matter.

Mr. NICHOLSON: On a point of order, Mr. Chairman, I think it is customary when an amendment is voted upon to enquire: "Are you ready for the motion as amended?" But that question was not asked and Mr. Green was quite in order in moving a further amendment. The committee can dispose of it in voting for or against it, but I thought he was quite in order in making his motion, and until it has been disposed of, and until the final motion is put, then anyone can make a further amendment.

Mr. GREEN: 25 miles in our case is just as bad as 50 miles, because 25 miles covers the whole lower mainland and about 15 different municipalities. The bulk of the population of the whole area is within those 25 miles so this would give the Harbour Board police the power to go out and make arrests in all those municipalities—

Mr. NICHOLSON: Covering half a million people.

Mr. GREEN: —covering at least one-half million people, and I do not think it should be that way.

The CHAIRMAN: Does Mr. Green's amendment carry?

Hon. MEMBERS: No, no.

Mr. HABEL: You have to put a motion.

Mr. LANGLOIS (*Gaspé*): And then Mr. Green will move his amendment.

Mr. GREEN: I think Mr. Nicholson is right. Once the subamendment has been defeated then the chairman should put the motion as amended and to that I move a subamendment of one-quarter of a mile.

Mr. LANGLOIS (*Gaspé*): The vote is on the subamendment.

The CHAIRMAN: The vote is on the subamendment. All in favour of same raise your right hand?

The CLERK: Seven are in favour.

The CHAIRMAN: All those against it raise their right hand.

The CLERK: Eleven are against.

The CHAIRMAN: The subamendment is lost. Does the clause as amended carry?

Carried.

Subclause 2 of clause 4, does the clause carry?

Mr. CAVERS: I move that subclause 2 of clause 3 be amended so that the word "fifty" in line 26 be substituted for the word "twenty-five".

The CHAIRMAN: All those in favour please signify. Agreed.

Does the clause as amended carry? Carried.

Clause 4. Carried.

Clause 5? Carried.

5. (1) Paragraph (c) of subsection (1) of section 12 of the said Act is repealed and the following substituted therefor:

(c) where the estimated cost of the work does not exceed fifteen thousand dollars.

(2) Subsection (2) of section 12 of the said Act is repealed and the following substituted therefor:

(2) Whenever tenders are required by subsection (1) to be called, the Board shall, after having given to the tenderers reasonable notice of the time and place of opening of the tneders, open them in public, and may within a reasonable time thereafter award the contract.

(3) Notwithstanding subsection (1) and (2), no contract for the execution of any work shall be awarded by the Board, without the approval of the Governor in Council, for an amount in excess of fifteen thousand dollars, unless

(*a*) tenders are called by the Board by public advertisement for the execution of the work, and not less than two such tenders are received by the Board

(*b*) the person to whom the contract is to be awarded is the person who submitted the lower or lowest such tender; and

(*c*) the amount of the contract as indicated by the tender of the person to whom the contract is to be awarded does not exceed fifty thousand dollars.

Mr. GREEN: I would like an explanation of clause 5.

Mr. LANGLOIS (*Gaspé*): Well, clause 5 is merely to put the National Harbours Board in the same position as other departments of the federal administration. As you know, in 1951 an amendment was made to the Public Works Act amending it so that the limit of non-tender contracts would be raised. In the case of the National Harbours Act it was set in 1936 at $10,000 and we now raise to $15,000 and this is merely to comply with the legislation concerning federal contracts already in the statutes.

Hon. MEMBERS: Carried.

Mr. GREEN: The Public Works Act did not deal with this question of the Governor in Council passing on tenders, and the parliamentary assistant has not explained the change in that which is made part of this section.

Mr. LANGLOIS (*Gaspé*): I did not get your question.

Mr. GREEN: The section does away with the necessity of getting the approval of the cabinet to tenders in certain cases.

Mr. LANGLOIS (*Gaspé*): Are you dealing with subclause 2 of the clause?

Mr. NICHOLSON: Subclause 3.

Mr. LANGLOIS (*Gaspé*): That is to bring this act in line with the Financial Administration Act and it is right there in the explanatory notes if you will read them.

The CHAIRMAN: Shall clause 5 carry?

Carried.

Mr. GREEN: At the foot of the page of explanatory notes opposite page 2 in the bill we find the following:

> The purpose of this provision is to bring Board practice in respect of the award of contracts into conformity with that already established as regards Government departments by the contract regulations made under authority of the *Financial Administration Act*. In particular:—
>
> (*a*) under the present Act, contracts could, in cases of pressing emergency, be let for any amount without approval of the Governor in Council. The amendment would require such approval if the amount exceeds $15,000;
>
> (*b*) on the other hand, under the present Act, the Board could not award a contract for more than $15,000 without approval of the Governor in Council (except in emergency cases) even although the Board had made a public call for tenders, had received two or more tenders, and was proposing to accept the lowest. The amendment would raise the figure from the above-mentioned $15,000 to $50,000 in such special circumstances.
>
> As already stated, both the above amendments would conform to the practice already established in respect of Government departments.

Then there is provision for an amount up to $50,000 being without the approval of the Governor in Council. Now why is that amount raised that high?

Mr. FINLAY: The explanation there in the case of the $15,000 is this: it was possible under the Act, as it existed, for the board to award contracts for any amount in emergency cases without calling for tenders. Now, that has been eliminated. We are now obliged to call for tenders in every case if the amount exceeds $15,000. That is the first change. As regards the matter of $50,000 the former or existing Act requires the board to get the authority of the Governor in Council in every case where the amount of the contract is more than $10,000 or $15,000 under the amendment. But government departments under the Financial Administration Act are permitted to award contracts up to $50,000 without the approval of the Governor in Council providing they have complied with certain conditions, that is they must have made a public call for tenders, they must have received two or more tenders and they must have accepted the lowest of those tenders. In those cases, government departments are permitted to award contracts up to $50,000 without the express authority of the Governor in Council. That is what is being inserted here.

Mr. GREEN: Clause (*a*) of subsection 1 of the present section 12 has not been repealed, has it?

Mr. FINLAY: Yes, you see there is a new subsection substituted.

Mr. GREEN: That is paragraph (*c*).

Mr. FINLAY: No. (*c*) has to do with the estimated cost of the work. That is subsection 1(*c*), but below that you will notice subsection 2 of section 12 is repealed and the following is substituted.

Mr. GREEN: Subsection 1(*a*) of section 12 is not repealed.

Mr. FINLAY: It is paragraph (*c*) of subsection 1.

Mr. GREEN: There is still the power of the board to accept a contract without calling for tenders in the case where the work can be done by servants of Her Majesty. Are those powers not still in existence?

Mr. FINLAY: Oh, no. The restriction now is that under subsection 1 the board is required to call for tenders in every case.

> Whenever tenders are required by subsection (1) to be called, the board shall, after having given to the tenderers . . . .

and so on, then "notwithstanding subsections 1 and 2, no contract for the execution of any work shall be awarded by the board, without the approval of the Governor in Council for an amount in excess of $15,000." Formerly we could award it without the approval of the Governor in Council in emergency cases.

Mr. GREEN: Now you cannot do that any more?

Mr. FINLAY: No, unless under $50,000.

Mr. GREEN: Unless it is under $15,000.

Mr. FINLAY: Yes, $50,000.

The CHAIRMAN: Shall clause 5 carry?
Carried.

Clause 6.

6. (1) Paragraph (*b*) of subsection (1) of section 13 of the said Act is repealed and the following substituted therefor:

(*b*) the use of the harbours, harbour property or other property under the administration of the Board by vessels and aircraft and the owners thereof, the leasing or allotment of any harbour property or other property under the administration of the Board, and the purchase or sale by the Board, subject to such limitations and conditions as the by-laws may prescribe, of any property other than real property;

(2) Paragraph (*e*) of subsection (1) of the said section 13 is repealed and the following substituted therefor:

(*e*) the imposition and collection of tolls on vessels or aircraft entering, using or leaving any of the harbours; on passengers; on cargoes; on goods or cargoes of any kind brought into or taken from any of the harbours or any property under the administration of the Board, or landed, shipped, transhipped or stored at any of the harbours or on any property under the administration of the Board or moved across property under the administration of the Board; for the use of any property under the administration of the Board or for any service performed by the Board; and the stipulation of the terms and conditions (including any affecting the civil liability of the Board in the event of negligence on the part of any officer or employee of the Board) upon which such use may be made or service performed;

(*ea*) the transportation, handling or storing upon any property under the administration of the Board or any private property within any harbour under the jurisdiction of the Board of explosives or other substances that, in the opinion of the Board, constitute or are likely to constitute a danger or hazard to life or property;

(*b*) on the other hand, under the present Act, the Board could not award a contract for more than $15,000.00 without approval of the Governor

in Council (except in emergency cases) even although the Board had made a public call for tenders, had received two or more tenders, and was proposing to accept the lowest. The amendment would raise the figure from the abovementioned $15,000.00 to $50,000.00 in such special circumstances.

As already stated, both the above amendments would conform to the practice already established in respect of Government departments.

Clause 6(1)—s. 13 (1)(*b*):—The Governor in Council is already empowered, under the Act, to make by-laws for the management of property under Board administration, for the leasing or allotment of such property, for numerous other specified purposes and, in general, for the doing of anything relevant to the Board's functions under the Act. As a matter of clarification the amendment includes an express reference to the capacity of the Governor in Council to make by-laws governing the sale and purchase by the Board of property other than land. The sale and purchase of land are already specifically covered by other provisions of the Act.

Clause 6(2)—s. 13(1)(*e*):—The present paragraph empowers the Governor in Council to make by-laws for:

(*e*) the imposition and collection of rates and tolls on vessels or aircraft entering, using or leaving any of the harbours; on passengers; on cargoes; on goods or cargo of any kind landed, shipped, transshipped or stored in any of the harbours or moved over harbour tracks, and for the use of any wharf, building, plant, property or facility under the jurisdiction of the Board and for any service performed by the Board;

Such by-laws made under the Act as relate to Board charges are, in substance, simply a statement of the contractual conditions between the Board and any party desiring the particular Board services or the use of the property. It is therefore proposed that the Act should place beyond doubt that, in cases of that type, the Board may contract itself out of liability for negligence. In a number of instances—such as the granting of permission to bring explosives into a harbour or the acceptance of highly perishable goods in storage—the revenue does not justify the risk incurred by the Board unless the Board (like any private operator in the same circumstances) possesses the capacity of restricting the liability which could conceivably arise through the negligence of some minor Board employee. It is, indeed, considered that the desired capacity to restrict liability already exists but the amendment would place the matter beyond dispute.

Clause 6(2)—*s.* 13(1) (*ea*):—New. The Board was intended to exercise a general supervision over all harbours under its jurisdiction, including even private property.

(3) The said section 13 is further amended by adding thereto, immediately after subsection (2) thereof, the following subsections:

(3) Any by-law may be made binding upon Her Majesty in right of Canada or any province.

(4) A copy of any by-law certified by the Secretary of the Board under the seal of the Board shall be admitted as conclusive evidence of the provisions of such by-law in any court in Canada.

Mr. GREEN: It is a long clause, clause 6. There is a provision at line 30. the stipulation of the terms and conditions (including any affecting the civil liability of the Board in the event of negligence on the part of any officer or employee of the Board) upon which such use may be made or service performed.

What is the purpose of putting that in?

Mr. LANGLOIS (*Gaspé*): We think that we are not adding anything, that we have the right now to do that and we can do it under our by-laws. You see our by-laws are merely a reflection of the contractural conditions intervening between the user of our property and ourselves and these contracts can contain a stipulation as to the limitation of our liability in certain cases, and the by-laws merely reflect those contractural conditions and now we want to make it clearer by putting it in the Act. There is no other purpose.

Mr. GREEN: Have you been making contracts which excluded any liability on the part of the board?

Mr. FINLAY: In one case. There is one situation to my knowledge the harbour of St. John. Under one of our by-laws there is certain accommodation provided for perishable goods. The charge is low and the risk is great from the standpoint of the board in accepting these goods. However, the board is prepared to accept them at owner's risk and that is what it amounts to. We are not prepared in those cases to be possibly subject to a claim of negligence on the ground that the temperature was too high or too low with respect to these particular goods and therefore there is a provision in the by-laws to the effect that anybody storing goods under this by-law does it at his own risk. That is the type of thing that is contemplated. Another example we had is the matter of explosives.

Mr. BELL: Suppose some ship brings explosives into a harbour and they dock at one of your piers and you contract yourselves out of any liability for danger from the explosives—I do not know the details of it—but I am wondering what check there would be on the responsibility or the control of that person you contract with. In other words, there is a duty on you as the owner of property in a city to see that the responsibility and liability that you are passing on to someone else goes to the right hands. Is there a check on that?

Mr. FINLAY: The check is this. As between ourselves and X, who brings the explosives, we have this contractual provision. We, in other words, can go against X, but that does not protect us against a third party. The third party is not bound by our contract with X. Therefore if X brings explosives in, no matter what contract we may have with him, if through our negligence damage is caused, then the third party has recourse against the board and we cannot prevent it.

Mr. BRISSET: May we make some recommendation here?

Mr. HABEL: No.

Mr. GREEN: Did Mr. Brisset have something?

The CHAIRMAN: Ask him a question.

Mr. GREEN: Were you raising any question?

Mr. HABEL: No, he was raising an objection.

Mr. BRISSET: There were certain recommendations I wanted to make on this.

Mr. LANGLOIS (*Gaspé*): Were they contained in your brief?

Mr. BRISSET: No.

Mr. LANGLOIS (*Gaspé*): You are now adding to your brief?

Mr. BRISSET: Clause 6, subsection (2), which purports to change paragraph (*e*) of subsection (1) of the present Act—

Mr. GREEN: That is the clause regarding dangerous substances.

Mr. BRISSET: —to relieve the board of liability in certain cases.

Mr. GREEN: What did you want to say about that?

Mr. HABEL: This is not in order.

Mr. GREEN: This is not the chairman here. I do not mind rulings from you, Mr. Chairman.

Mr. BRISSET: It is just a short statement.

The CHAIRMAN: Make a short statement and make it at once.

Mr. BRISSET: I want to draw the attention of the committee to the remarks in support of this amendment, in which it is said that the purpose of this amendment briefly, is to relieve the board of liability for the negligence of minor employees. I refer now to the section where it is provided that the board can make regulations, providing "stipulation of the terms and conditions, including any affecting the civil liability of the board in the event of negligence on the part of any officer or employee of the board". We are no longer dealing with minor employees as mentioned in the comment, but we are dealing with officers and employees of the board in general. There is an inconsistency there, and where it is quite important to the shipping interests is in the matter of explosives. I will say that all shipments of explosives are made by a government company—I think it is Canadian Arsenals Limited. What is sought by the board to obtain is a complete relief of liability whereby if anything happens the liability will rest on the carrier that is handling the explosives. We think this is quite an unfair position and quite contrary to what the position is in the United Kingdom, where in the case of shipments of explosives the government assumes liability for all negligence, even of the carrier, because it is realized that tremendous risks are incurred and you could not ask a private carrier to assume these risks. That is why in the United Kingdom they relieve the carrier of the liability. That is what is sought to be obtained here.

Mr. GREEN: Which portion of the clause is it to which you object?

Mr. BRISSET: That would be the end of subsection (*e*) in that section 2, which says:

> The stipulation of the terms and conditions (including any affecting the civil liability of the board in the event of negligence on the part of any officer or employee of the board).

That is a very wide stipulation to relieve oneself of all liability in respect of negligence.

Mr. LANGLOIS (*Gaspé*): That is subject to the by-laws being approved by the Governor in Council. Then it becomes a question of government policy.

Mr. BRISSET: I quite agree that we have this protective measure that the Governor in Council still has to approve of them, but the regulations are going to be—

Mr. LANGLOIS (*Gaspé*): I think that Mr. Brisset should point out that we have given the understanding to the Shipping Federation that those by-laws will be submitted to the interested parties before they are finally approved.

Mr. BRISSET: We are in the process of discussing these regulations, I must admit, with the government.

Mr. GREEN: That is no reason why the provision should be written into the law.

Mr. LANGLOIS (*Gaspé*): We say that we can do that now, but we still want to clarify it. We are just asking to be able to do what a private operator can do. A private operator is free to do this, if he wants to.

Mr. GREEN: What is the situation with regard to a privately owned dock?

Mr. BRISSET: In the case of a privately owned dock, the normal situation will be that whoever is at fault will bear his responsibility, and the owner of the private dock will not be liable for the negligence of somebody else. That is the normal law of the land; each one has to pay for his own negligence.

Mr. GREEN: You are asking that it be the same with the government?

Mr. BRISSET: Yes, we are asking that it be the same with the government. But I have to make this qualification, especially with respect to the shipment of explosives, because all ammunition is shipped by the government. If the carrier has to assume all the liabilities, then the government will not find any carrier to ship its ammunition, let us say, to Korea or wherever our forces are posted.

Mr. LANGLOIS (*Gaspé*): We can always change the bylaw.

Mr. GREEN: Have there been any cases of this kind?

Mr. BRISSET: We are presently negotiating with the department, and we have made representations to try to bring the practice of the Canadian government into line with that of the British government. Whether or not we will succeed, I do not know; but the board is now incorporating into the Act a specific provision that is very wide and which gives them the right to waive any liability, even for the negligence—not only of a minor employee, to the extent as mentioned in the text, but also for any negligence of an officer or any employee.

Mr. LANGLOIS (*Gaspé*): You must admit that it has always been the practice of the board to submit these bylaws to the interested parties.

Mr. BRISSET: Yes.

Mr. GREEN: I could not hear you.

Mr. LANGLOIS (*Gaspé*): I said that it has always been the practice to submit these bylaws to the interested parties before they are submitted to the governor in council; and he said "yes", in answer.

Mr. BRISSET: Now it is the practice to move these explosives on permit and the permit sets out the conditions. Among them the board declines liability for any damage, and the carrier has to assume that liability.

Mr. WINCH: Mr. Chairman, can we call it 6 o'clock?

The CHAIRMAN: 8 o'clock.

Mr. GREEN: I think we had better meet tomorrow, Mr. Chairman.

Mr. CAVERS: There are already a number of committees meeting tomorrow, Mr. Chairman.

Mr. LANGLOIS (*Gaspé*): Since we have lost so much time with two votes this afternoon and with the vote on Wednesday, I think we ought to sit tonight.

The CHAIRMAN: Very well. We are now adjourned until 8 o'clock tonight.

EVENING SESSION

The CHAIRMAN: Gentlemen, we have a quorum. We are on clause 6. Carried?

Mr. BELL: I would like to ask Mr. Brisset one question about this section. We were saying that the harbours board contracted itself out of liability and that sort of thing. I am just wondering if you would care to express an opinion whether there might be a general slackening of restrictions and liability in the harbours where the board can pass their liability to somebody else. To put that in another way, the harbours board now have certain liabilities in connection with explosives in our harbours. If they are allowed to contract themselves out of that liability in varying degrees, do you think that generally

speaking there might be a lessening of the responsibility for explosives in our harbours? The harbours board is one of the few groups we have that are watching things, and I want to feel certain in my mind that everybody is satisfied that the watching of explosives will be carried on at least as well as it was before. Would you care to express an opinion on what you think the effect will be of this change?

Mr. BRISSET: The effect and the implication of this power sought by the board might be to lessen the precautions taken by carriers transporting explosives. If I might explain this a little more, I will give an illustration. First of all, the board under the present Act, section 3, subsection (3), has the power to contract. This is an unlimited power. It gives the board a power also to limit its liability because you can do that in any contract. An individual can do it. What is sought now is, instead of doing it by contract, to do it by regulations and by way of an order in Council. It is somewhat of a dictatorial power that the board is seeking, and what will happen is this. The Governor in Council will pass a regulation stating that in the case of carriage of explosives or shipment of explosives the board will not assume any liability, even for its own negligence, and will seek from the carrier an indemnity whereby the carrier will have to hold the board against any claim that might be made by a third party. You might have a serious disaster like an explosion in a harbour, causing damage not only to harbours board property but also to third parties in the vicinity. The carriers by water, if they are faced with such a regulation, will say to the Canadian government when the Canadian government wants to ship explosives, "We will not do it unless you, the Canadian government, give us in turn an indemnity whereby if we have to pay damages or pay for injury done to harbours board property you will indemnify us." That is the present situation, and that is what we are trying to get from the government. Whether we will get it or not, I do not know. Supposing that we do no get it, then no responsible carrier, no well-established firm, will want to carry explosives for the government. What will happen? The government may find somebody willing to carry them under these conditions, but what they will likely find is some owner with only one ship and no asset except his vessel, who will be willing to take the chance because he knows that if there is a disaster the ship will be gone anyway and the government or the board can run after him. But these ships are not operated under the same standards as ships operated by well-established lines, and that is the danger that has to be considered, if that is done by regulation.

Mr. LANGLOIS (*Gaspé*): These regulations are merely a reflection of the contracts between the users of the board's property and the board itself.

Mr. BRISSET: The regulations are general in application. The board will adopt a regulation which will bind everyone concerned.

Mr. LANGLOIS (*Gaspé*): Is it not a fact, Mr. Brisset, so far your principals have been satisfied with the way that we have been handling that, in seeking their views on any proposed by-laws concerning the transportation, handling and storage of dangerous goods?

Mr. BRISSET: We will say that generally we have been satisfied, and we see no necessity—and that is the very point—for inserting this very serious provision in the Act. So far it has worked satisfactorily and can work satisfactorily, and there is no reason to make a very stringent provision in the Act. We are again in the same position under section 16. It has worked perfectly so far and there is no reason to change it.

Mr. LANGLOIS (*Gaspé*): Is it not a fact, Mr. Bisset, that any volume of explosives to be transported by or for or on account of the government will be done by National Defence in naval ships and, therefore, this carriage has nothing to do with the present Act?

Mr. BRISSET: No, I am not in a position to speak of naval vessels.

Mr. LANGLOIS (*Gaspé*): It is a fact, though.

Mr. BRISSET: There are many shipments abroad to Canadian troops that are carried by commercial vessels. Shipment is being made by Canadian Arsenals Limited, which is a government subsidiary, I understand.

Mr. LANGLOIS (*Gaspé*): Gentlemen, I wish also to inform the committee that at present there is going on a complete revision of regulations concerning the transportation of explosives and all matters of a like kind by an interdepartmental committee composed of representatives of the National Research Council, the Board of Transport Commissioners, the bureau of explosives, the steamship inspection branch of the Department of Transport, the inspection division of that department and the National Harbours Board. I wish also to remind the committee that this afternoon towards the latter stages of our proceedings, Mr. Brisset admitted that it had been the practice of the board so far—and there is no intention of discontinuing this practice—before the regulations are made in which his principals might be interested, to submit those by-laws to them and discuss them and obtain their views about them. He also added that so far this procedure had been very satisfactory.

Mr. GREEN: What would be the position if those words in brackets were taken out?

Mr. LANGLOIS (*Gaspé*): Which words are those?

Mr. GREEN: "including any affecting the civil liability of the board in the event of negligence on the part of any officer or employee of the board".

Mr. LANGLOIS (*Gaspé*): Mr. Finlay will deal with this point, if you do not mind.

Mr. FINLAY: The explanation for inserting those words is simply to place beyond doubt what we already believe to be the board's position in that regard. If we are mistaken, that is, if in fact the board is not at the moment in the position to contract itself out of liability for negligence, then definitely we wish that power. We simply wish to place ourselves in the same position as any private operator. Of course, counsel for the federation is primarily interested, naturally, in the movement of explosives. I would point out that this is not directed particularly toward explosives. This may, as a matter of fact, be the kind of thing that is more likely to be covered: that is, the situation which I mentioned this afternoon where we have a certain form of storage at Saint John and where we consider we should not accept perishable goods for low charges, and at the same time accept any risk.

It may be asked why we need to put this power in the Act. Again the answer is simply that we wish to be in the same position as any private operator. He needs no statutory authority to do so.

Mr. LANGLOIS (*Gaspé*): On the other hand, I understand that you presently are making regulations concerning the handling of explosives. Could you not, under these powers, make regulations which will in some way relieve the board from any responsibility?

Mr. FINLAY: Yes, that would certainly be possible. That would relieve the board from responsibility of the carrier of those explosives.

Mr. LANGLOIS (*Gaspé*): Such regulations are in force now.

Mr. FINLAY: Yes, we, in fact, have such regulations As a mater of fact, one of the conditions with regard to explosives in the regulations is that any carrier who brings explosives into one of our harbours does so completely at his own risk. In other words, we are, in fact, already operating on this basis and the only reason for the proposed amendment is to place beyond all question our capacity to do so, in the same manner as any private operator may refuse to accept explosives on his property without a complete safeguard from the party who wishes to bring them in.

The possible difficulty, however, is this: under another section of the existing Act there is the ordinary statutory provision common in the case of crown corporations that the board shall be liable for the negligence of its employees and so on. That is a statutory provision, and there is just a possibility—or we feel there is a possibility—in view of that existing statutory provision in the Act, that it could be contended that there is no power in the governor in council to make a by-law stating that under any circumstances whatever the board shall not be liable for negligence. It would remove that doubt or that possibility. That is what we are seeking here. In fact, what we are attempting to do is to place ourselves in the same position that any private operator already is in. There is nothing to prevent any private operator from doing that at any time.

Mr. LANGLOIS (*Gaspé*): I would like to quote one of the regulations by the National Harbours Board under part A I. It is regulation No. 71 and it reads as follows:

> 71. Board Permission for Vessels.—No vessel having explosives on board shall enter, move within or depart from the harbour save with prior board permission and upon such conditions (including any respecting liability) as may be imposed by the Board, . . .

So we are doing it right now. That is a regulation which is in force at the present time.

Mr. GREEN: Did I understand that this particular provision is not meant to apply to the handling of explosives?

Mr. FINLAY: No, I did not say that. I said that it was not directed primarily against explosives. It was designed to cover any general cases where it is not felt that the revenue justifies the risk. Now, as a matter of fact, explosives are at the moment one example; but it may very well be, as the parliamentary assistant has explained, that after this interdepartmental committee has completed its study of the matter they presumably will make certain recommendations as to what policy should be adopted with regard to explosives. When that is done, whatever policy is adopted by the government in that regard will certainly apply to the National Harbours Board and the governor in council may make bylaws and we will naturally fall in line with whatever the government policy may be. Now I am speaking of explosives but that actually was not the prime intent of putting this provision in.

Mr. GREEN: You intended to cover explosives by the next subsection?

Mr. FINLAY: Well, the purpose of that subsection, if I may say so at this time—I mean to say that under another section of the existing Act it is provided that nothing in this Act shall give the board any jurisdiction whatever over private property unless the Act specifically provides it. Now, it is felt that we should have some jurisdiction even over private property in so far as explosives are concerned. That is, the purpose of "(ea)" is, to overcome the obstacle which would otherwise exist with regard to private property. That is the purpose of it.

Mr. BELL: I would like to be satisfied on one thing. Under the Act, the way it is, there is a certain liability on the National Harbours Board mainly due, I suppose, to their selfish interest to supervise the harbour, and explosives, and ships generally. I want to feel certain that this will not change, that is to say, that this proposal will not in any way change the duties of supervision on behalf of the board.

Mr. FINLAY: The only answer I can make is that for obvious reasons, regardless of the contractual basis we may have with some steamship lines, the port authority must certainly continue to exercise the same supervision that it always has exercised. No port authority can afford to sit by and see

the city of Montreal, Halifax or Quebec go up in flames merely because they happened to have some contract with a steamship line. That cannot possibly affect the supervisory activity of the board in that respect. From the standpoint of pure selfinterest, the port authority cannot afford to let that kind of thing happen.

The CHAIRMAN: Shall clause 6 carry?

Mr. GREEN: No. In a later subsection of clause 6, the new subsection 3, you use the word "or any province". Is this a new provision to make this bill extend or become applicable against any province?

Mr. LANGLOIS (*Gaspé*): Yes.

Mr. GREEN: Can you explain the reason for that provision?

Mr. FINLAY: The only purpose—actually, I would say it is not a very important provision from our standpoint—but the only contingency there is that you could have a situation—as a matter of fact I do not know that it exists at the moment—but you could have a situation where a provincial government owned vessels and those vessels might be entering a port where we would want to make them subject to various harbour charges and so on. At the present time, in the absence of any reference to the Crown in the statute, we could not make our bylaws binding upon those vessels because an Act does not bind the crown in the absence of an express reference. That is the only purpose of it. I should say, however, that I do not know of any provincially owned ships at the moment.

Mr. LANGLOIS (*Gaspé*): I can give you an example of that. In the province of Quebec the provincial government owns firefighting ships for forest protection, operating on the north shore of the St. Lawrence; I think they have two of them; and they also operate some fishing trawlers, experimental vessels, which make use of the harbour in Quebec.

Mr. FINLAY: That would be an example of that kind of thing, yes. The only purpose is to enable the board to impose charges and so on upon provincially owned ships, upon ships owned by the provincial government.

Mr. GREEN: Then would that go so far as to give the right to seize provincially owned ships?

Mr. FINLAY: No, because there is nothing in the Act. The seizure section of the Act does not refer to the Crown and it is the Act which deals with seizures. It would be a bylaw which may be made binding on Her Majesty in the right of Canada or any province. As a matter of fact, it was for that very reason—or rather for that general category of reason—that the Act as a whole was not made binding upon the Crown but it is considered desirable that in certain cases a bylaw should be binding upon the Crown and the kind of thing we had in mind was the imposition of charges or in some cases the imposition of harbour regulations which would perhaps be a better example.

Mr. HAHN: Would this apply in cases set up under Act of parliament?

Mr. LANGLOIS (*Gaspé*): No, only the National Harbours Board Act and for those harbours mentioned in the appendix.

The CHAIRMAN: Clause 6. Carried.
Clause 7.

7. Subsections (1) and (2) of section 15 of the said Act are repealed and the following substituted therefor:

> 15. (1) The Board may, with the approval of the Minister, commute, *reduce or waive* any tolls fixed by by-law on such terms and conditions as the Board deems expedient.
>
> (2) The tolls imposed *by by-law* upon any goods may, *unless the by-law otherwise provides, be recovered by the Board as a debt due by*

> *the owner of such goods,* and no goods shall be removed from any harbour *or any other property under the administration of the Board* until all tolls imposed upon such goods have been paid *or security for payment accepted by the Board.*

Mr. GREEN: There we have: "The tolls imposed by bylaw upon any goods may, unless the bylaw otherwise provides, be recovered by the board as a debt due by the owner of such goods, and no goods shall be removed from any harbour or any other property under the administration of the board until all tolls imposed upon such goods have been paid or security for payment accepted by the board."

Mr. HABEL: That is right.

Mr. GREEN: Does that give you the right to collect any of these charges levied against goods from either the actual owner or the agent or sender, the consignee, bailee or carrier of the goods?

Mr. LANGLOIS (*Gaspé*): You are dealing with subclause 2 because subclause 1 is a waiver.

Mr. GREEN: Yes.

Mr. FINLAY: In that respect we are simply repeating the existing subclause 2 of clause 15 in that particular regard. If you note, it reads:

> (2) The rates and tolls on goods landed or transshipped in or shipped from any harbour under the jurisdiction of the Board shall be paid by the consignee, shipper, owner or agent of such goods, and goods shall not be removed from the harbour until such rates or tolls are fully paid or security for payment accepted by the Board.

That is the existing provision.

Mr. GREEN: But are you not adding the right to collect those tolls on goods from the carrier and bailee?

Mr. FINLAY: Oh no! As far as the bailee is concerned, that power always existed under clause 13. As I explained, we did desire to place beyond doubt our power to charge the carrier, not necessarily on goods. We have always had the power to impose charges on goods and if the charge were imposed in respect of the goods it was imposed on the carrier, but it might not be desired that they be imposed in respect of goods, but perhaps in respect of the carrier's use of our railway facilities.

Mr. LANGLOIS (*Gaspé*): I think you should also mention, Mr. Finlay, that any bylaw mentioned in subcaluse 2—and any other bylaw issued by the board, has to be submitted to the governor in council for approval.

The CHAIRMAN: Does clause 7 carry? Carried.

Clause 8.

> 8. Section 15 of the said Act is repealed and the following substituted therefor:
>
> 16. (1) The Board may as *provided in section 18,* seize any vessel within the territorial waters of Canada in any case where, *in the opinion of the board,*
>
> (*a*) any amount is owing to the Board in respect of such vessel for tolls;
>
> (*b*) property under the administration of the Board has been damaged through the fault or negligence of the owner of the vessel or a member of the crew thereof acting in the course of his employment or under the orders of a superior officer;
>
> (*c*) obstruction has been made or offered in respect of the performance of any duty or function of the Board or its officers or employees through the fault or negligence of the owner of the vessel or of

a member of the crew thereof acting in the course of his employment or under the orders of a superior officer, as a result of which obstruction damage or other loss has been sustained by the Board;

(*d*) the owner of the vessel has committed an offence under this Act or the by-laws, punishable upon summary conviction by a penalty payable under section 21 to the Board;

(*e*) judgment against the vessel or the owner thereof has been obtained in any case described in paragraph (*a*), (*b*) or (*c*); or

(*f*) conviction of the owner of the vessel has been obtained, in any case described in paragraph (*d*), and a penalty imposed payable under section 21 to the Board.

(2) In *any* case described in paragraph (*a*), (*b*), (*c*) or (*d*) of subsection (1) the Board may detain any vessel seized pursuant to subsection (1) until the amount owing to the Board has been *received* by it or, if liability is denied, until security *satisfactory to the Board has been deposited* with it.

(3) In any case described in paragraph (*e*) or (*f*) of subsection (1), the Board may detain the vessel until the amount owing to the Board has been paid and, in any such case, if the amount so owing is not paid within thirty days after the date of the judgment of the conviction the Board may apply to any court of competent jurisdiction for an order authorizing the sale of the vessel, and upon the making of the order the Board may sell the vessel upon such terms and conditions and for such price as to the Board seems proper, and to the extent that the amount realized from the sale exceeds the amount owing to the Board together with all expenses incurred by the Board in connection with the sale, the Board shall remit the amount so realized to the former owner of the vessel.

(4) In any case mentioned in subsection (1), whether or not the vessel has actually been seized or detained, the Board has at all times a lien upon the vessel and upon the proceeds of any sale or other disposition thereof for the amount owing to the Board, which lien has priority over all other rights, interests, claims and demands whatsoever, excepting only claims for wages of seamen under the *Canada Shipping Act.*

(5) The rights of the Board under subsections (2), (3) and (4) are exercisable by the Board whether or not title to or possession of the vessel is, at the time of the exercise of any such right, in the same person as the person who held such title or possession at the time when, in the opinion of the Board, the amount owing to the Board first became due.

(6) For the purposes of subsections (2), (4) and (5), the amount owing to the Board in respect of any case described in paragraph (*a*), (*b*), (*c*) or (*d*) of subsection (1) is the amount fixed by the Board as owing to it together with all expenses incurred by the Board in searching for, following, seizing and detaining the vessel, and for the purposes of subsections (3), (4) and (5) the amount owing to the Board in respect of any case described in paragraph (*e*) or (*f*) of subsection (1) is the amount of the judgment and costs, or the amount of the penalty incurred and costs, as the case may be, together with all expenses incurred by the Board in searching for, following, seizing and detaining the vessel.

(7) Whether or not all or any of the rights of the Board under this section are exercised by the Board, the Board may, in any case described in subsection (1), proceed against the owner of the vessel

in any court of competent jurisdiction for the amount owing to the Board (or for the balance thereof in the event of any sale contemplated by subsection (3) and may also exercise against the owner of the vessel any other right or remedy available to the Board at law.

Mr. NICHOLSON: What amendments are there? Could we have them?

Mr. LANGLOIS (*Gaspé*): I have suggested an amendment and it is up to the committee to decide. However, as I said on Wednesday when we discussed this particular amendment, I feel that I should warn the committee that in adopting an amendment along those lines we might prejudice the position of the board in future cases. I think a copy of the amendment was given to Mr. Green and I think Mr. Winch has one also. We have an open mind on this subject and perhaps someone would care to move the amendment.

Mr. NICHOLSON: Has it been read yet?

Mr. LANGLOIS (*Gaspé*): Perhaps the Clerk would read it, and then perhaps someone would care to move it.

The CLERK: The proposed amendment is:

> That clause 8 of Bill No. 421 (An Act to amend the National Harbours Board Act, be amended by the deletion of paragraphs (*b*) and (*c*) of subsection 1 of the proposed section 16 and their replacement by the following:
>
> (*b*) Property under the administration of the board has been damaged by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of his superior officers.
>
> (*c*) Obstruction to the performance of any duty or function of the board or its officers or employees has been made or offered by the vessel or through the fault or negligence of a member of the crew thereof acting in the course of his employment or under the orders of a superior officer, as a result of which obstruction damage or other loss has been sustained by the board.

Mr. LANGLOIS (*Gaspé*): Does anybody care to move that?

Mr. NICHOLSON: What about subclause (*d*)? The point I raised on Wednesday was never quite cleared up to my satisfaction. I referred to the *Begonia* owned by the Stag Steamship Line sailing out of Port Churchill. I think it was Mr. Finlay who referred to a file being started by the agent. Assuming that the Montreal Shipping Company is the agent—at least they told the Stag Steamship company they were the agent and the dealings were with the Montreal Shipping Company. Assuming for the sake of argument that a truck belonging to the Montreal Shipping Company sets fire to harbour board property at Churchill would the Stag Steamship Company, the owner of the ship, be liable for the damage done in view of the fact that in clause 1 the owner is set out—it sets out the agent and the charterer. If there is damage done by the Montreal Shipping Company, does that make the owner of the ship liable since the owner of the vessel has committed an offence under this Act and the owner is described as the agent?

Mr. FINLAY: Excuse me but—

Mr. LANGLOIS (*Gaspé*): Were you talking to subclause (*d*)? It has nothing to do with damages but only with violation of a by-law.

Mr. NICHOLSON: It says the owner has committed an offence—

Mr. LANGLOIS (*Gaspé*): That is not damage, that is a violation of a by-law or any disposition of the Act.

Mr. NICHOLSON: At some stage during the discussion—

Mr. LANGLOIS (*Gaspé*): I think your point should be under (*b*) rather that (d). This is penal offence relating to the dispositions of the Act or any of the by-laws made under the Act. The amendment takes care of it anyway.

Mr. NICHOLSON: Is it quite clear to you, Mr. Brisset, that the Montreal Shipping Company would not be at all responsible or the Stag Steamship Company would be responsible for damage which might have occurred at Port Churchill?

Mr. BRISSET: In the illustration the honourable member has just given the ship would not be responsible for damages but the owner of the ship, the vessel owner, under (*d*) would still be responsible. If in setting fire to the harbour installation the agent has breached a by-law—say he has kept gasoline on his premises contrary to the regulations of the board and has incurred a fine of $500—then the board under subclause (*d*) could arrest the vessel to collect that fine because the word "owner", in view of clause one, still includes agent.

Mr. LANGLOIS (*Gaspé*): May I interject? We are dealing with penal law there. Can you pin an offence that was committed by the agent on the owner of the ship?

Mr. BRISSET: That is the very stupidity of this enactment, if I may say so.

Mr. LANGLOIS (*Gaspé*): Answer my question, please.

Mr. BRISSET: Whether we are dealing with penal law or any other law we are faced here by the words: "An offence under the Act."

Mr. LANGLOIS (*Gaspé*): If you can pin on me in any court, Mr. Brisset, a criminal offence committed by my agent you are a good lawyer!

Mr. BRISSET: We are not speaking of a criminal offence.

Mr. LANGLOIS (*Gaspé*): Penal law.

Mr. BRISSET: An offence under the Act might be keeping gasoline—

Mr. GREEN: There is a chairman here and the parliamentary assistant does not happen to be that chairman!

Mr. LANGLOIS: (*Gaspé*): I have just been trying to get a straight answer and it has been impossible to get one so far.

Mr. GREEN: I suggest you do not continue to interrupt the witness.

Mr. LANGLOIS (*Gaspé*): It has been impossible so far to get straight answers. We get runabout answers.

An Hon. MEMBER: We are entirely out of order.

Mr. NICHOLSON: I think we should address the chair, Mr. Chairman. I addressed a question to the witness. It is a relevant question and I think it is only proper that the witness should be permitted to answer because as this wording now stands I would think my friends, the Stag Steamship Company, would be liable for damages for which they should not be liable, and I think we should find some wording which would relieve them of that.

Mr. LANGLOIS (*Gaspé*): This clause has nothing to do with damages caused. It deals only with penal offences.

Mr. HODGSON: On a point of order, the parliamentary assistant asked this witness a question and now he turns around and answers it in his own words.

Mr. HABEL: No, he is trying to get a straightforward answer.

The CHAIRMAN: Order!

Mr. BRISSET: I am sorry for the word I have used. I withdraw it. It was used in the heat of the argument. Under section (*b*) it is quite evident if the amendment that is now before this committee is adopted that the owner of the vessel will not be responsible for damages, but he will be responsible and remain responsible, for any fine, for instance, that might be imposed in the

event of a breach of the voluminous regulations of the board. I have the regulations here. It is a full volume. The regulations provide that if you do such and such a thing which is contrary to the bylaws or regulations you encourage a fine. If you take gasoline on the premises, if you travel on harbour board property exceeding a certain speed, you are liable to a fine.

Mr. LAFONTAINE: What is the amount of the fine?

Mr. BRISSET: I think we were told that the maximum fine was $500. Although Canada will be the only maritime country in the world where an agent will be responsible for the navigation of the vessel, I admit quite frankly that Canada will not be the only country in the world where an owner is responsible for a breach of harbour regulations by an agent. This is quite prevalent in South American countries, for instance, where if an agent breaches a regulation he is under the threat of an arrest. I do not agree with the principle, and I will say quite frankly in these countries that the ship owners in order not to have the vessel arrested will go and see the official concerned and on the table will give him $200 or $500 and get off scot-free. I am sure that the board has no intention of doing the same, but this situation exists in other countries where you can slap a fine across and face arrest conditional to the fine.

Mr. LANGLOIS (*Gaspé*): Supposing I own a car and employ Mr. Brisset as my agent and he drives my car and breaks the speed limit imposed by the government of Ontario. Does he mean to say that he can make me responsible for the payment of this speeding car?

Mr. BRISSET: Not under the present law. There is no criminal law that has such wide provision making the owner responsible for the act of the agent. But we have it here, owner includes agent and therefore if the agent commits the fault or breaches the regulation, the board can go against the owner. I think that the parliamentary assistant has just shown by his words that this is absolutely illogical. Why go to the owner if it is the agent who breaches the regulations.

Mr. LANGLOIS (*Gaspé*): You must not lose sight of the fact that owner here includes the charterer or agent, and the offence may be committed by either three of them, but the offence can be pinned only on the party who commits it; nobody else can be held responsible to pay a fine if he had no part in the committing of the offence. That is elementary in penal law.

Mr. HODGSON: That is not right. The owner of a vehicle in the province of Ontario is responsible no matter who is driving the car.

Mr. LANGLOIS (*Gaspé*): Not for speeding fines.

Mr. HODGSON: If he has an accident. If there is an accident then the owner is responsible.

Mr. LANGLOIS (*Gaspé*): I do not think that we have to elaborate on this point any further. As I said a while ago if I own a car and that car is being used by my agent, Mr. Brisset, and he commits manslaughter while driving my car, do not tell me you can pin that manslaughter charge upon myself, it is impossible.

Mr. GREEN: Under this section there is the power in the harbour board to seize the vessel where an agent has broken a bylaw. The vessel itself can be seized and that is what I cannot understand, why you want the power to seize the vessel for a breach of a bylaw by an agent.

Mr. LANGLOIS (*Gaspé*): Would you repeat the answer, Mr. Finlay?

Mr. FINLAY: I can only point out again in that respect that you are dealing with owner in a different section. It is the principle that owner means such and such, but only where the context allows. You cannot make the owner penally liable. The point that was raised (if I may revert to an example given in the Churchill case), in that particular example the question asked

was: whether or not the principal could be held liable for damages. I believe that was the main issue in the mind of the questioner at the time. The answer is that we do not believe that he could be, but in any event there can be no debate about the matter now under the amendment. That has to do with damages; that was the first point. But the subsection with which the committee is now dealing has nothing to do with damages, but with penalties and under another section of the National Harbours Board Act there is reference to the Criminal Code. In other words, you are dealing with criminal offences. Any violation of the Act is punishable upon summary conviction under the Criminal Code, but you cannot pin the criminal offence on a principal. You can make him liable in tort for the acts of his agent, but this is not what the subsection is dealing with.

Mr. GREEN: Does not this provision have the effect of making it possible to seize the owner's vessel for a breach of the bylaw by his agent? I do not see how you can get away from that interpretation.

Mr. LANGLOIS (*Gaspé*): It has this effect to my mind—and counsel for the board will correct me if I am wrong—if the offence is committed by the owner of the vessel, but not when the offence is committed by the charterer or the agent excepting the charterer by demise.

Mr. NICHOLSON: I think Mr. Finlay makes it clear that the National Harbour Board does not want to do what the Act says it can do. "The board may as provided in section 18 seize any vessel in the territorial waters of Canada in any case where in the opinion of the board". We have made our amendment. Coming to (d) "The board may seize the vessel if the owner of the vessel has committed an offence under this Act or the bylaws, punishable upon summary conviction by penalty payable under section 21 to the board". Our first clause defines what "owner" is and as I understand it the ship belonging to the Stag Steamship Lines could be seized if the owner or the agent, Montreal Shipping Company, has committed an offence. If that is the case I think our language should be changed to make it very clear that the Montreal Shipping Company is not responsible for damages caused by the Stag Steamship Company and vice versa the Stag Steamship Company is not responsible for damages caused by the Montreal Shipping Company for which the Montreal Shipping Company should be responsible. I think it is a matter of draftmanship and we want to get this worded so there will be no doubt about it. As it now stands the Montreal Shipping Company or the Stag Steamship Company could be held responsible for offences committed by the other party for which they had not been responsible.

Mr. LANGLOIS (*Gaspé*): Mr. Chairman, in respect to this I have to state again that we feel that this section does not give the right to the board to seize the ship when a violation of the bylaws or any provision of the Act has been committed by the agent; but, if it will make the committee any happier about it I am ready to suggest what was suggested again this afternoon, that, after the word "has" in the first line of subsection 1 (d) we add "in respect of the vessel". It does not change the meaning but if it makes anybody any happier we are ready to make the amendment.

Mr. HOSKING: I do not know whether we would want to agree to that.

Mr. LANGLOIS (*Gaspé*): It does not change anything.

Mr. HOSKING: Suppose that we have a foreign shipping company with a boat in the harbour and they hire some disreputable agent to take care of their business. Would not the good solid business people that are in business want to put a sense of responsibility on to the owner of the ship, that he must deal with a reliable company, and would not this be a good thing for a reliable businessman carrying on a legitimate business, who is willing to accept the responsibilities he gets into? If he is the agent of the shipping company that

owns the ship, while that ship is in harbour, and he is doing a job and does something wrong, have not the shipping company some responsibility in regard to seeing that that is paid? If they hire some disreputable person who has no equity in the company, and he says, "You cannot take it out of me", you will have a sloppy business. The person who is responsible is the shipping company that has the ship there and is asking its agent to do some work on it. I think it is a sensible law. It is the same kind of law that you had with the trucking companies. The owner of the truck is certainly responsible if his agent does some damage, and it is the same if the shipping company agent does some damage. I think it should be in there just the way it is.

Mr. LANGLOIS (*Gaspé*): It is not a question of damage.

Mr. GREEN: It is a question of infringement of a by-law.

Mr. LANGLOIS (*Gaspé*): It is a question of fines.

Mr. GREEN: As a matter of fact, nobody needs to have been convicted. It is worded so widely that if the board thinks there has been a breach of the by-law, then the ship can be seized. There need not have been any conviction at all. If you read it, it says that the board may seize a vessel if, in the opinion of the board the owner has committed an offence under this Act or the by-laws, punishable upon summary conviction by a penalty payable under section 21 to the board. All that the board needs to do is be of the opinion that A, B or C has committed an offence. They do not have to prove that he has committed it. If they merely think that the owner or the agent or the charterer or the master has broken a by-law, then they can seize a ship. That is the ridiculous part of it. They do not even have to convict the man. The ship can be seized without anyone being proved to have broken the law.

Mr. HOSKING: May I ask you a question? How would you like it if the harbour commission seized my ship and I was guilty of no offence, nobody was guilty of any offence, but in their opinion something was wrong and they seized my ship, and it cost me $10,000 or $15,000? How would you like to act as my lawyer in a case against the board for damages? If nobody is guilty, then their opinion is wrong, and they have to pay for their opinion being wrong.

Mr. GREEN: No, this is worded so widely that if in the opinion of the board a by-law has been broken, then under this section they can seize the ship, and, of course, you have put your finger on the point that hurts, in that every day the ship is held up means thousands of dollars.

Mr. HOSKING: Do you mean to say that if they held me up for nothing at all I could not take it to court? Is that correct, Mr. Finlay?

Mr. FINLAY: No. It is perfectly true that it says "in the opinion of the board", but there, again, I believe the barristers on the committee would agree with me that that must be a reasonable opinion. That is, the board cannot arbitrarily take such action and then escape responsibility. What it means is that there must be a prima facie case. It is impossible to wait until we get judgment of the courts in these seizure cases. If we waited for that we would never seize a vessel. We must be able to act on what we consider to be a reasonable case. But supposing at a later date the court says that there was not a prima facie case, I presume that in that event the board would be responsible.

Mr. GREEN: This particular subsection deals with the breach of a by-law.

Mr. HOSKING: Then somebody is guilty.

Mr. GREEN: The maximum penalty is $500, but you have the Act so drawn that you can collect that penalty from the owner of the ship or the charterer or the agent or the master of the ship.

Mr. HOSKING: It just says "seize the vessel".

Mr. GREEN: Or the local agent of the vessel. You have all those people on the hook. Yet in addition to that power to collect that penalty from these different individuals, you are asking that you should also have the right to seize the ship, which means that the amount of that penalty, $500, will be lost many times over when the ship is delayed.

Mr. HOSKING: My question is not as stated by Mr. Green, but it says here that the only recourse against the owner of the vessel is to seize his ship; it does not say he has to pay the fine. If they seize the ship and he is not guilty, they could be sued and the harbours board would have to pay.

Mr. LANGLOIS (*Gaspé*): May I add something which might clarify the situation, I hope. I must first inform the committee that in England the ship is liable to seizure under the Harbour Docks and Piers Act, even for tolls owing on goods. Here, while I do not agree with the suggestion made in the remarks by Mr. Green, if this can clarify the situation, could we not add after the word "as", in the first line, "in respect of the vessel". Then we are completely in the clear and we have the exact meaning that the board is putting as an interpretation on this section. I think that that clears the situation completely, "in respect of the vessel".

Mr. DUMAS: I so move.

Mr. LANGLOIS (*Gaspé*): I hope that clears that up completely.

Mr. GREEN: Is the board insisting on the right to seize the ship for a possible—not a proven but a possible—breach of a by-law?

Mr. LANGLOIS (*Gaspé*): No, no. It would clear it up in respect of the vessel.

Mr. GREEN: But the agent would still be liable?

Mr. LANGLOIS (*Gaspé*): The violation must have been caused in respect to the operation of the vessel.

Mr. GREEN: Then why do you need this subsection "d" in there at all? This is the seizure section, the section permitting the Harbour Board to seize the ship; why do you need to have the right of seizure when you think there has been a bylaw broken? You have got the right to seize where there has been a judgment against the owner in the next subsection "e", so why do you ask for the right to seize the ship when possibly the fine could not amount to more than $500?

Mr. LANGLOIS (*Gaspé*): You mentioned subsection "e"; it does not cover subsection "d", you have noticed that? Subsection "e" refers to any case described in paragraphs (a), (b) and (c), but not (d). You must notice that, because you referred to (d).

Mr. GREEN: Under (f) you would have the right to seize where there has been a conviction for breaking a bylaw; but "d" gives you the further right to seize where you only think there has been a breach of the bylaw, before you have proved anything about it at all.

Mr. FINLAY: In that regard I could give a very good example of the kind of thing which may arise. In Quebec harbour there was a small vessel; as a matter of fact, it is worth very little from the standpoint of sales value; but in that instance she was tied up at a certain dock and the master and crew of the vessel disappeared and there was nobody there. The only party or person available, or the only person known to us, was the agent. And in that instance we were not even able to reach the agent. The result was that a liner was held up for several hours with 1,200 passengers, attempting to get into that dock. One of the most important factors here would be that we could seize such a vessel. The vessel herself was worth very little. and the

penalty there was only $500, and it would not be worth seizing the vessel necessarily to recover $500, but it would be very well worth seizing her for one thing: to take possession of her and to move her; and in that case a liner was held up for several hours.

Mr. GREEN: Have you not got the power now under your Act to move a vessel from one spot to another in your docks?

Mr. FINLAY: We have the power to give orders, but here there was nobody to give the orders to.

Mr. GREEN: You have the power right now since you control the harbours, to put a boat in a dock and move a boat from one spot in the dock to another.

Mr. FINLAY: That may conceivably be the position, but I doubt if there might not be some question whether we could do it. At any rate, this would place the thing beyond any debate. Actually, the amount itself is very small. Unless the ship were a very small craft, it would be unlikely, and I cannot imagine any seizure of a vessel for $500 unless it was a very small craft indeed. But in the example cited by the parliamentary assistant, there is legislation which is far more drastic than this, which exists in England and has existed there for at least half a century and that is, as he mentioned, the Harbours Docks and Piers Act.

In that instance you may seize a vessel for tolls not incurred by the vessel but for tolls imposed by the harbour authorities upon goods carried in that vessel. Let us suppose a shipper has failed to pay those charges. The goods are on board the vessel. The port authority has complete power to seize that vessel for those charges.

Now, as I say, we are not asking for that kind of power here but it is an example and I mention it because of the great emphasis laid from time to time on the very arbitrary powers that the Harbour Board is attempting to obtain and because of the fact that there are these precedents at least in the British world. There is an example, and, as a matter of fact, it is wider than anything we seek to attain, and it has been in force for at least 75 years in Great Britain.

Mr. GREEN: But we have no way of checking on it at the moment. There are only seven ports in Canada which are being made subject to these drastic restrictions. There are other ports in Canada with which we are in competition. For instance, the port of Vancouver is in competition and very serious competition with the port of New Westminster, yet, while the port of Vancouver will be made subject to these restrictions, they will not apply to the other port. Here you have a case where you yourself admitted that you would not seize a vessel for only $500, yet you are asking for the power to do it under this very section.

Mr. LANGLOIS (*Gaspé*): This is the maximum.

Mr. GREEN: Mr. Finlay said they would not think of seizing a ship for $500. So why do you ask for the power to do it?

Mr. LANGLOIS (*Gaspé*): He gave the committee an example, when wanted to move a ship to make room for a much larger ship. I doubt very much myself if the board has the power to take over a vessel and to shift it from its berth. They do have the power to order the vessel into a berth, but I do not think they could go and take over the vessel and move it from there.

Mr. GREEN: You must have. Surely if an owner comes in with his vessel and ties it up at one of your docks in the wrong place without any authority, surely you can make him move it? You would not have to wait until the Harbour Board at Ottawa decided that he has broken the by-law and decided that you can seize the ship. What right have you to move the ship after you have seized it?

Mr. LANGLOIS (*Gaspé*): Where you would find the right to take over the vessel in such an instance? I do not see it.

Mr. GREEN: From the very fact of controlling your harbour. I am sure if a ship came into our port and docked at the wrong dock, or went into the wrong berth, it would be moved, and moved out very fast.

Mr. HOSKING: If there is no crew on it, and if you have an irresponsible ship and an irresponsible agent, there is nobody to deal with. That is why the clause should be left in. That would be the best example you could possibly imagine, where you have an irresponsible ship and an irresponsible agent and there is nobody to deal with.

Mr. NICHOLSON: I do not object to provision made to seize the ship under those circumstances, but I do not think that we have any business to fine both the agent and the owner for offences that the other party might commit. My honourable friend thinks that there are a lot of agents in the country who are probably not very dependable. Perhaps there are but I think that the agent should be held responsible for the offences of the agent and made to pay for them. I think that most Canadian agents would be in that position; and likewise, I think that the owner should be held responsible for the mistakes and offences of the owner. But as it is presently worded in "d", the owner can be held responsible for the offences of the other. I think it is unfortunate to have that sort of language in a bill going through parliament.

Mr. LANGLOIS (*Gaspé*): Would you not be satisfied with this wording after "has" in the first line, "the owner of the vessel has in respect of the vessel committed an offence under this Act" and so on. I think that would meet your point, Mr. Nicholson.

Mr. WINCH: Has anybody moved it?

Mr. LANGLOIS (*Gaspé*): No. We have two amendments. Would somebody care to move the other one first?

Mr. WINCH: I so move it.

Mr. LANGLOIS (*Gaspé*): Mr. Winch moves it. I think it has been read.

The CLERK OF THE COMMITTEE: Yes, it was read.

Mr. LANGLOIS (*Gaspé*): Shall I state the amendment again, Mr. Chairman. Have we got a seconder?

Mr. HAHN: I second it.

The CHAIRMAN: Does the Committee wish the amendment read again? All those in favour of Mr. Winch's amendment please signify?

Mr. DUMAS: "b" and "c".

The CHAIRMAN: All those in favour please signify?

Carried.

Mr. DUMAS: I move an amendment to clause "d", that "the owner of the vessel has in respect to the vessel committed an offence under this Act or the bylaws punishable upon summary conviction by a penalty payable under section 21 to the board;"

Mr. CARTER: I second it.

The CHAIRMAN: All those in favour?

Mr. LANGLOIS (*Gaspé*): Will the clerk read it?

The CLERK OF THE COMMITTEE: It is moved that Clause 8, subclause 1, paragraph "d" be amended by inserting the words "in respect of a vessel", after the word "has" in the first line of paragraph "d".

The CHAIRMAN: Shall the amendment carry?

Carried.

Does the clause, as amended, carry?

Carried.

Mr. GREEN: I would like to move that the words "in the opinion of the board" in the third line of clause 16 be deleted. They were not in the seizure clause before and that clause read as follows: "The board may, in the manner hereinafter set forth seize and detain any vessel within the limits of the territorial waters of Canada in the following cases:" and I submit that change is not a fair one and that the board should stand on its judgment as either being right or wrong. If it is wrong in making a seizure then it must suffer the consequences. If it is right, of course, it has the power to seize, but this is not in the interests of the vessel owner and if the board does not have the right to seize under any of these subclauses he is protected. This right of seizure is a very drastic one, and I do not think the board is entitled to wider.

Mr. BELL: Mr. Chairman, I would like to ask Mr. Finlay a question on the same point. Supposing a member of a crew of the ship does injury coming off the ship, something like the example you gave before. I understand by the reference in clause 18 of this amendment you would be able to seize the ship and detain it but I also think that with the inclusion of your new definition of "owner" you could hold the agent responsible for all the costs in connection with that. In other words, the agent is responsible for all the costs and damage done by a member of the crew of the ship even though he may be 200 or 300 feet from the ship, is that right?

Mr. FINLAY: Yes, and he always has been. There is no change in that respect. Those are the concluding lines of section 16(2) of the existing Act.

Mr. BELL: That is why you have the reference to section 18 in the amendment? I wanted to know why in section 8 you have "as provided in section 18?"

Mr. FINLAY: Oh, I see. The reason for that is simply the fact that clause 18 is the clause which deals with the procedure for seizure. That is the only purpose of that. "The board may, as provided in clause 18"—and then clause 18 gives the procedure for seizing.

Mr. BELL: It seems pretty far-fetched when a member of a crew of a ship does injury to your property that the agent should be held responsible for all costs of that. I quite understand it might be desirable to hold up the ship and seize it until liability is established against the actual owners of the vessel, but surely that is far-fetched there?

Mr. FINLAY: Now it must be remembered that he must be acting in the course of his employment. Those are the words that appear in the bill. The member of the crew must be acting as such. He must be acting in the course of his employment. Let us suppose he is going off on leave. Well then, it might be that personally he was not acting in the course of his employment at that time, but if he is acting under the orders of his superior officer or acting in the course of his employment, even although he may not actually be on the deck or on the vessel at the time, then the vessel can be seized and the agent can be held responsible. But there is nothing new there; that has always been the situation.

The CHAIRMAN: Carried.

Mr. LANGLOIS (*Gaspé*): There is an amendment by Mr. Green.

The CHAIRMAN: The clerk will read the amendment.

The CLERK: It is moved that clause 8 of Bill 421 be amended where it relates to section 16 subsection (1) of the existing Act, by deleting the words: "In the opinion of the board" which appear at line 26 on page 4 of Bill 421.

The CHAIRMAN: All in favour of the amendment please hold up their right hand.

The CLERK: Seven members in favour.

The CHAIRMAN: Contrary?

The CLERK: Fifteen contrary.

The CHAIRMAN: The amendment is lost.

Clause 8.

Mr. GREEN: There are quite a few more questions on clause 8. Clause (e) of subclause 1—would Mr. Finlay explain how that works. It is restricted to paragraphs (a), (b) or (c) and you have the right to seize under those clauses (a), (b) and (c) and here you take a further right to seize after you have judgment against the vessel or the owners. Why do you need that?

Mr. FINLAY: The explanation there is that we may not have seized before judgment. We may seize after judgment. Now, in view of the amendments made, there can be no doubt about the particular type of cases after which judgment against the vessel can be obtained. Those already have been defined. That is to say, there must have been damage done by the vessel or the crew. Those all have been dealt with by the committee. Then granted one of these cases, (a) (b) or (c) has occurred we may proceed in the courts against the vessel or against her owner and we obtain judgment and then we seize the vessel. The following subclauses of this clause go on to provide that in a case where judgment has been obtained—unlike a case where it has not been obtained—then after a certain lapse of time we may go to the court again, and ask them for permission to sell the vessel. That is in an instance where judgment has been obtained. It is a separate procedure. In a case where judgment has not been obtained, we cannot sell the vessel.

The CHAIRMAN: Carried.

Mr. GREEN: Where you have obtained a judgment, why do you not seize under the judgment? Why do you have to have a right to seize over and above that right which you already have?

Mr. HABEL: Oh, you ought to know that!

Mr. FINLAY: All we are doing is repeating the provisions of the former Act. After all, from the standpoint of the vessel owner it makes little difference whether we proceed under this or that statute having obtained judgment against it.

The CHAIRMAN: Are there any other questions?

Mr. GREEN: Concerning subclause 3, the last line: "The board shall remit the amount so realized to the former owner of the vessel." Now, with your definition of "owner" which includes agent and charterer and so on, how do you decide to whom you are going to pay that balance?

Mr. FINLAY: That, I may say, is exactly the reason why the provision is there. It may or may not be easy for the board to determine—particularly in the case of a foreign vessel—just who is the owner. There may be conflicting claims so far as the ownership of that vessel is concerned. The whole purpose of the section, as far as the board is concerned, is that we will pay it to the owner or the agent. If in fact we pay it to the agent, the owner can always recover that amount from him, but the point is that there is no reason why the board should be necessarily in the position where it must search about to find the actual owner which can be quite a difficult thing to determine under some circumstances. We sell the vessel. Now, we must obtain judgment. We must go before the court in order to sell the vessel in the first place and we get an order from the court authorizing us to sell the vessel. Having done that if there is any balance we remit the proceeds to the owner. That would permit us certainly to remit that balance, let us say, the Canadian agent. There is no denial of that.

Mr. GREEN: Well, surely, surely, whatever other things may be said about the Act and whatever other conditions may arise with regard to the vessel, there can be no doubt that the agent does not own the vessel and yet here you are taking the power—having seized the vessel and sold it you are taking the power to remit any balance not to the owner of the vessel but to the agent and surely that is not right, because he is only the agent for handling the ship when she is in the port and the agent is not entitled under any consideration to get any balance, but you say: Oh well, the ship owner can sue the agent to get the money. Now, where is the fairness in that conduct?

Mr. FINLAY: The only answer I can make there is there will be no necessity for suit, for legal action by the owner of the vessel in such an instance unless the agent is a criminal. After all the situation could arise where after judgment and seizure and sale of the vessel we remit the balance to the Canadian agent—some firm in Canada who was acting as the agent of the vessel—and we tell them, send this to your principal. Unless the agent is a criminal there will hardly be any necessity for litigation by his principal to obtain the money.

Mr. LANGLOIS (*Gaspé*): Also the board takes the necessary precaution before paying the money to the agent to make the cheque jointly payable to the owner, as it was known before the proceedings were instituted, and the agent as well.

Mr. GREEN: What was that again?

Mr. LANGLOIS (*Gaspé*): That is an elementary precaution to take, to make the cheque payable jointly to the owner, as known to them when the proceedings were instituted, and to the agent as well; that would be an elementary precaution that the board would take.

Mr. CAVERS: If there is a balance owing does the agent not hold the moneys as trustee for his principal?

Mr. FINLAY: Yes. That illustrates my point. Unless the agent is a criminal there can be no necessity for any suit by his principal. The agent automatically holds that money in trust for his principal.

Mr. GREEN: In subsection 7 of section 8, as I read the present section 20, subsection 2, the board can only sue for deficiency if they seize and do not get enough. It says: "The board shall pay or deliver the surplus if any, or such of the goods as remain unsold to the person entitled thereto and recover the deficiency if any by action in any court of competent jurisdiction." As I understand this subsection 7 you are changing from the position that you only sue for deficiency to the position that you can sue for the whole claim. Is that right?

Mr. FINLAY: No. Excuse me, what has happened, there is: In the Act as it stands it is provided that we may seize and sell the vessel in the existing Act, in certain circumstances. Now, having sold the vessel naturally there can only be a deficiency. We are going to get something out of the sale of the vessel, and the Act goes on to provide in cases where we have sold the vessel we go after these other parties for the deficiency.

Mr. GREEN: Why do you not say that instead of taking the right to sue for the whole thing regardless of whether or not you seize? You say in the first line: "Whether or not all or any of the rights of the board under this section are exercised by the board, the board may, in any case described in subsection (1), proceed against the owner of the vessel in any court of competent jurisdiction for the amount owing to the board (or for the balance thereof in the event of any sale contemplated by subsection (3)) and may also exercise against the owner of the vessel any other right or remedy available to the board at law." Why do you not restrict this to sue for the balance?

Mr. FINLAY: Excuse me, I did not understand that point before. The answer there is, if you will look at the existing section 16 (2), the first part of that subsection provides for the seizure of the vessel in cases of damage done by the vessel and so on. Then, it goes on to say: "The owner, charterer, master or agent of such vessel is also liable to the board for all such injury, damages, expenses and costs." Now, if the words are to mean anything the word there used is: "all". If that means a deficiency the word "all" would be meaningless. The board is perfectly free to adopt that course under the existing provisions. We do not have to sell the vessel; if we do seize and sell there is of course a balance. If it is not seized and sold we must be free to recover 100 per cent. That is all that is covered there.

Mr. BELL: Mr. Brisset, what were your objections to this sub-section 7?

Mr. BRISSET: My objection to this section I have explained already this afternoon. But, I want to add something here. It is this: that in effect, strange as it may seem, the board is really working against its own interests here. I would like to illustrate this. The section says this:

> Whether or not any or all of the rights of the board under this section are exercised by the board.

And it means whether the board seizes or not the board can sue the agent therefore it follows that their primary recourse will be exercised against the agent. I said the board is working against its own interests because if a ship comes in one of the harbours of Canada and does extensive damage—say we have a ship coming here worth $1 or $2 million, and she does half a million dollars damage to shore installations, we have a provision which authorizes the board to let that vessel go, to let that security which it has in its hands worth $2 million go and pursue the agent.

Mr. HABEL: Do you believe they will do that?

Mr. BISSET: I do not think they will ever do it because they are too clever to do it but if so, why do they seek the power to do it? What will happen in years from now? We might have an official of the board who will decide to proceed against the agent. I have a list of all the agents in Canada. There are about 300 of them of which there are about 150 small agents or individuals which might have a capital $10,000 or $25,000. What is the logic in mind in making the primary recourse of the board against the agent when the board has there in its harbour a ship which is a security worth thousands or millions of dollars—

The CHAIRMAN: Order. You may answer the question and not make a whole story.

Mr. GREEN: On a point of order, Mr. Bell had asked the witness a question. I do not know why you should step in and try to stop him. He is talking right on this point. In this committee or in any other committee we are entitled to have an answer. This business of the government wanting to steamroller all kinds—

Mr. LANGLOIS (*Gaspé*): I take objection to that, Mr. Chairman. On a point of order, I take a very strong objection to what Mr. Green just said and he knows that it is not a fact. I can say this at this time that we have bent over backwards to allow Mr. Brisset and the Shipping Federation to come before this committee and make their representations. As a matter of fact we even suggested they come before the committee. That is far from the steamrolling you are mentioning Mr. Green, after having advised the Shipping Federation that we welcome their presence here. As soon as I got the motion through the House referring the bill to this committee, I asked Mr. Smith to call Mr. Brisset right away and tell him that we had

referred it to this committee, suggesting to him that he send in his request to appear before this committee right away, to Mr. Arsenault, the chief clerk of committees. If that is steamrolling, I do not know what the word means.

Mr. NICOLSON: I think we are getting a little tired, but we appreciate very much the help that Mr. Brisset has been and I think he should be—

Mr. LANGLOIS (*Gaspé*): He is not answering any questions any more, but he is defending the board.

Mr. NICOLSON: Members have asked him to give information, and I think it is most important to take all the time that is necessary to get all the information that they wish to obtain. I do not think that our guest should be embarrassed by any suggestion that we have not plenty of time to hear his statements.

Mr. LANGLOIS (*Gaspé*): He has made his representations. He has been afforded all the time to make them. Now he is bringing up something new. At no stage did he ever discuss this matter that he is raising now with the board, when he had an opportunity to do so. Now he is taking the defence of the board. It is well taken care of by representatives of the board that we have here.

Mr. BELL: I for one certainly appreciate the fact that some person or some body has taken an interest in this very controversial National Harbours Board amendment. I would like further to add that it is a highly technical legal subject and we have to have these independent bodies bringing out these facts and discussing them, otherwise a layman has not a snowball's chance of finding out what they are about. Would you please answer the question?

Mr. LAFONTAINE: What is the question?

Mr. BELL: What his objections were to subsection (7). We are still on it.

Mr. BRISSET: I will not go further in this expose I was giving to the committee to show that the board might proceed against its own interests, but I will repeat that there seems to be no logical reason in law or in justice to make the agent primarily liable for the damage done by the vessel, because the agent, as we explained the other day will not be insured for such a liability. The insurance is carried by the vessel. In marine practice, whenever the ship is seized, there is a whole wheel of operations that comes into play. The companies come forward and give security for the claim. The insurer will say that it is not the ship that is seized. It is the agent, and they do not cover the agent.

Mr. HABEL: Could I ask a question on that point? Would you think for a minute, Mr. Brisset, that the harbours board would willingly try to pin the agent before seizing the boat?

Mr. BRISSET: I hope not, sir. If that is so—

Mr. LANGLOIS (*Gaspé*): Mr. Chairman, on a point or order, I think the witness should stop making speeches. Every question he is asked, he makes a speech on it. He is a witness, and we want concise and precise answers. That is all we want.

Mr. LAFONTAINE: And precise questions.

Mr. BELL: I still have the floor, and I am questioning Mr. Brisset. I would like to ask Mr. Brisset, in view of these restrictions and added liabilities that this Act seems to pass on to ships' agents, generally, what his opinioin is of the effect of these 300-odd agents doing business in Canada and their interest in the shipping business generally. I do not care whether it is a speech or not. I want an opinion on it.

Mr. BRISSET: What is going to happen is, if there is a heavy claim and the agent is sued first, he will go bankrupt. He will be out of business, because he has no means of meeting a claim for heavy damage.

Mr. LANGLOIS (*Gaspé*): May I ask another question?

Mr. BELL: In other words, an outside shipping firm wanting to do business with Canadian ports and the shipping industry generally might not be able to get suitable agents, agents who have the capital to accept this responsibility or who want to accept it. Can you carry it so far?

Mr. BRISSET: Yes, I will carry it so far. Certain agents may not want to accept this responsibility, because they know very well that once the ship has gone and the board has not exercised its right to seize, they will be left, if I may use the expression, "holding the bag". They will not be able themselves to go after the ship in a foreign port.

Mr. LANGLOIS (*Gaspé*): On that point—

Mr. BELL: I still have another question.

Mr. LANGLOIS (*Gaspé*): It is on the very same point.

Mr. BELL: To cover it one step further, are we right in assuming that shipping firms outside of Canada entirely, knowing that agents are not available and not willing to take responsibilities and not able from a financial standpoint, might, where competition is equal, go to other ports where the responsibilities of agents and facilities are of lesser trouble?

Mr. BRISSET: I would answer that by saying that the ship owner himself is not affected by this section, because if he insures harbours board property he knows that possibly the board will exercise recourse not against him but against the agent. But the agent will feel the burden of this additional liability placed upon him, the Canadian agent.

Mr. BELL: Would you say that quite a few of these changes to the National Harbours Board Act are due to the fact that in Canada today we do not have as many owners in the full sense of the word as we had formerly and we have to broaden the Act to cover agents?

Some Hon. MEMBERS: Oh!

Mr. LANGLOIS (*Gaspé*): I object to this question. The witness here is a legal adviser, not a shipping agent, and he is not competent to answer that question.

Mr. BELL: How many owners are there in the full sense of the word in Canada?

Mr. HABEL: The question is out of order, Mr. Chairman. It has nothing to do with the case.

Mr. LANGLOIS (*Gaspé*): He mentioned that there was a possibility of the agent going bankrupt. I am taking the line which was taken this afternoon, that the board has no right to ask for any extra power. Some members said, "You have had the experience of eighteen years without losing any money." Following the same line of reasoning, may I ask Mr. Brisset if he knows, during the forty odd years that this power has been in harbour statutes in Canada, starting with the Harbour Commission of Vancouver in 1913, if he knows of any case where the agent was made bankrupt by the board in this respect?

Mr. BRISSET: No.

Mr. LANGLOIS (*Gaspé*): That is all I want. That is the answer.

Mr. BRISSET: But the question is wrong; it is not based under the Act.

Mr. HABEL: Order.

The CHAIRMAN: Let us have one question at a time. Answer the question and answer it quickly.

Mr. BRISSET: The others are not the same; they do not give the right.

Mr. LANGLOIS *(Gaspé)*: That is not so.

Mr. BRISSET: Therefore they have never sued the agent.

Mr. HAHN: Would you please amplify that word, the last "no"?

Mr. BRISSET: The reason why the agents have not suffered before is because, under the legislation of the other type, that was referred to this afternoon, the results are such that the primary recourse is not made against the agent but against the vessel owner. Therefore they have never sued the agent.

Mr. HABEL: And it is still against the owner?

Mr. BISSET: It is still against the owner. Now they are seeking to sue the agent instead of the owner.

Mr. GREEN: I think these government supporters should keep still.

Mr. LANGLOIS *(Gaspé)*: And I think that the opposition supporters should stop, too.

The CHAIRMAN: Order, gentlemen, order.

Mr. GREEN: They should not be allowed.

Mr. LANGLOIS *(Gaspé)*: The chairman is on his feet.

The CHAIRMAN: You have had quite a time of it asking questions and we have not bothered you any.

Mr. NICHOLSON: May I ask a question which will not be so controversial?

The CHAIRMAN: Certainly.

Mr. NICHOLSON: I wonder if Mr. Brisset could give us any opinion as to what the effect of this legislation will be upon shipping out of Churchill?

Mr. LANGLOIS *(Gaspé)*: He is not a shipping agent.

Mr. NICHOLSON: I think my question is quite in order, Mr. Chairman.

Mr. LANGLOIS *(Gaspé)*: He is a legal adviser.

Mr. HABEL: Ask your question of Mr. Green.

Mr. NICHOLSON: If we are going to have a committee of parliament dealing with this matter, then, Mr. Chairman, I submit that the members should have the privilege of asking the witnesses questions.

The CHAIRMAN: He is a legal man and he is not supposed to know.

Mr. NICHOLSON: I think the witness should have the privilege of answering the question rather than the members of this committee.

The CHAIRMAN: Order, gentlemen.

Mr. NICHOLSON: I think that we should not have to return to the House and report that we are not permitted to ask or have our questions answered. I have asked the witness a question which I think he should be permitted to answer.

The CHAIRMAN: You have not been refused the right to ask any question.

Mr. NICHOLSON: The members are not prepared to give the witness a chance to answer.

The CHAIRMAN: You have not been refused yet, so do not say that.

Mr. HODGSON: You have a group of party members who do not care, and they sit there and yap, yap, and yap and do not say anything except to disturb somebody who is trying to answer a question.

The CHAIRMAN: Are you going to answer Mr. Nicholson's question?

Mr. BRISSET: I have not heard his question. I am sorry.

Mr. NICHOLSON: Last year there were thirty ships which sailed out of Churchill and the Montreal Shipping Company was the agent for nearly all those ships. I am concerned about the passing of this legislation and what

effect it will have on a firm such as the Montreal Shipping Company? Will they run the risk of going so far away as Churchill to take on that responsibility which I think the wording of the legislation will require? It will require either additional insurance or protection, more than they would have at the present time. I wonder if the witness would comment on whether the Montreal Shipping Company would be prepared to go as far away as Churchill to be the agent for some thirty or forty ships this year?

Mr. BRISSET: I am afraid that I am not qualified to answer the question for one particular port except to say that the situation will be the same for all ports. It would affect the agents in all ports; therefore the agent in Churchill.

Mr. NICHOLSON: The only difference is that the Montreal Shipping Company has their business in Montreal and it would involve considerable cost for them to move as far away as Churchill; but they have been looking after Churchill, and over 10 million bushels of wheat moved out of there last year. Do you not think that this might be a factor reacting upon western Canada if we do not have as much wheat moving out of there another year? What effect would this legislation have on getting agents to go into that area?

The CHAIRMAN: Shall clause 8, as amended, carry?

Mr. DUMAS: Did not the counsel for the board say on Wednesday that the counsel or the board could be sued under the old regulations?

Mr. LANGLOIS (*Gaspé*): It was answered this afternoon and quite fully.

The CHAIRMAN: Does clause 8, as amended, carry?

Carried.

Does clause 9 carry?

9. Section 17 of the said Act is repealed and the following substituted therefor:

17. (1) The Board has a general lien in preference to all other rights, interests, claims and demands whatsoever upon all goods in its possession for the payment of any debt owing to the Board by the person in whom title to such goods is vested, whether or not the debt was incurred in respect of those goods.

(2) The Board may, as provided in section 18, seize and detain any goods in any case where, in the opinion of the Board,

(*a*) the goods are subject to the general lien referred to in subsection (1);

(*b*) any amount is due to the Board for tolls in respect of such goods and has not been paid, whether or not title to the goods is, at the time of the seizure, vested in the person by whom the tolls were incurred;

(*c*) any penalty has been incurred by reason of any violation of this Act or the by-laws by the owner of the goods, whether or not such violation occurred in respect of those goods and whether or not title thereto is, at the time of the seizure, vested in the person by whom the penalty was incurred; or

(*d*) the goods are perishable goods or goods in respect of which the amount of tolls accruing thereon is, in the opinion of the Board, likely to become greater than the amount that could be realized by the sale of such goods; and any goods so seized and detained shall, throughout the period of detention up to a maximum of thirty days, incur Board tolls in the same manner and to the same extent as if voluntarily left or stored with the Board by the owner of the goods during such period.

Mr. GREEN: Clause 9; under the present provisions the board is given a lien on all goods while such goods are in their possession. But as I read the new provisions they will now have a lien on any goods that come over their docks belonging to the same owner.

Mr. LANGLOIS (*Gaspé*): That is right.

Mr. GREEN: In other words, they are taking a general lien.

Mr. LANGLOIS (*Gaspé*): That is right.

Mr. GREEN: There may be money owing for tolls, or charges in respect to packet "a" of goods, and the board does not bother to seize them or to take any action. Then, let us say six months later or a year later packet "b" comes over the docks; it can be seized for the charges owing on packet "a". Is that correct?

Mr. LANGLOIS (*Gaspé*): That is so. That is correct. And might I add that the same thing exists in England. We are giving the board a general lien as contrasted to a particular lien on goods.

Mr. GREEN: I am not concerned about what exists in England.

Mr. LANGLOIS (*Gaspé*): It is interesting to know that they do the same thing there because they have had the experience.

Mr. GREEN: Well, conditions in England are entirely different. You are attempting by this legislation to take a general lien ahead of all other liens or charges of any kind, are you not?

Mr. LANGLOIS (*Gaspé*): That is right.

Mr. GREEN: This is an example. You come ahead of any claim for provincial tax against the goods, or any lien of any kind. You are attempting in this section to take a first priority over any goods that happen to be coming across your docks which are owned by the same owner.

Mr. LANGLOIS (*Gaspé*): That is right. The only exception is wages which are due to seamen.

Mr. GREEN: Wages due to seamen. The section comes under the provision in the Act in which you define the owner of goods as including the agent?

Mr. LANGLOIS (*Gaspé*): Well, if you refer to clause 1 you will see that the word "owner", in the case of goods, includes the agent, sender, consignee or bailee of the goods as well as the carrier of such goods.

Mr. GREEN: Do we not get into this position that under this section that you can seize goods—

Mr. LANGLOIS (*Gaspé*): Would you mind if I interrupted because I did not complete my answer. You see, if you look at the opening paragraph of subclause 1 of clause 17 you will see that it is for the payment of any debt owed to the board by the person in whom title to such goods is vested only. It is restricted to that.

Mr. GREEN: In other words this would not apply to goods brought to your docks by an agent? I want to be sure we are not getting in this position, because "owner" includes "agent", that when an agent brings in a packet of goods belonging to John Smith and the charges are not paid on those goods and when six weeks later the same agent brings in a packet of goods belonging to Tom Brown that the board can seize Tom Brown's goods under those conditions to pay the charges against John Smith's.

Mr. LANGLOIS (*Gaspé*): My answer to that, Mr. Green, is no, because the charge must have been incurred by the person in whom the title of the goods was vested.

Mr. GREEN: It is not intended to cover goods brought in by the same agent?

Mr. LANGLOIS (*Gaspé*): No. Do you mean belonging to a different owner? If you do, the answer is "no".

The CHAIRMAN: Clause 9. Carried.

Mr. GREEN: I would move that the words "in the opinion of the board" in line 22 be struck out. Those words are not included in the present Act.

Mr. LANGLOIS (*Gaspé*): Which words? I am sorry I missed them.

Mr. GREEN: Lines 22 and 23. Those words are not included in the present Act and there again you simply have to say it is their opinion that such and such a thing happened and then they can go ahead and seize without being responsible.

Mr. LANGLOIS (*Gaspé*): I see.

The CHAIRMAN: Would someone move that?

The CLERK: Mr. Green moved the amendment.

Mr. LANGLOIS (*Gaspé*): Have you got a seconder?

The CLERK: Mr. Bell seconds the motion.

The CHAIRMAN: All those in favour of Mr. Green's amendment hold up their right hands.

The CLERK: Five members in favour.

The CHAIRMAN: Contrary?

The CLERK: Thirteen members contrary.

The CHAIRMAN: The amendment is lost.

Mr. GREEN: Subclause (c) says: "Any penalty has been incurred by reason of any violation of this Act or the by-laws by the owner of the goods, whether or not such violation occurred in respect of those goods whether or not title thereto is at the time of seizure, vested in the person by whom the penalty was incurred."

Mr. LANGLOIS (*Gaspé*): I am informed this is a typographical error and after the word "whether" it should read "the person in whom the title was vested".

Mr. FINLAY: It is the same terminology.

Mr. LANGLOIS (*Gaspé*): It is the same terminology as in the opening paragraph. It should be: "A person in whom title to such goods is vested." It is a mistake—a typographical error. Would you move the amendment?

Mr. GREEN: Yes.

Mr. LANGLOIS (*Gaspé*): That in clause 9, subclause 2(c) in the fourth line, the words, "No title thereto" be substituted by the words "The person in whom title of such goods is vested."

Mr. GREEN: Is that replacing the words "By the owner" and instead of that putting "The person in whom title of such goods is vested?"

Mr. CAVERS: No, it is after "whether."

The CLERK: It is clause 9 and not clause 10.

Mr. FINLAY: The amended clause or paragraph would read: "Any penalty has been incurred by reason of any violation of this Act or the by-laws by the person in whom title to such goods is vested whether or not such violation occurred in respect of those goods and whether or not title thereto is, at the time of the seizure, vested in the person by whom the penalty was incurred." In other words, the goods may have passed to other owners.

Mr. GREEN: That meets my objection.

Mr. LANGLOIS (*Gaspé*): That meets your objection?

Mr. GREEN: Yes.

Mr. LANGLOIS (*Gaspé*): Would somebody move the change?

The CHAIRMAN: It is moved by Mr. Lafontaine and seconded by Mr. Hodgson. All those in favour?

Carried.

Clause 9, as amended? Carried.

Clause 10. Carried?

10. Section 20 of the said Act is repealed and the following substituted therefor:

"20. (1) The Board may sell at public auction or by private tender the whole *or* any part of the goods seized or detained under the provisions of section 17,

(*a*) at any time after the date of *such* seizure, in respect of goods of the kind *described* by paragraph (*d*) *of subsection* (*2*) of section 17; or

(*b*) at any time after the expiration of *thirty days* from the date of such seizure, in respect of any other goods; and out of the proceeds of *any* such sale *the Board may* retain *any debt, tolls, penalty or other amount referred to in section 17*, together *with all expenses incurred by the Board in connection with the seizure, detention and sale, and shall pay the surplus, if any, to the former owner of the goods.*

(2) Whether or not all or any of the rights of the Board under section 18 and under subsection (1) of this section are exercised by the Board, the Board may, in any case described in section 17, proceed against the owner of the goods in any court of competent jurisdiction for the recovery of any debt, tolls, penalty or other amount referred to in section 17 (or for the balance thereof in the event of any sale contemplated by subsection (1) of this section) and may also exercise against the owner of the goods any other right or remedy available to the Board at law."

Mr. GREEN: Here again you have the question of the former owner in line 10. It says: "Shall pay the surplus, if any, to the former owner of the goods." Now, who is going to get that?

Mr. LANGLOIS (*Gaspé*): Mr. Finlay will answer that.

Mr. FINLAY: That is the same provision as in the case of the vessels. It was simply repeated there. That is to say, the sum could be remitted to the agent for the owner, but the matter is completely unimportant from the owner's standpoint. As a matter of fact, it is merely the ordinary course. Ordinarily, in paying one's bills, you do not remit them to the person to whom you are indebted but to some agent of his and that is all this is. The board will pay the surplus if any, to the owner of the goods and the word "owner" in the earlier clause of the Act is defined as including the agent of the owner. You can remit the balance to the agent of the former owner of the goods.

The CHAIRMAN: Clause 10. Carried.

Mr. BELL: I must be rather dense here, because I do not quite understand how in clause 10, subclause 1 of the proposed amendment provides for a surplus according to the explanatory notes.

Mr. FINLAY: The provision there actually comes under the following subclause. The board shall pay or deliver the surplus, etcetera, if any, or such of the goods as remain unsold. That is the old section, and the disposal of any surplus is now covered by the proposed new section.

Mr. BELL: It still does not say in the new section what you are going to do with the surplus?

Mr. FINLAY: "And shall pay the surplus, if any, to the former owner of the goods." Those are the concluding lines.

Mr. BELL: Excuse me, I thought that was all (*b*).

The CHAIRMAN: Clause 10. Carried.

Clause 11.

11. Section 22 of the said Act is repealed and the following substituted therefor:

"22. Every person who contravenes any of the provisions of this Act or the by-laws is guilty of an offence and, except as otherwise provided in the by-laws, is liable on summary conviction to a penalty not exceeding five hundred dollars or to imprisonment for a term not exceeding sixty days or to both penalty and imprisonment."

Mr. GREEN: What is the maximum penalty?

Mr. FINLAY: $500.

Mr. GREEN: Under the old Act?

Mr. FINLAY: And under this Act.

Mr. GREEN: There is no change?

Mr. FINLAY: There is no change in the maximum penalty. I should say that is the maximum pecuniary penalty. There is the penalty at the discretion of the court of 30 days imprisonment and 60 days under certain circumstances.

Mr. GREEN: We are increasing it from 30 days to 60 days?

Mr. FINLAY: No, I beg your pardon. The provision under the former Act was a fine of $500 or a maximum of 60 days imprisonment and in the by-law clause the Act went on to provide that the by-law could specify or the Governor in Council could specify that if the fine was not paid then there could be imprisonment for 30 days. To repeat, the maximum imprisonment was 60 days and the maximum fine was $500, and that has not been changed.

The CHAIRMAN: Clause 10. Carried.

Clause 11. Carried.

Clause 12. Carried.

Clause 13. Carried.

Clause 14. Carried.

Shall the title carry? Carried.

Shall the bill as amended carry.

Carried.

Shall I report the bill, as amended?

Carried.

Mr. DUMAS: Mr. Chairman, I would like to propose that we move a vote of thanks to the members of the board who have been so patient with us all this length of time.

Carried.

Mr. BELL: And Mr. Brisset too.

Mr. DUMAS: Of course.