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First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 17

TUESDAY, NOVEMBER 8, 1966
THURSDAY, NOVEMBER 10, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESS:

Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25150—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-Guysborough*),
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Ricard,
Mr. Rochon,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 8, 1966.
(29)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.16 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Denis, Deschatelets, Fergusson, MacKenzie—(4).

Representing the House of Commons: Messrs. Berger, Chatterton, Émard, Fairweather, Hymmen, Knowles, Lewis, McCleave, Richard, Walker—(10).

In attendance: Mr. E. R. Hopkins, Parliamentary Counsel, The Senate; Dr. P. M. Ollivier, Parliamentary Counsel, House of Commons.

The Committee questioned the Parliamentary Counsel on their statements respecting constitutional questions involved in extending collective bargaining for the employees of the Senate and the House of Commons.

At 11.51 a.m., the meeting adjourned to 8.00 p.m. this same day.

EVENING SITTING
(30)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.20 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Deschatelets, Fergusson, MacKenzie—(5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Crossman, Émard, Hymmen, Lachance, McCleave, Richard, Walker—(9).

In attendance: Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

Also in attendance: Mr. J. J. Carson, Chairman, Miss Ruth E. Addison, Commissioner, Mr. Jean Charron, Secretary, Civil Service Commission; Mr. W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The Committee reviewed the clauses of Bill C-181 which were allowed to stand at meeting (27) November 3, 1966, as follows: Clause 1, stand; Clause 5,

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carried as amended (see two motions below); Clause 6, carried as amended (see motion below); Clause 7, carried as amended (see motion below); Clause 8, carried as amended (see motion below); Clause 10, carried as amended (see motion below); Clause 14, carried as amended (see motion below); Clause 16, carried as amended (see motion below); Clause 21, carried as amended (see two motions below); Clause 22, carried as amended (see motion below); Clause 26, carried as amended (see motion below); Clause 27, carried as amended, on division (see motion below); Clause 28, carried as amended (see motion below); Clause 31, carried as amended (see two motions below); Clause 32, stand; Paragraph 34(1)(c), stand; Clause 35, carried; Clause 39, carried; Clause 45, carried as amended (see motion below).

Moved by Mr. Knowles, seconded by Mr. Crossman, and resolved,

That paragraph (a) of clause 5 be struck out and the following substituted therefor:

"(a) appoint or provide for the appointment of qualified persons to or from within the Public Service in accordance with the provisions and principles of this Act;"

Moved by Mr. Walker, seconded by Senator MacKenzie, and resolved,

That the following new paragraph be inserted immediately after paragraph (c) of clause 5, and the paragraphs re-lettered accordingly:

"(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6 and to render decisions on appeals made to such boards under sections 21 and 31;"

Consequently, paragraph (d) of clause 5, line 22, becomes (e), and paragraph (e), line 27, becomes (f).

Moved by Mr. Walker, seconded by Senator MacKenzie, and resolved,

That Clause 6, together with the marginal notes, be struck out and the following substituted therefor:

"Delegation to deputy head.

6. (1) The Commission may authorize a deputy head to exercise and perform, in such manner and subject to such terms and conditions as the Commission directs, any of the powers, functions and duties of the Commission under this Act, other than the powers, functions and duties of the Commission in relation to appeals under sections 21 and 31.

Idem.

(2) Where the Commission is of the opinion

(a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this section, does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy, or

(b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted,

the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and my thereupon appoint that person at a level that in the opinion of the Commission is commensurate with his qualifications.

Idem. (3) An appointment from within the Public Service may be revoked by the Commission pursuant to subsection (2) only upon the recommendation of a board established by it to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard.

Idem. (4) The Commission may, from time to time as it sees fit, revise or rescind and reinstate the authority granted by it pursuant to this section.

Delegation by deputy head. (5) Subject to subsection (6) a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform.

Acting deputy head. (6) In the absence of the deputy head, the person designated by the deputy head or, if no person has been so designated or there is no deputy head, the person designated by the person who under the *Financial Administration Act* is the appropriate Minister with respect to the department or other portion of the Public Service, or such other person as may be designated by the Governor in Council, has and may exercise the powers, functions and duties of the deputy head."

Moved by Mr. McCleave, seconded by Mr. Lewis, and resolved,

That the motion put by Mr. Bell at meeting (27), November 3, 1966, and allowed to stand, be now carried, viz "That in line 24, Clause 7, the comma after the word 'Commission' be struck out and the word 'or' substituted therefor, and in line 25, the words 'or an officer of the Commission' be struck out."

Moved by Senator Fergusson, seconded by Mr. Berger, and resolved,

That Clause 8 be struck out and the following substituted therefor:

"Except as provided in this Act, the Commission has the exclusive right and authority to make appointments to or from within the Public Service of persons for whose appointment there is no authority in or under any other Act of Parliament."

Moved by Mr. Émard, seconded by Senator Denis, and resolved,

That Clause 10 be struck out and the following substituted therefor:

"Appointments to or from within the Public Service shall be based on selection according to merit, as determined by the Commission, and shall be made by the Commission, at the request of the deputy head

concerned, by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service."

Moved by Mr. Lewis, seconded by Senator Deschatelets, and resolved,

That Clause 14 and marginal note be struck out and the following substituted therefor:

"Notice.

14. (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

Idem.

(2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases."

Moved by Mr. Émard, seconded by Mr. Hymmen, and resolved,

That sub-clause (2) of Clause 16 and marginal note be struck out and the following substituted therefor:

"Language in which examination to be conducted.

(2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined."

Moved by Mr. Walker, seconded by Senator Fergusson, and resolved,

That all that portion of Clause 21 following paragraph (b) thereof, lines 23 to 32 inclusive, be struck out and the following substituted therefor:

"may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment,

accordingly as the decision of the board requires."

Moved by Mr. Lewis, seconded by Mr. Knowles,

That the words "in the opinion of the Commission" together with the commas immediately preceding and following these words in paragraph (b) of Clause 21, lines 21 and 22, be deleted.

Motion negatived.

Moved by Mr. McCleave, seconded by Mr. Berger, and resolved,

That Clause 22 be amended by deleting the words in line 33 "notwithstanding any other Act" and the comma thereafter.

Moved by Mr. Walker, seconded by Senator MacKenzie, and resolved,

That Clause 26 be deleted and the following substituted therefor:

"An employee may resign from the Public Service by giving to the deputy head notice in writing of his intention to resign and the employee ceases to be an employee on the day as of which the deputy head accepts, in writing, his resignation."

Moved by Mr. Walker, seconded by Senator MacKenzie,

That Clause 27 be deleted and the following substituted therefor:

"An employee who is absent from duty for a period of one week or more, otherwise than for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than as authorized or provided for by or under the authority of any Act of Parliament, may by an appropriate instrument in writing to the Commission be declared by the deputy head to have abandoned the position he occupied, and thereupon the employee ceases to be an employee."

Motion carried on division.

Moved by Mr. Walker, seconded by Mr. Crossman, and resolved,

That sub-clause (4) of Clause 28, together with the marginal note, be deleted and the following substituted therefor:

"Idem." (4) Where a deputy head gives notice that he intends to reject an employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

Idem. (5) Notwithstanding anything in this Act, a person who ceases to be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service,
and,

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

Moved by Mr. Walker, seconded by Senator Fergusson, and resolved,

That sub-clause (3) of Clause 31 be deleted and the following substituted therefor:

"(3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the em-

ployee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(a) notify the deputy head concerned that his recommendation will not be acted upon, or

(b) appoint the employee to a position at a lower maximum rate of pay, or release the employee,

accordingly as the decision of the board requires."

Moved by Mr. Lewis, seconded by Mr. Walker, and resolved,

That sub-clause (4) of Clause 31, line 21, be amended by deleting the words "taken to the Commission" and substituting the word "made" therefor.

Moved by Mr. Émard, seconded by Mr. Berger, and resolved,

That Clause 45 be deleted and the following substituted therefor:

"The Commission shall, within five months after the thirty-first day of December in each year, transmit to the Minister designated by the Governor in Council for the purposes of this section a report and statement of the transactions and affairs of the Commission during that year, the nature of any action taken by it under subsection (1) or (4) of section 6, and the positions and persons, if any, excluded under section 39 in whole or in part from the operation of this Act and the reasons therefor, and that Minister shall cause the report and statement to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting."

At 9.58 p.m., the meeting adjourned to the call of the Chair.

THURSDAY, November 10, 1966.
(31)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.15 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, MacKenzie—(3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Crossman, Hymmen, Knowles, Lewis, McCleave, Richard, Walker —(10).

An informal discussion on Clause 32 of Bill C-131 (*Political Partisanship*) was the subject matter of this meeting held *in camera*.

At 11.45 a.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

TUESDAY, November 8, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order, please. This morning was set aside to deal with the matter which Mr. Knowles referred to, namely, the status of the employees of parliament under any of the bills before us. It was agreed that we should request the hon. Speakers of both houses to allow their legal counsel to appear before us. Both Speakers graciously agreed, and we have with us this morning the law clerks of the honourable Senate and the House of Commons, Mr. Hopkins and Mr. Ollivier. I do not know in what order you want to proceed. Mr. Ollivier is well known to us, I am sure.

Dr. P. M. OLLIVIER (*Parliamentary Counsel and Law Clerk*): Mr. Chairman, before going ahead with this memorandum, there is just one question I would like to answer—and, as a matter of fact, this is at the request of the Chairman.

Since preparing this memorandum I had occasion to read the minutes of the meeting of your committee on the 27th, and I notice that Mr. Knowles, amongst other things, spoke of the vacuum that would be created by the fact that section 72 of the Civil Service Act was not put back into one of these acts. On the other hand, in reading also the Public Service Employees' Act I notice that that is covered to a certain extent by the fact that section 48, which deals with the repeal coming into force, reads as follows:

> This Act, or any provision thereof, shall come into force and the *Civil Service Act*, chapter 57 of the Statutes of Canada, 1960-61, or any provision thereof, shall be repealed...

Therefore, the Civil Service Act is not automatically repealed when these acts come into force; they are repealed by proclamation of the Governor in Council. And if the Governor in Council so decides—and I imagine it would do so—they would not repeal section 72 of the Civil Service Act, which will still remain in force. This section might remain in force as a floating section and constitute a problem for the commission which is now charged with the revision of the statutes. But, they could very well put section 72, if it is not repealed, either in the Senate and House of Commons Act or the House of Commons Act. I think in our case it would be better if it were in the House of Commons Act, in the Library of Parliament Act; and for the Senate, I suppose it would be better in the Senate and House of Commons Act. So, the vacuum is not as complete.

Mr. KNOWLES: Well that depends, of course, Dr. Ollivier, on what is in the mind of the Governor in Council. Under section 48 of C-181 the Governor in Council did repeal the whole of it.

Mr. OLLIVIER: Oh yes; if he did repeal it it would not have the effect of bringing back the old act into force. The old act also was repealed, in which there

was no section 72. So, we would be in the same position as we were in 1867, I suppose, that parliament would agree with that automatically on account of its sovereignty.

Mr. KNOWLES: But, generally speaking, we are at the mercy of the Governor in Council in that regard.

Mr. OLLIVIERS Well, you could very well make a recommendation in your report to the effect that section 72 should not be repealed.

Mr. KNOWLES: Or, as you suggested, we could recommend that it, or something like it, be written into the Senate and House of Commons Act.

Mr. OLLIVIER: That is right.

Mr. KNOWLES: That is getting ahead of your memorandum.

Mr. OLLIVER: Yes. I was just answering that because when I drafted my memorandum I had not read that part of your minutes.

Mr. Chairman, Mr. Knowles, the member for Winnipeg North Centre, has raised the point that the staff of the Senate and House of Commons on parliament hill had been omitted from the collective bargaining bill now before you. According to Mr. Knowles, parliament is passing a law which instituted collective bargaining in the public service and which will not apply to our own employees, and he added "I don't think we should set ourselves outside the law. The issue is, do we continue to set pay rates for our secretaries arbitrarily or do we allow them to negotiate?" Of course the Public Service Staff Regulations Act, Bill C-170, defines an employee as a person employed in the public service, and in its turn public service is stated as meaning the several positions in or under any department or other portion of the public service of Canada specified from time to time in Schedule A. The enumerations contained in Part I and also in Part II of the Schedule do not cover the employees of the Senate, the House of Commons or the Library of Parliament. It would be simple indeed to amend the Act by inserting in this Schedule the words: "The Senate, the House of Commons and the Library of Parliament." The point is, however, should this be done, and would that be the proper procedure to follow?

I would bring to your attention the fact that when the new Civil Service Act was passed in 1961 it did, when first introduced as Bill C-71, include provisions making that Act applicable to the staffs of the Senate, the House of Commons and the Library of Parliament. However, in committee, the Bill was amended to ensure that the Senate and Commons would continue to have full control of their staffs.

An hon. MEMBER: And the library?

Mr. OLLIVIER: Yes and the library, as stated in section 72, to which we have referred.

The amendment introduced by the Member for Carleton, Mr. Richard Bell, and seconded by the Member for West Ottawa, Mr. George McIlraith, was approved unanimously by the committee studying the new legislation. I might mention here that I had something to do with it. I fought pretty hard so that our staffs would not come under the Civil Service Act.

Under the change there was specific mention that the officers, clerks and employees of the Senate and the Commons, and the Library of Parliament were

to be excluded from the provisions of the Civil Service Act although the services of the Civil Service Commission were still to be available in respect of the parliamentary staffs but only on request. By the way, that was to be done by a resolution of the House or the Senate or a joint resolution. It was understood also that these employees would receive benefits the Act would confer to the maximum possible extent.

Mr. Bell stated at that time that the changes in the new Act would ensure that there would be no interference with the prerogatives of Parliament.

I would like to quote here citation 446 of Beauchesne's which is as follows:

> The control and management of the officers of the Houses are as completely within the privilege of the Houses as any regulation of its own proceedings within its own walls. These officers are under the guidance of certain rules and orders of the House which are among the regulation of its proceedings and as essentially matters of privilege as the appointment of committees, the conduct of public business and the procedure of the Houses, generally, including the acts of the Speaker himself in the Chair. Neither the Government nor any other authority has the power to deal with the staff of the House of Commons unless specially authorized to do so by statute or resolution of the House. Orders-in-council regulating certain activities of the civil service do not apply to the staffs of Houses of Parliament. This is confirmed by the following opinion given to the Clerk of the House of Commons on the 17th of December, 1936: "Dear Mr. Beachesne:—With reference to your letter of the 23rd ultimo respecting the retirement of all employees of the Government at the age of 65, I am of the opinion that the provisions of the Order-in-council referred to by you are not applicable to officers and employees of the House of Commons unless proper steps have been taken to have these Orders-in-council first tabled and then approved by the House with respect to its officers and employees. Yours truly, W. Stuart Edwards, Deputy Minister of Justice.

As stated by Bourinot, at the commencement of every new Parliament Mr. Speaker, when elected, presents himself before the representative of the Crown in the Senate Chamber and formally claims "the undoubted rights and privileges" of the Commons. The representative of the Crown, through the Speaker of the Senate, recognizes and allows the Commons constitutional privileges.

In other words, the Houses cannot part with any of these privileges, immunities and powers, necessary for the conduct of business, their existence and their dignity, except by statute expressly conveying and delegating their powers, immunities and privileges to others.

This has been done in certain cases as for instance in the case of the translators and interpreters who have been put under the Translation Branch in the Department of the Secretary of State or Registar General, in the case of the treasury officers who come under the Treasury Branch of the Department of Finance.

Another instance where the Commons has parted with their jurisdiction, previously exercised by committees of their own, is in the case of trial of controverted elections where the trial was handed over to judges in express terms. I might also mention, in 1964, the Electoral Boundaries Readjustment

Act, chapter 31 of the Statutes of that year, which provided for the establishment of the Electoral Boundaries Commission to do the work that had previously been done in committees of the House.

In all these cases, where the law does not make express statutory provision, the House of Commons can alone exercise jurisdiction over its members and officers.

As stated by Anson, in the Law and Custom of the Constitution, "the House has always asserted the right to provide for the Constitution of its own body, the right to regulate its own proceedings and the right to enforce its privileges."

Blackstone lays it down as a maxim upon which the whole law and custom of Parliament is based, "that whatever matter arises concerning either House of Parliament ought to be examined, discussed and adjudged in that House—to which it relates, and not elsewhere."

To come back to Bourinot. It has always been admitted by the courts that the House has the exclusive right "to regulate its own internal concerns."

In the case of Bradlaugh v Gosset in the United Kingdom, Mr. Justice Stephen laid down broadly the principle which may apply to such cases as the present under consideration.

It seems to follow from his judgment that the House of Commons has the exclusive power of interpreting a statute "so far as the regulation of its own proceedings within its own walls is concerned, and that, even if that interpretation should be erroneous, this court has no power to interfere with it directly or indirectly." I cite this to show how widely an interpretation is given to the rights and privileges of the Commons House of Parliament.

The full control and management of the officers and employees of the Senate and of the House of Commons has always been recognized as amongst the privileges of Parliament. The Civil Service Act of 1961, after some discussion in committee was, as we have seen, amended so as to enshrine this principle in section 72 which I would like to place on the record. Perhaps I could be exempt from reading it and we could take it as read. But I will read the first subsection:

> 72. (1) The Senate and House of Commons may, in the manner prescribed by subsections (2) and (3), apply any of the provisions of this Act to the officers, clerks and employees of both Houses of Parliament and of the Library of Parliament.

That is in subsection (2), applying it to the Senate and the House by resolution.

Mr. KNOWLES: There had better be an instruction on the tape to print the whole of that section in the record.

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed that we should print the whole of section 72 of the present Civil Service Act in the record?

Mr. OLLIVIER: The rest of the section reads as follows:

> (2) Any action with respect to the officers, clerks and employees of the Senate or the House of Commons authorized or directed to be taken by the Senate or the House of Commons under subsection (1), or by the

Governor in Council under any of the provisions of this Act made applicable to them under subsection (1), shall be taken by the Senate or the House of Commons, as the case may be, by resolution, or, if such action is required when Parliament is not sitting, by the Governor in Council, subject to ratification by the Senate or the House of Commons, as the case may be, at the next ensuing session.

Any action with respect to the officers, clerks and employees of the Library of Parliament and to such other officers, clerks and employees as are under the joint control of both Houses of Parliament authorized or directed to be taken by the Senate and House of Commons under subsection (1), or by the Governor in Council under any of the provisions of this Act made applicable to them under subsection (1), shall be taken by both Houses of Parliament by resolution, or, if such action is required when Parliament is not sitting, by the Governor in Council, subject to ratification by both Houses of Parliament at the next ensuing session.

(4) Nothing in this Act shall be construed to curtail the privileges enjoyed by the officers, clerks and employees of the Senate, House of Commons or Library of Parliament with respect to rank and precedence, attendance, office hours or leave of absence, or with respect to engaging in such employment when Parliament is not sitting, as may entitle them to receive extra salary or remuneration.

The Senate and House of Commons being unable to act by themselves as a body have delegated their powers to the principal officers of Parliament.

For instance, the rules of the House of Commons place the clerks and servants under the direction and control of the Clerk of the House. To quote standing order 83:

He has the direction and control of all the officers and clerks employed in the offices, subject to such orders as he may, from time to time, receive from Mr. Speaker of the House

This is one of the ancient privileges of the House and is an essential part of its rights, like the appointment of committees, the conduct of public business, the procedure of the House itself, including the acts of the Speaker himself in the chair, and the conduct of strangers in relation to Parliament and its members.

According to Bourinot—and this is taken from the first edition, page 183:

In the Old Province of Canada, and for the session of 1867-68 of the Parliament of the Dominion, the appointment and control of the officers and servants of the House of Commons was practically in the hands of committees of the Commons. The House in that session parted in a measure with its jurisdiction in that behalf, by passing a statute providing for an Internal Economy Board, composed of the Speaker and four members of the Privy Council, to act as Commissioners for the management of the financial affairs of the House of Commons staff under the direction of the Clerk and the Sergeant-at-Arms. As a matter of fact, in all particulars where this Board has no legal control, the Speaker acts himself, as in England, with the assistance of the chief officers of the Commons, the Clerk and Sergeant-at-Arms.

The House of Commons has not parted with its sole control over its officers except in the respect mentioned, and there we see the Chairman of the Board, and practically the managing officer, is the Speaker of the House itself, and not any member of the Executive.

While the other members of the Commission are Privy Councillors, it is imperative that they must be members of the House of Commons, of that body alone, neither the Crown, nor any outside Commissioners having the right to deal exclusively with matters by the usage of this country, derived from the usage of centuries in England, within the jurisdiction of the House, among the privileges essential to its dignity as a branch of the legislature, in no sense subject to the Executive authority.

Now, standing order 92 which dates back also to 1867, reads as follows:

92. Before filling any vacancy in the service of the House by Mr. Speaker, inquiry shall be made touching the necessity for the continuance of such office; and the amount of salary to be attached to the same shall be fixed by Mr. Speaker, subject to the approval of the Board of Internal Economy and of the House.

I would add here, in accordance with those principles, that the law does not allow a statute framed in general terms, like Bill No. C-170, to revoke or alter any particular statutes applying to the House, nor revoke their privileges. In other words, the Houses being the judges of their own privileges, and having the sole regulation of their own procedure and proceedings, it is for them alone to control those instruments which are necessary for their effectiveness and the corollary is that the Houses have sole control over every matter affecting their officers and servants, except in those cases where they have delegated an authority to others in express terms.

This brings us to the theory of the separation of powers which I would like to mention because in its broader context it might affect and perhaps explain the position I am now taking.

The doctrine of the separation of powers was fully developed in 1768 by Montesquieu in his book *The Spirit of Laws* and taken up by the Encyclopedists on the eve of the French revolution. It had a great influence on the French Constituent Assembly of 1789 in bringing about the reforms to the political regime in France. It also influenced, to a great extent, the fathers of the American Constitution.

The three powers referred to are, of course, the legislative, the executive and the judiciary, and the theory is that for good government these powers should be as distinct and separate as it is possible to make them.

Montesquieu writes:

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehension may arise. Lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control.

It is true that the separation of the legislative and executive power does not exist in this country in the same manner as it does south of the border. The Prime Minister and his ministers, that is, the executive, are members of parliament and are responsible for practically all the legislation passed by that august body. The public legislation which appears within the covers of our statutes consists of Acts that were first introduced as government bills. If public bills introduced by private members ever become law, it is because they have been covered by the authority or influence of the government—*rari nantes in gurgite vasto*!

Presidential government as understood and practiced in the United States is based on the separation and independence of the legislature and the executive. The Cabinet system as practiced here as well as in England is based on the co-operation, the interaction and the interdependence of the legislative and executive powers. I might add that it is counteracted, of course, by the practice of responsible government.

We have been accustomed to look upon the judiciary as completely divorced from the legislative and the executive powers. This, however, is not quite true as the judges are appointed by the Governor in Council in accordance with sections 96, 97 and 98 of the British North America Act and their salaries fixed by parliament in accordance with section 100 of the same statute.

Section 15 of the Supreme Court Act states:

> Subject to the direction of the Minister of Justice, the Registrar shall superintend the officers, clerks and employees appointed to the Court.

Section 17 states:

> The Registrar or Deputy Minister, as the Minister directs, shall report and publish the judgments of the Court.

Although the estimates of the Court are prepared by employees of the Court, it is the Department of Justice that submits these estimates to the Treasury Board for approval. The administration of the court is the responsibility of the Registrar under the direction of the Chief Justice, but, as stated above, the Registrar is responsible to the Minister of Justice.

I remember many years ago a high official of the Department of Justice arguing with a judge of the Supreme Court and stating that, in his opinion, the Supreme Court was only a branch of the Department of Justice.

Other departments also interfere with the autonomy of the Supreme Court. For instance the Queen's Printer, under the authority of the Registrar General or the Minister of Industry, I am not quite certain, publishes the judgments of the court and is responsible to his minister. The Queen's Printer also furnishes the court with office equipment, stationery, supplies, and so on.

All this, I imagine, affects the autonomy of the Supreme Court and now I would draw the attention of the committee to Bill C-170, to the definition of public service for the purposes of the Bill, and to the fact that the staff of the Exchequer Court and the staff of the Supreme Court are comprised in the enumeration of Schedule A, bringing them for the purposes of the act within its four corners—again reflecting the division of powers so far as the judiciary is concerned.

In consequence of all I have said, it would appear to be easy to treat in the same manner the staffs of the Senate, the House of Commons and the Library of Parliament, but, I am asking myself whether this is desirable.

On the other hand, the employees of the Senate and of the House of Commons could be granted bargaining rights by an amendment to this bill under which the Speakers would represent parliament as their employer.

Perhaps I might note here that the character of the work performed by the staff of the House of Commons—I have no authority to speak for the Senate—is so different from that of government departments, that no organization or classification intended for the latter can be applied to it. It is only in the Commons that you will find such branches as Journals, Debates, Committees, Members' Stenographers, Reading Room, and so on, and none of these have anything in common with any commercial enterprise and the employees must be trained in the offices of the House—each of them has a specialty. Such grades as have been made for the ordinary clerks are useless for the House of Commons.

The principle of parliamentary supremacy was discussed extensively in special committees on the Civil Service on the 13th of April, 1932, then again on the 8th, 9th and 17th of June, 1938, on the 15th and 21st of March, 1939, but more especially at the sittings of the committee in 1961 during the months of May and June. That is why it is thought that this principle being finally agreed to should not now be yielded in the bills before parliament today.

The JOINT CHAIRMAN (*Mr. Richard*): Now, we also have Mr. Hopkins.

Mr. KNOWLES: Mr. Ollivier, having given his memorandum in English, perhaps Mr. Hopkins would give his in French.

Mr. E. R. HOPKINS (*Law Clerk and Parliamentary Counsel*): The assumption is flattering but inaccurate.

Mr. Chairman and members of the Committee, those of you who are westerners by birth will recall that in the old-time revival meetings the evangelist was always accompanied by an assistant who said hallelujah and passed the plate. Well, I will not pass the plate, but I will say hallelujah to what my colleague has said.

At the same time, no two lawyers say even the same thing in the same way, although I might say that Dr. Ollivier and I have run in double harness, quite happily, for some time. Sometimes he will lead off and sometimes I will. In the case of the divorce committee I believe I led off and Dr. Ollivier followed, and he did not merely say hallelujah but gave a splendid address on that too.

Mr. WALKER: Which one of you went through the western revivalist period?

Mr. HOPKINS: I did. I wonder if I might do, as my colleague did, and revert at the very outset to the question of Mr. Knowles with regard to the alleged vacuum that might arise by the repeal of section 72 of the present Civil Service Act. My conception of it is that while that might create what may be called a statutory vacuum there would be no constitutional vacuum, because the mere abandonment, if you want to put it that way, of the servants of the House of Commons, would bring into operation or continue in operation the *lex et consuetudo parliamenti*—the ancient law of parliament which confers upon the houses the right to control, appoint and so forth, its own offices.

Mr. LEWIS: I suppose what would create a vacuum then is the permissive provisions that parliament could do certain things within its rights.

Mr. HOPKINS: That is right; that is absolutely correct, Mr. Lewis. I would put it this way: my understanding is that neither the Senate nor the House of Commons has made any memorable use of that permissive right—except that very often, and I know this is the case in the Senate, the use of the Civil Service officials has been requested and they have been very helpful from time to time in aiding the proper authorities in the Senate, for example, to work out personnel problems. Now there is a considerable difference between the way in which these things work out in the Senate and in the Commons; these are slight historical differences; for example, it is a much simpler procedure in the Senate. The Senate has the power and the Senate actually by resolution approved of all the mechanism and paraphernalia of personnel. It operates exclusively through the standing committee of the Senate on Internal Economy and Contingent Accounts. The Speaker of the Senate is not involved and this is perhaps for historical reasons. The Speaker of the Senate is not elected by the Senators. His is an appointment by the Crown. Now what happened, if we may go back to 1867, was that the Dominion of Canada was proclaimed on July 1, 1867 and Parliament was called for November of that year. There was no staff. There was hardly a place to start. So that Crown appointments were made by the Crown of the clerks of the two Houses and of the Gentleman Usher of the Black Rod and the Sergeant-at-Arms, and they were instructed to get together a staff. I have here, if I can just put my finger on it, the resolution of the Senate in November of 1867 which since then, has been the pattern. Do not tell me I did not put it in? I know it by heart; it is very short and it says that apart from those officers of the Senate which by tradition are crown appointments— and those are in effect limited to the Clerk himself, which is a Crown appointment, and the Gentlemen Usher—all other staff and all employees of the Senate shall be subject to the direction and control in salaries, discipline and in every other way by the Senate. That was by virtue of the privileges of the Houses.

I think sometimes we speak of Parliamentary privileges but those are the privileges of the two Houses and the members thereof. This exists, as I say, as part of the inheritance which we got from the British Constitution and from the Preamble to the B.N.A. Act which says that we are to have a constitution similar in principle to that of the United Kingdom. So I do not think there would be any constitutional vacuum. The Senate, I am quite sure, would go right on as if the statute was not there, by virtue of its privilege.

Mr. KNOWLES: May I ask for a caveat?

Mr. HOPKINS: You may indeed. I would make this observation: speaking in terms of legislative vehicles, there are many ways to skin a cat and there are many ways to enact what is either law or tantamount to it. There is something rather comforting, if I may put it that way, although it may not be strictly necessary, in Section 72 of the Civil Service Act because it is understandable. You have to read a lot of books, study a lot, and go to the Library and so on to find out what is the *lex et consuetudo parliamenti*. But when you see something spelled out in the statutes such as section 72, there can be no confusion; and it could be—this is a matter of policy in which I hope that I do not intrude—that

if it were decided, for example, that some of the provisions might usefully be applied in either of these pieces of legislation, an appropriate provision could readily be put in along the lines of section 72. An ideal vehicle, and this is purely an opinion, would be the Senate and House of Commons Act. Actually Section 72 merely puts in statutory form, by imputation the right that the Senate and the Commons had by custom and usage of Parliament.

Mr. OLLIVIER: Mr. Chairman, may I comment on that? When Section 72 was put in it changed the law because before that appointments were made by the Civil Service Commission to positions.

Mr. HOPKINS: In some instances, yes.

Mr. OLLIVIER: In quite a number of instances. In my own case, when I was appointed, I was appointed by the Civil Service Commission after examination.

Mr. HOPKINS: But my point is this; when you sweep away all this legislation you are left with something; you are left with the custom of Parliament. So I say I would amend sections for statutory inclusion, in an appropriate statute as section 72. But I do believe that if you sweep away the whole, if you abandon, as you would in effect do by this new legislation, civil service intervention in any way in the service of the Houses it would, I think, undoubtedly be held that the privileges of parliament then would operate.

Mr. OLLIVIER: There is another point, there, if I may, Mr. Chairman. The act of repealing section 72 would not put back in the statutes the situation as it was before because the Civil Service Act at that time repealed the previous Civil Service Act.

Mr. HOPKINS: The whole thing would be swept away.

Mr. OLLIVIER: It would take us back to the *consuetudo parliamenti.*

Mr. HOPKINS: That is right. We are very fortunate, if I may put it that way, that we have something like that. If we were to sweep away that vast reservoir of experience and tradition we would be in trouble; we would be legislating 18 months a year.

Mr. LEWIS: We could get a new reservoir.

Mr. HOPKINS: It takes a long time to build a reservoir like that.

An hon. MEMBER: A hundred years.

Mr. HOPKINS: A thousand. As I say, I am trying as hard as I can to avoid expressing any opinion on the matter of policy. I think I should say that I think it was contemplated—and it is rather interesting—by the B.N.A. Act, by the tools with which it was written, that the Houses should control their own staff. One of the provisions in Section 91 is rather curiously worded in the light of what we are discussing now and it is worded in a limited way.

I quote:

> 91.8 (8) The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.

It does not say of the Houses of Parliament. It would include Crown appointments like the Clerk presumably, the Gentleman Usher and the Sergeant-at-Arms, but in terms it would not appear to attempt to apply to the servants of the Houses of Parliament. Now I am not intending, by any means, to imply by

what I have said that there is any absolute constitutional barrier to Parliament by clear words, enacting as they wish, in respect of the servants of the Houses of Parliament. I do not believe there is such a barrier. Mr. Knowles particularly will recall this, because he had a large part in the drafting of it. Under section 91(1), even if it involved a constitutional change, it is within the power of Parliament so long as it does not affect provincial matters. How control over its own staff would affect provincial matters, I do not know. I would think that safeguard is a provision which now is part of the law but which I understand might not have been part of the law had the Fulton-Favreau formula been accepted and brought into force. So I do not see the problem is one of constitutional barriers. I always have been brought up on the happy thought that Parliament is supreme. That, of course, is the leading characteristic of the British constitution. It has been qualified in Canada in two ways. One is that we have two sovereigns. We have dual or parallel sovereignty. We have the sovereignty of Parliament and we have the respective sovereignties of the provincial legislatures. Also, there are some limitations on the freedom of action or sovereignty of Parliament in the B.N.A. Act itself. Some of these cannot be readily changed by unilateral action by any legislature. These are the so-called entrenched provisions which require to be amended still by act of the Imperial Parliament.

I think I should only mention one more thing, and that is the effect on all this of section 18 of the B.N.A. Act as amended. By the way, I am using an excellent book; it bears the signature of Dr. Ollivier so I can read from it with complete confidence.

Mr. LEWIS: Could you give us the title?

Mr. HOPKINS: It is the British North America Act and Selected Statutes edited by Maurice Ollivier. Section 18 is the one which talks about the privileges, immunities and powers of the Houses of Parliament, and I think that is what we are talking about.

> The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act, held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

In other words the Fathers of Confederation, in their wisdom, decided to leave it to the Parliament of Canada, but so anxious were they to have a constitution basically the same, similar, the very prototype or image of the English constitution, that they put the limitation in that the Houses should not be given any powers greater than those possessed at that time by the British Commons.

Mr. WALKER: May I ask a question before you go on? Does that leave room for any change, 100 years later, in the operation of the United Kingdom Parliament in relation to its staff?

Mr. HOPKINS: I would put it this way, that pursuant to the authority vested in it by the B.N.A. Act, Parliament has acted in the Senate and House of

Commons Act, and it has acted in a rather interesting way, by saying that the Senate and House of Commons respectively and the members thereof, shall hold, enjoy and exercise such privileges, immunities and powers as, at the time of the passing of the B.N.A., were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom.

The JOINT CHAIRMAN (*Mr. Richard*): What are you reading from now?

Mr. HOPKINS: I am reading from the Senate and House of Commons Act, Section 4, Chapter 249 in the Revised Statutes.

What I am trying to say is that Parliament is limited by that to the immunities and so on enjoyed by the Parliament of the United Kingdom from time to time, but, if I am not mistaken, new head 1 of section 91 of the B.N.A. Act will override that, since it does not concern the provinces but concerns Parliament. Therefore, my conclusion—I have gone through this merely to underscore it—is that Parliament is supreme in the matter of control of the employees of either House.

That concludes my remarks.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Ollivier and Mr. Hopkins, would you wo gentlemen please remain in your seats.

Mr. KNOWLES: I have one or two questions, Mr. Chairman, but perhaps before I ask them I might be permitted to say that I already have in my files many useful memoranda from Dr. Ollivier and Mr. Hopkins, and I would be very happy to put into those files the minutes of today's proceedings because I think they have added to our understanding of the constitutional background of Parliament.

I think, also, that we are on pretty common ground. I think we have been helped to appreciate the supremacy of Parliament and the desirability of Parliament's controlling its own affairs. I am prepared to carry that to the point of saying that we should not farm out the control of the main body of our clerks, officers and staffs. But is it not clear, Mr. Hopkins and Dr. Ollivier, from what you have said, that, provided we stay within the framework of altering our own relationship with our employees, we are free to alter those relationships either as they are today, through unilateral action by the Commissioners of Internal Economy, or by collective bargaining?

Mr. HOPKINS: I would say Yes.

Mr. KNOWLES: I am not asking either of you to say that we should do this; I am merely asking whether in your view this is constitutionally appropriate.

Mr. OLLIVIER: I would agree with that, Mr. Knowles, and I would agree with what Mr. Hopkins has said. Of course I do not know how far you want to go. I do not know if you want to give us the right to strike but especially for the first part, the right to bargaining—

Mr. KNOWLES: You would not; you love it too much around here.

Mr. WALKER: Do not take advantage of his good nature, now.

Mr. OLLIVIER: No, I would not object to the right to strike if the Members of Parliament would go on strike themselves, but I do not think we should have the right to paralyze Parliament. On the right to negotiate, I would be quite in agreement with that. Of course that is a personal opinion.

Mr. KNOWLES: You have already indicated that we have delegated authority over some of our people in a few ways. May I note one or two that occur to me? You have indicated that our translators and interpreters are under the Department of the Secretary of State. You referred to the treasury branch. I might add, too, its control over our indemnities, its specialized control over our pension arrangements, which we have passed—

Mr. OLLIVIER: But what you do with delegating authority except delegating authority within Parliament itself?

Mr. KNOWLES: That is right; but I might also point out that the elevator operators in the centre block belong to public works. They are our servants, if you live on the principle—

Mr. OLLIVIER: I do not think we delegated that power, I think it just came naturally that we used public works.

In the case of the translators we did it purposely, and in the case previously, also, I understand that the financial people did not belong to the House of Commons before they were put under the Treasury Board, whereas there are other people who belong to government organizations without our having delegated that, such as the elevator operators. I do not think we ever passed an act to say that they would come under public works.

Mr. LEWIS: I suppose initially we borrowed them.

Mr. OLLIVIER: Yes; I think that is right.

Mr. LEWIS: They are seconded from the Department of Public Works to the Houses of Parliament.

Mr. OLLIVIER: Just as we have the Mounted Police on the grounds of Parliament. To me, that is still the precincts of Parliament—everything that is inside that wall down to the Rideau Canal, to Bank Street.

Mr. KNOWLES: At one time our typewriters were on loan to us from the Department of Industry. I think they are our own now, but I am not sure.

Mr. OLLIVIER: From the Queen's Printer.

Mr. KNOWLES: But the same applies to our furniture. I think it is public works. You mentioned the Queen's Printer in relation to the Supreme and Exchequer Courts. The Queen's Printer's establishment is very important to the operation of Parliament.

Mr. OLLIVIER: If the Chief Justice has to make a requisition to the Queen's Printer to get a pencil, I think it affects his autonomy.

Mr. KNOWLES: Our autonomy is certainly affected by the publication of *Hansard*, the statutes and all the other documents.

I might also point out that the telephone service on the bill, which used to come under the government some way, is now undoubtedly delegated to the Bell Telephone. If we want to get a phone in here we have to get in touch with Bell Telephone. If we make a long distance call we do it on lines provided by Bell Telephone. All I am saying is that there are a number of examples of these things that we have done. But I come back to our main body of employees whose rates of pay are fixed by the commissioners of internal economy, subject to the passing of a resolution by the House of Commons. All I am

contending is that we have machinery for fixing the rates of pay and the conditions of work of our main employees, and we do it within the constitutional framework which says that we are separate; and you will both agree with me that it is up to us, as a matter of policy, if we want to decide to do this on the basis of collective bargaining.

Mr. OLLIVIER: Yes; so long as you do not delegate your authority to an outside body.

Mr. KNOWLES: That is right; in other words, we could, for example, decide that the commissioners of internal economy are still going to make the arrangements with the employees. In fact they are going to act, in effect, as the Treasury Board would act with our employees. Would it not be desirable that this be done, but not by putting a clause back into C-181, and not by adding to the schedules of Bill C-170, but by putting it into the Senate and House of Commons Act.

Mr. OLLIVIER: Yes.

Mr. KNOWLES: You would agree that if we did that we would be maintaining, in appearance as well as in fact, separate control.

Mr. OLLIVIER: I think for us that it would be better in the House of Commons Act; and, for the Library of Parliament, in the Library of Parliament Act. As for the Senate, they do not have an act, so you would put it in the Senate and House of Commons Act; but for us, we have the House of Commons Act, which deals with the Board of Internal Economy.

Mr. KNOWLES: You have quoted me, when you started Dr. Ollivier, as expressing the view that if we are doing this for government employees generally, we should do it for our own. You were quite correct in so doing, and this is still my view, but I accept, without hesitation, your qualification that we should do it ourselves on a separate basis, maintaining the authority of parliament; but all I want us, as parliamentarians, to do is to provide for our employees the same kind of arrangements that we are by legislation, providing for other employees.

Mr. OLLIVIER: As a matter of fact, you could leave the acts as they are now and put in a recommendation in your report to the effect of what you are saying now.

Mr. KNOWLES: This is exactly, Mr. Chairman, what I would suggest we do—not to amend any of the statutes, but to recommend in our report back to the House that the government be urged to write an appropriate amendment into the Senate and House of Commons Act, the House of Commons Act and the Library of Parliament Act to provide for that department for our people on the hill.

(*Translation*)

Mr. ÉMARD: I think that the problem at the present time is that Parliament must continue to have control over its own staff, but that it has to be done through methods which are different from those of 1867, because in 1867 the labour movement was not organized to the same extent then as now.

Now, from what I listened to previously, it would appear that the Government will authorize employees of the House of Commons to bargain collectively. You also mentioned, Dr. Ollivier, that that power should not be delegated to

persons outside of Parliament. This means that employees should have an Association which is completely autonomous and independent from outside agents.

Mr. OLLIVIER: Yes, this is what I had in mind. I have no objection to the employees meeting and organizing themselves, but I would not want them to have recourse to an outside agency, for instance, which would place all employees of the House and Senate on strike at one point or another. I think that if we are to have this privilege, it has to be a privilege which is to be exercised from within. In this regard I wonder whether the legislation which you would apply to the House of Commons, to the Senate and to the Library of Parliament should go as far as this legislation? I think it should stop at the "with the right to strike", but of course, this is my own personal opinion.

Mr. ÉMARD: I agree that you do not necessarily have to have the right to strike but would the employees in an Association be able to call on the services of qualified persons outside? I am certain that at the present time, there are not very many employees among the employees of the House of Commons who are qualified to bargain with the Government.

Mr. OLLIVIER: In this regard we could follow the example given in Section 72, that as the need arises, employees could use outside assistance.

Mr. ÉMARD: The point I wanted to arrive at is precisely this. Would an association formed by the House of Commons, have permission to affiliate or would it merely be a form of loose affiliation, shall we say, with, for instance, the Civil Service Association or another labour body?

Mr. OLLIVIER: Not if it were to interfere with the sovereignty of Parliament. In other words—and of course this is a personal opinion that I am giving you, I am not authorized to give you anything else—I do not want the labour unions to be able to interfere with the sovereignty of Parliament and paralyze Parliament and its activity. I think that the most essential part is this. We can allow postal employees for instance, to paralyze the postal system, the railway employees to paralyze the railways. Apparently this is what we are supposed to be approving today, but I am not ready to allow any organization of Parliament the right to paralyze Parliament, and I am afraid that if this organization of parliament employees were under the jurisdiction of trade unions, these might indirectly find a way of doing just that. I have the greatest respect for Parliament and I find that nothing should interfere with the sovereignty of Parliament.

Mr. ÉMARD: I am in agreement. I do not think that we should give the right to strike to parliamentary employees. However, this is another subject. What I do want, however, is for employees of the House of Commons, who are not so very numerous, to be free to hire experts. The field of industrial relations today is a very detailed and complex one, it takes economists, it takes lawyers, it takes all kinds of experts, expert negotiators and so on. On the other hand these 1200 employees of ours grouped into one association cannot pay for the services of experts. The only way that they can obtain these services is by taking advantage of their affiliation to certain other unions or other organizations in the Public Services from which they can obtain the expertise required for collective bargaining; experts in grievance procedure, experts to show them how exactly to train representatives in such matters etc. This is extremely costly and the money

which 1200 employees could contribute each month would not be enough. That is why, I think, it would be absolutely necessary if employees are to have an association which can really take their interests at heart and bargain effectively on an equal footing with Parliament which has all the experts required, for this association to be affiliated to another body.

Mr. OLLIVIER: I have two replies to this. The first is that if we thought that employees of the House or of the Senate were in any danger of being less well treated than people outside you might perhaps be right. My second point however is that here—

(English)

Mr. LEWIS: Why should there be objection to the employees of parliament joining the Public Service Alliance? I think it is necessary not to confuse two things. You can have the group of employees of parliament bargaining separately, and bargaining, under an appropriate statute, amendments to the three acts mentioned, but I think what Mr. Émard says is perfectly right, and I see nothing in logic or in law that could prevent the parliamentary employees taking advantage of the expertise and the experience of the Public Service Alliance in their bargaining.

Mr. OLLIVIER: Yes; but what I would object to would be that the philosophy of our employees, on account of the sovereignty of parliament, might be, and perhaps should be, different from the philosophy of labour unions.

Mr. LEWIS: I am not discussing that, that would put you "on the spot" if we are arguing about politics.

(Translation)

Mr. OLLIVIER: You are getting into a question of policy, I wonder whether I can make any comment on that, though I have my own opinion, of course—

(English)

I think this is more a matter of politics, and unless I am provoked by Mr. Lewis I do not think I will get into it.

Mr. LEWIS: You have been provoking me and I have kept quiet.

Senator MACKENZIE: Mr. Chairman, first I would like to express my appreciation of the excellent statements made by our witnesses this morning. I think they are the best and clearest statements on this particular aspect of the Constitution of Canada that I have heard or read.

What I want to do is to put a question to Mr. Knowles. I agree with him that we must be concerned about the conditions, rates of pay and welfare of the employees of Parliament. I am wondering whether he feels that these must be identical with the other groups subject to collective bargaining under the new legislation that we are considering?

Mr. KNOWLES: Are you asking me whether I think the rates of pay should be identical?

Senator MACKENZIE: No. It occurs to me that their duties may be different and for that reason there—

Mr. KNOWLES: If I may answer, Senator MacKenzie, so far as details are concerned, no. It is the principle of the collective bargaining relationship.

Senator MACKENZIE: The other question I wanted to ask was whether, in this situation of what you might term a divided loyalty—that is, if they become members of the larger collective bargaining unit and that unit is in the process of hard bargaining with the government—the members of the staffs of the House of Commons and Senate would feel they would have to support them, and, in the possible situation of a strike occurring, engage in a sympathetic strike?

Mr. KNOWLES: Mr. Chairman, I would be very happy to answer that question of Senator MacKenzie's, as well. I do not think we should dictate to our employees what kind of organization they form, or what group they join. They may decide that it is desirable, for strength and so on, to join some outside organization. They may decide that the nature of the operation on the hill is such that they prefer to be in an organization of their own. It seems to me that it is inherent in collective bargaining, if it is at all genuine, that you let the other side make its own decision on what people it wants to join with and what procedures it wants to follow. I can imagine that employees on the hill would want their own organization. It might be separate, or it might be a unit of some larger organization, but even if it were a unit of a larger organization the conditions on the hill are different.

Senator MACKENZIE: Would you imagine that an affiliation would be adequate?

Mr. KNOWLES: I would leave that to them.

Mr. LEWIS: Mr. Chairman, if I may add to what Mr. Knowles has said—and I have heard it several times—I think we often think of the bargaining unit as being the same as the organization and that, I think, is perhaps at the basis of some of our concern. The Public Service Alliance, for example, which is to be formed in the next few days, will have, if I understand correctly, by the present arrangement, some 60-odd bargaining units. It may be the same organization but there will be 60-odd separate collective agreements, 60-odd separate bargaining units.

Now, in precisely the same way, if the employees of Parliament wanted, they could form their own organization and affiliate with the Public Service Alliance, but they would be a bargaining unit under a different statute, because I think we all agree that it should come under a different statute or statutes. They would have a separate collective agreement if that right were given them, and machinery altogether separate from the machinery of any other bargaining unit.

The point that Mr. Émard made was merely that legally—and you will correct me if I am wrong—there is a suggestion, or a proposal, that nothing in the law that we may recommend be passed should prevent the Parliamentary employees from seeking the services of some other organization to assist them, by whatever arrangement of affiliation or membership that they made decide. In other words, it is not that the law, in my view, has to say whether or not they join the Public Service Alliance—that is their business—but that all that will be required is that nothing in the amendments to the various acts should prevent them from affiliating with or joining any organization if they so desire. I think that is essentially the point.

Senator MACKENZIE: What would the effect of their joining the Alliance be? I do not quite follow you in terms of their being a separate unit and bargaining separately. What obligations, if any, would affiliation with the Alliance carry with it in respect of other units of the Alliance which have no—I was going to say—status in common? That is not quite what I mean.

Mr. LEWIS: I see what Senator MacKenzie means, Mr. Chairman, if I may answer, but Mr. Knowles may want to answer. Surely it will depend on what ground rules you lay down. If, for example, the suggestion that the right to strike should not be available to Parliamentary employees is accepted by the committee and by Parliament, then obviously their association with the Public Service Alliance would have no effect on that particular point which seems to me the only point concerning some members.

Mr. OLLIVIER: In other words you would still have the right to cross the picket lines?

Mr. LEWIS: If the law says so. Sometimes we take the right even if it does not say so, but if the law says so we would have it.

Mr. HYMMEN: Mr. Chairman, I want to make a comment or two. First I would add to what Senator MacKenzie has said, that this session this morning has been most informative, particularly to a new member of Parliament. I realize now, because Mr. Knowles put this question originally—and I certainly appreciate the fact he did, because I asked a naïve question at that time—how many employees there were. I think the statement was made that it was 1,500.

So far as I am concerned a prime requisite here is that the employees on the hill be given equal consideration on wage rates and working conditions as the employees we are now considering under collective bargaining.

I still feel in my own mind that the situation on the hill is a little different from the situation in the Civil Service generally. There are some rights which I am concerned with resolving. There is the question of members' secretaries. So far as I am concerned, subject to prerogative, the members' secretaries hold their positions in the particular situation at the pleasure of the member. When you get into collective bargaining you might have a few problems in this sort of situation. It has been suggested by Dr. Ollivier that the employees on the hill should not paralyze Parliament. It seems quite evident to me that that exclusive prerogative is the opportunity of the members themselves.

I do not know whether Mr. Knowles is trying to establish a principle here of collective bargaining being carried on in one segment of the employees of Parliament, but again I say that my concern is very definitely that these people should be given the same consideration as any other employee of the government, which is the employee of each citizen of this country and if this can be provided for I think we will avoid, many, many problems.

If I may comment on Mr. Émard's question—and again this is information which I would like to have—I am so sure that all the types of employees on the hill would come under one association. We could have another proliferation and another area of distinction. But I am very definite in my own mind that the people on the hill should be given equal consideration if this can be assured in a way other than through collective bargaining.

(*Translation*)

Mr. BERGER: According to present legislation could employees of the House of Commons and the Senate form an association today or tomorrow?

Dr. OLLIVIER: According to existing legislation, I think the right of association belongs to everyone. There is nothing which would have prevented us from joining an association. The same law would not apply to everyone, because some of our employees are not our employees, they are employees of the Secretary of State, for instance, like translators and interpreters. There is no doubt that they would have that right. But there is nothing to prevent our stenographers either from forming a union. There is nothing to prevent them from doing so though I cannot see for the moment what they would get out of it. The law would have to state that this union has the same rights as any outside association but in so far as Parliament is concerned, dealing with one office rather than another, and so on.

(*English*)

Mr. LEWIS: May I ask Dr. Ollivier a question—and I must ask it with a grin on my face. Would the paralysis of Parliament be more serious if the interpreters and translators who are not employees of Parliament went on strike together with the rest of the employees of the Department of the Secretary of State, or would it be greater if the secretaries of members of Parliament went on strike?

Mr. OLLIVIER: There are legislatures where there are no interpreters and secretaries, but you might have some objections from Mr. Grégoire and others if you did not have any translation.

Mr. LEWIS: That is the understatement of the year.

Mr. OLLIVIER: There is another point. In our own standing orders it says, for instance, that you cannot proceed if there is objection on second reading of a bill that the translation has not been made in French. You would immediately paralyse the government on that very point.

There is another reason I think we are not in the same position. There are fringe benefits in the House. If you notice subsection (4) of section 72, there is the fringe benefit of being able to take work when Parliament is not sitting, which does not often happen now. Another fringe benefit, I suppose, is the pleasure of working for members of the House!

Mr. KNOWLES: Mr. Chairman, I do not wish to open this up for a full-fledged argument, but I would invite Mr. Hymmen and others to take a look at this sacred cow, the member's personal prerogative in the appointment of secretary. Secretaries have rights, too, and I am not attacking it, but I just wonder if we have not carried this a little bit too far and whether collective bargaining necessarily needs to interfere with a confidential and efficient set-up so far as secretaries are concerned? I just want to suggest that there are two sides to it.

The JOINT CHAIRMAN (*Mr. Richard*): I would like to make a comment before Mr. Fairweather speaks.

I am wondering, since we have had the benefit of our witnesses, and there are no more questions to be directly addressed to them, whether this conversation, some of which is between members of the committee, would not be more useful at the proper time, when we consider what the members of the committee

intend to do with regard to a recommendation; because there is going to be a recommendation.

Mr. KNOWLES: So far as I am concerned it could be left until we are drafting our report.

The JOINT CHAIRMAN (*Mr. Richard*): Then it could be a clear expression of opinion by the members, between themselves, on the subject. I do not want to—

Mr. KNOWLES: I am willing to leave it until we are drafting a report.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions of the witnesses?

(*Translation*)

Mr. ÉMARD: I have a question to ask before these gentlemen leave. Following the discussions this morning, what would you suggest is the best way to approach the Government, or whoever it may be. The best way, in other words to allow collective bargaining for employees of the House of Commons, Senate and Library of Parliament?

Dr. OLLIVIER: Even if we accept this principle it will still be necessary to have Government intervention—for the Government to introduce legislation. I think that if your report was simply designed to recommend an amendment in the legislation relating to the Senate and the House of Commons and the Library of Parliament so as to give employees of Parliament the same advantages as are given through these various bills to outside services, this would be as far as you Committee could go for the time being. It is not in your terms of reference to prepare legislation related to this. By your terms of reference you are limited to the three bills which have been referred to you, however, I think there is enough scope in the order of reference to recommend that other legislation be introduced to give to Parliamentary employees the same advantages as those given to outside employees.

Mr. WALKER: Mr. Chairman, I would like to thank both witnesses along with others. I certainly appreciated having this constitutional lecture—and I use the word "lecture" in its real sense. It appears that the members of the committee, if I have listened correctly, agree that the way to take care of this situation, which concerns us all, would not be by amendment of any of the present legislation that is before the committee. This is just a general statement.

Mr. KNOWLES: You are right on the lines that Dr. Ollivier suggested a moment ago.

Mr. WALKER: Yes. Then, may I ask just two more quick questions. The right of association into a group because of a common interest is now upheld, or, at least, there is nothing against it. What, in your opinion, has stopped the House of Commons and Senate staffs from forming themselves into an organization.

Mr. OLLIVIER: Probably they are well-enough treated that they did not feel it necessary to do that.

Mr. WALKER: That is one viewpoint. May I ask—

Mr. KNOWLES: I would ask, from the point of view of the Senate, noblesse oblige.

Mr. OLLIVIER: Before you put your question I would like to answer Mr. Knowles. I think each one of your stenographers has an ombudsman. They are the members of Parliament, who act for the secretaries and who, either individually or together, must surely have enough influence to approach the Speaker of the House on the Board of Internal Economy. I think, as a matter of fact, the servants of the House have as many means of getting their positions put in better shape, if I can put it that way, than an ordinary stenographer in a department.

Mr. WALKER: Mr. Chairman, to comment on that, I think the most frustrated group, if members of parliament can be termed employees of parliament, are the members of parliament themselves in their dealings with the internal economy commission on behalf of secretaries and other people.

Mr. KNOWLES: You will agree with me that we did well in the last parliament in providing, through the Speakers, some grievance procedure, and I do not think it should be forgotten that it is there, but what we are concerned about is the prinicple.

Mr. WALKER: I have just one other question. You made a statement which gave me a little concern. Out of our approximately 1,200 employees of the House of Commons and Senate, how many are seconded to us by departments who, in fact, will come under this legislation that we are now considering?

Mr. OLLIVIER: That I do not know. I can only speak for my own office. I have one who was seconded to me from the Department of Justice, and I must say that he is better paid than if he were simply appointed by the House. I am confirming to a certain extent what you said. He is getting a better salary because he is paid the salary that he was paid in the Department of Justice.

Mr. WALKER: Well, does this not produce some danger to the preservation, if you like, of the principles you outlined?

Mr. OLLIVIER: That is all right; but you have to choose between them and sovereignty of Parliament, and I still opt up for the sovereignty of Parliament.

Mr. WALKER: Yes; this is what I am speaking about. Does not the fact that some of our House of Commons and Senate employees are attached to other departments and are simply loaned to us produce a danger to the sovereignty of Parliament. I am talking in terms of the paralyzing of Parliament.

Mr. HOPKINS: Yes, I see, Mr. Walker; but this does not apply to the Senate. Our chief of personnel says that we have no secondees.

Mr. WALKER: You have no secondees; so this is just House of Commons staff?

Mr. OLLIVIER: We would have very few of them, and it is always a temporary situation. When they are seconded it is either for a while, or if they become permanent then they stop being seconded.

Mr. WALKER: I am speaking about the difficulty of an employee who, because of his new bargaining position, may have an obligation to his association which is in fact not the association of the House of Commons staff.

Mr. OLLIVIER: I do not have the statistics. I do not know how many seconded employees we have. I do not imagine that we have very many; but they would be in a temporary position in that way. If they wanted to become permanent in the House it could always happen to them, I suppose.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Ollivier, and thank you, Mr. Hopkins.

We will call a meeting for this evening and proceed with the amendments which have been drafted by the Department of Justice.

An hon. MEMBER: That is Bill No. C-181.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, C-181.

We will adjourn until 8 p.m.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. As you will recall when we were studying Bill No. C-181, certain clauses were stood to allow Mr. Cloutier to prepare some amendments, in accordance with the wishes of the Committee, or rather, to prepare suggestions in proper form. Members of the Committee now have copies of the suggested wording for amendments. You will note that the clauses you have in hand now do not deal with the matter of appeals. That will be taken up in a separate group for the better order of business.

I think Mr. Cloutier should take over here and we will begin with the amendment to clause 5.

On clause 5—*Powers and duties.*

Mr. S. CLOUTIER (*Commissioner, Civil Service Commission*): Thank you, Mr. Chairman. Last week I indicated that the associations had requested some clarification of wording to remove any possible misinterpretation as to the authority of the Civil Service Commission to make appointments from within the public service as well as from outside the public service.

The amendment that has been drafted by the law officers of the Department of Justice reads as follows:

> That Bill No. C-181, An act respecting employment in the Public Service of Canada, be amended by striking out paragraph (a) of clause 5 and substituting the following:
>
> '(*a*) appoint or provide for the appointment of qualified persons to or from within the public service in accordance with the provisions and principles of this Act.'

Mr. KNOWLES: I so move.

Mr. CROSSMAN: I second the motion.

Mr. WALKER: Mr. Chairman, I am sure that as these amendments are read out they will be agreeable to all members, so in a spirit of great generosity shall we divide up the honour of moving and seconding among the members of the Committee, unless there is one that a certain member is particularly interested in, and certainly as far as I am concerned I would be very happy to have him move it.

Mr. KNOWLES: I will sneak out and ask Jim to move it. I will give him the honour.

Mr. MCCLEAVE: Anybody that wants to can have mine.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

Amendment agreed to.

Clause 5 (a), as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Cloutier, on clause 6.

On clause 6—*Delegation to deputy head.*

Mr. CLOUTIER: Clause 6 was stood in its entirety, even though I think the questions that were raised pertained only to a few of the subclauses. The amendment which is before the members of the Committee is proposing to replace the whole of clause 6 as it is printed in the bill and I would like to cite the differences between the two versions.

Subclause (1) the only change that is now proposed relates to the words line 35, "the conduct of" is removed. The law officers of justice have pointed out that the matters which the Commission in the spirit of this proposal should not delegate to departments, and which indeed the commissioners have no intention of delegating are anything having to do with appeals, not only the conduct. The first subclause would read the same as it appears in the bill without the words "the conduct of" which appear in line 35.

Mr. LEWIS: It probably makes no difference but it is a good suggestion.

Mr. CLOUTIER: Subclause (2), the suggestion was made by members of the Committee that in addition to providing for revocation in the case where the individual appointed did not have the necessary qualifications there should be provision whereby an appointment made in contravention of the terms and conditions of the delegation should be capable of revocation by the commission and the wording of subclause (2) (b) in the proposal so provides.

In addition the subparagraph that follows paragraph (b) provides that the commission may revoke in such circumstances but only subject to subclause (3). Subclause (3) is really a new subclause which provides for a suggestion made by the staff associations to the effect that when the case involves a public servant or somebody who had been appointed from within the public service, the revocation could be made only after an inquiry had been held, during which the employee concerned and the deputy head concerned had been given an opportunity of being heard.

Members of the Committee will notice I am sure that the words "or their representative" appear in that subclause to make again very clear that the representatives of the employees may appear before such an inquiry. That I think takes care of all the points that were made in relation to this particular subject the last time we met.

Mr. LEWIS: Shall we pass each subclause or would you rather go through the whole clause?

Senator MACKENZIE: Let us deal with each as we go by.

Mr. LEWIS: Does this mean, Mr. Cloutier, that you are providing a board to replace the appeals procedure, or what?

Mr. CLOUTIER: No, sir. This is not an appeal. This is a situation where the commission having delegated its authority to a department has reason to have some concern relating to an appointment that was made or that is proposed to be made in relation to (a) the qualifications of the individual concerned in relation

to the level to which he has been or is proposed to be appointed; or (b) has reason for concern in relation to the adherence to the terms and conditions of the delegated authority.

This says in effect that if the employee who had been appointed or is proposed to be appointed was a public servant at that time, then the revocation can take place only after an inquiry is conducted, and that inquiry will be conducted—perhaps I am ahead of myself here, Mr. Lewis—but would be conducted by the same appeal board that we will be talking about in clause 21 and clause 31, but the initial difference does not rest with the employee but with the commission that examined the manner in which the delegated authority is carried out.

Mr. LEWIS: That is the reason I raised this. If you mean the appeal board, are the words "upon the recommendation of a board established by it" appropriate—I do not know what your proposal, what your recommendation or suggestion with regard to appeal board may be, or shall we leave this stand until you get to the appeal board?

I understood Mr. Cloutier to say that it would be the same board, the appeals board or tribunal that would inquire into this.

Mr. CLOUTIER: The same officers who would in effect by specializing in the conducting of such inquiries dealing with the qualifications of the candidate.

Mr. LEWIS: What I am concerned about, Mr. Chairman, is if it is the same agency as other appeals will go to, then before I would feel that I could intelligently vote on these words I would like to see the other. If it is a different agency I would like some explanation. That is my only point, but I do not want to hold the Committee up. If it is the same agency as is proposed under a revised clause 21, then I would feel happier if I saw the revised clause 21 before dealing with this particular wording. We could let it stand until then if the members of the Committee do not object.

I understand that what this would mean in practice is that the commission becomes aware of an appointment; it has something in its mind which gives it a prima facie case that the appointment should not have been made. It does not act on it, but it sends it on to some other body, and acts on it only on that body's recommendation.

Mr. CLOUTIER: That is the gist of it.

Mr. LEWIS: That is the gist of it. Well, if the body is the same as the appeals board, it seems to me, wiser to let it stand until later. The rest of clause 6 would be carried. Would you move, Mr. Walker?

The JOINT CHAIRMAN (*Mr. Richard*): We went through—

Mr. WALKER: We have not finished the rest of clause 6 yet.

Mr. LEWIS: Well, we should look at clause 5, should we not?

Mr. WALKER: There is still some discussion—

Mr. LEWIS: Yes.

Mr. CLOUTIER: On subclause (5) Mr. Chairman, the point was made by a member of the Committee last week that a deputy head should not be capable of delegating authority in turn delegated to him by the commission without the

prior approval of the commission. The proposed amendment to subclause (5) which itself is a revision of subclause (4) as it appears in the bill, would so provide, and if I may read:

> Subject to subclause (6) the deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions and duties of the deputy head under this act, including,—

And this is the change.

> subject to the approval of the commission and in accordance with the authority granted it by this subclause, any of the powers, functions and duties that the commission has authorized the deputy head to exercise and perform.

In relation to subclause (6), Mr. Chairman, there is no change from the precise wording of subclause (5) as it appears in the printed bill.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, are you moving subclause (6)?

Mr. WALKER: No, Mr. Knowles, is moving that.

The JOINT CHAIRMAN (*Mr. Richard*): Just so that I know.

Mr. LEWIS: Just so that I understand it, I think that your revised number (5) gives the deputy head the authority to delegate all his functions and duties, and then you say that he may also delegate the duties delegated to him by the commission, the latter being subject to the commission's approval.

Mr. CLOUTIER: I think that I would like to express it this way, Mr. Lewis. The first part of subclause (5) provides for the deputy to delegate in such manner as he sees fit any power or duty assigned to him by the act itself without interference or prior approval of the commission. In addition to that, it would authorize him to delegate, subject to the approval of the commission and in accordance with the terms and conditions of the delegated authority, any powers that are assigned to him by the commission under the delegation subclause (1).

Mr. LEWIS: My difficulty—

Mr. CLOUTIER: If I may give you an example, under this Bill—I do not think I could name the clause right now—a deputy head, for instance, is empowered to accept the resignation of an employee. He is empowered specifically to request an appointment. These are the sorts of powers and duties which he may delegate to his own staff without prior reference to the commission. However, any powers that by the proposed act allocated or assigned to the commission and which the commission by the authority of subclause (1) may delegate to the deputy, he may not delegate further down the line within his department without the prior authority of the commission.

Mr. WALKER: Mr. Chairman, standing subclause (3) for the moment, I move the adoption of clause 6(1), (2), (4), (5) and (6).

Clause 6(3) stands.

Clause 6(1), (2), (4), (5) and (6) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 8.

Mr. CLOUTIER: Mr. Chairman, before we move on to clause 8, I think there was a motion moved but stood at the last meeting relating to clause 7(2).

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

On Clause 7—*Access to records, assistance, etc.*

Mr. CLOUTIER: The motion in effect would have removed the words "or an officer of the Commission" from line 25, clause 7(2). We took this under advisement and on reflection we see no problem with that particular motion being acted upon. Indeed, the law officers of the Department of Justice see none.

Mr. WALKER: Mr. Chairman, the motion was tabled; I suppose it could be put. The original mover may not be here but the motion was tabled the last time and we stood it—

The JOINT CHAIRMAN (*Mr. Richard*): Mr. McCleave wants to move it.

Mr. WALKER: I think you will find it was moved and seconded and tabled for voting on later.

Mr. LEWIS: I believe the amendment removed the comma after "Commission" so it would read: "the commission or a commissioner" and it would delete the words "or an officer of the commission".

Mr. WALKER: Right.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved by Mr. McCleave, seconded by Mr. Lewis that:

> Clause 7(2) be amended by deleting the comma, after the word "Commission" in line 24 and substituting therefor the word "or" and by deleting the words "or an officer of the Commission" in line 25.

Mr. WALKER: You left out one deletion. I hate to confuse this but I think you left out the words to be deleted.

Mr. CLOUTIER: No, he is right.

Mr. WALKER: Well, you have two commissioners in there.

Mr. CLOUTIER: No, no.

Mr. LEWIS: It would read:

> In connection, and for the purposes of, any investigation or report, the Commission or a commissioner holding an investigation has—

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 8—*Exclusive right to appointment*

Mr. CLOUTIER: My comment with respect to clause 8, Mr. Chairman, is the same that I made in relation to subclause (a) of clause 5. That is, the commission should have the authority to make appointments from within as well as outside the public service and the proposed amendment reads:

> That Bill C-181 be amended by striking out clause 8 and substituting the following: "except as provided in this Act the Commission has the exclusive right and authority to make appointments to or from within the Public Service of persons for whose appointment there is no authority in or under any other Act of Parliament.

The JOINT CHAIRMAN (*Mr. Richard*): Moved by Senator Fergusson, seconded by Mr. Berger that clause 8 be amended according to the text in your possession now.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 10—*Appointments to be based on merit.*

Mr. CLOUTIER: On clause 10, I have two comments. The first again is in relation to the word "to" or "from within" and is the same as in the two previous sections. Then there is also the comment that I brought to the attention of the Committee, made by the staff associations, to the effect that the words "other process" which appear in line 5 should be further defined to indicate that these are processes of personnel selection and that they are designed to establish merit of candidates. The proposed amendment would read, Mr. Chairman:

> That Bill C-181 be amended by striking out section 10 and substituting the following: Appointments to or from within the Public Service shall be based on selection according to merit as determined by the Commission, and shall be made by the Commission at the request of the Deputy Heads concerned by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Lewis seconded by Senator Deschatelets.

Amendment agreed to.

Clause as amended, agreed to.

On clause 14—*Notice.*

Mr. CLOUTIER: On clause 14, Mr. Chairman, the suggestion was made at the last sitting of this Committee, that the clause should be reworded or rearranged to provide that notices of competition should be given in bilingual form unless the commission deems it impractical to do so. However, I should like to bring to the attention of the members that clause 14 really needs to accomplish two objectives. One is to ensure that notices are such as to reach potential or possible candidates, and the amendment that I am now proposing would conserve this dual purpose. If I may read, Mr. Chairman:

> That Bill C-181 be amended by striking out clause 14 and substituting the following:
>
> 14.(1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.
>
> (2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Lewis seconded by Senator Deschatelets.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 16—*Consideration of applications.*

Mr. CLOUTIER: The point that was raised, Mr. Chairman, in relation to clause 16 I think focuses more particularly on subclause (2). The concern that

was expressed came from the Association des fonctionnaires fédéraux d'expression Française, and if I may summarize the earlier discussion on this point, the concern was that any possible misinterpretation of subclause (2), as it appears in the present bill, should be removed by a rewording to make it extremely clear that the candidate may be examined in his own language but to the extent that his proficiency in another language has to be established then that portion of the test or examination may take place in a language other than his mother tongue. If I may read the proposed amendment, Mr. Chairman:

> That Bill C-181 be amended by striking out subclause (2) of clause 16 and substituting the following:
>
> (2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Émard, seconded by Mr. Hymmen.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 22—*Effective date of appointment.*

Mr. CLOUTIER: I think some question was raised on clause 22 as to the reasons for the appearance of the first four words in this clause. Again, I undertook to seek an explanation. I would like to refer members to clause 22 of Bill No. S-9 the short title of which is the Interpretation Act, which was passed by the Senate on June 30, 1966, and which I understand has yet to be passed by the House of Commons. I am referring particularly to subclause (3) of clause 22 which provides for retroactivity of appointments other than appointments by instrument under the Great Seal, for a maximum period of 60 days. In the public service, because reclassifications are, in fact, appointments and because on occasion reclassifications must, or should, have a greater retroactivity than 60 days, therefore at the time this clause was drafted which was quite a few months ago, even before this bill was passed by the Senate, it was felt wise at that time to introduce the words "Notwithstanding any other Act". However, on re-examination of this point, with particular reference to the arguments presented by some members of the Committee to the effect that the Public Service Employment Act, if it is passed, would take precedence over the Interpretation Act, the law officers of justice see no objection to the removal of these four words. In order to give effect to the wish that was expressed by some members of the Committee at the last sitting the proposed amendment would read:

> That Bill C-181 be amended by striking out from clause 22 the words "Notwithstanding any other Act".

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. McCleave, seconded by Mr. Berger.

Amendment agreed to.

Clause, as amended, agreed to.

Mr. KNOWLES: It will have to begin with a capital "A".

On clause 26—*Resignation.*

Mr. CLOUTIER: Here the comment was made by one of the staff associations that there should be no doubt that in accepting a resignation the deputy head should be so in writing and the proposed amendment would read, Mr. Chairman:

> That Bill C-181 be amended by striking out clause 26 and substituting the following:
>
> 26. An employee may resign from the Public Service by giving to the deputy head notice in writing of his intention to resign and the employee ceases to be an employee on the day as of which the deputy head accepts, in writing, his resignation.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Walker, seconded by Senator MacKenzie.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 27—*Abandonment.*

Mr. CLOUTIER: On clause 27, Mr. Chairman, the associations observed that it was possible that an employee may be absent from his position without specific permission for reasons that were beyond his control and that in such circumstance he should not be penalized by being declared as having abandoned his position. The proposed amendments, Mr. Chairman, would accomplish this. I will read the following:

> That Bill C-181 be amended by striking out clause 27 and substituting the following:
>
> 27. An employee who is absent from duty for a period of one week or more, otherwise than for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than as authorized or provided for by or under the authority of any Act of Parliament, may by an appropriate instrument in writing to the Commission be declared by the deputy head to have abandoned the position he occupied, and thereupon the employee ceases to be an employee.

Mr. LEWIS: I apologize that I was not here when this clause was reached but is absenteeism a matter for collective bargaining or is it not, Mr. Cloutier? As I understand it, the standards of discipline are a matter for collective bargaining. Is that correct?

Mr. CLOUTIER: Yes, sir.

Mr. LEWIS: As I understand it, the discipline for absenteeism that surely is also a matter for collective bargaining.

Mr. CLOUTIER: The kind of absenteeism that is provided for here, Mr. Lewis, is the sort of instances where the employee simply disappears.

Mr. LEWIS: Well, that is precisely the point. Mr. Chairman, I apologize again for not having been here, for it was my intention if I had been here to ask why this section is needed at all. Suppose you have a collective agreement which is

between a bargaining agent covering a bargaining unit where they persuade the government that a person may be absent for 10 days without suffering dismissal. Why should an act of parliament have this precise detail? I can visualize a situation where a person is absent for only three or four days and deserves to be fired if he is absent on a toot and has no explanation for it at all, or if he has been absent three or four times for two or three days and shows a pattern of absenteeism which is unjustified. I am giving you the other side: The two may well be a perfectly just cause for dismissal. Why should this bill deal with this kind of detail if you are going to have collective bargaining over the standards of dismissal?

Mr. CLOUTIER: Mr. Lewis, for this reason. While the absenteeisms for all the reasons you are referring to are correctly and properly, I would think—mind you I would not want to be quoted as an expert on this point, but I think it would be proper subject matter for collective agreement, in the case of contravention for dismissal under Bill No. C-182 and possibly eventual grievance and adjudication under Bill No. C-170, however there are still cases of the individual simply disappearing. If the man has disappeared there is no grievance to be brought and there is no adjudication on the case and there is a need to separate these individuals from the public service.

Mr. LEWIS: I am just not persuaded, Mr. Cloutier. Try again, maybe I will not be so obstinate. But, as I read this bill, the public service commission has authority—if I remember correctly—correct me if I am wrong—to make regulations—

Mr. MCCLEAVE: May 31 cover it, Mr. Lewis?

Mr. LEWIS: No, I do not think so. Section 33—I remember it correctly—states as follows:

> 33. Subject to this Act, the Commission may make such regulations as it considers necessary to carry out and give effect to the provisions of this Act.

Now, I would have no objection at all to the commission, subject to the collective bargaining process, making rules regarding absenteeism and, they might even with justice be stricter than this week's absence provided in this section. I indicated to you one example which is fairly frequent in industry. Sometimes the man is absent only one day but if he was absent three days one week and two weeks later, another two or three days and three weeks later another day or two, then, if he does it again, and he has been given warning, he is fired whether he is absent a day or a week or a month and you may well be able to support that. What I find incongruous—I am not going to fight about it—no, maybe I will, too, because I think it narrows unnecessarily the grounds for collective bargaining. I find it completely incongruous to have this kind of detailed regulation on absenteeism in a section of the bill.

Mr. CLOUTIER: Mr. Lewis, I would argue that this section does not narrow down the field on the subject matter of collective bargaining but it is a section necessary to indicate how a public servant who, after all, by becoming a public servant acquires some rights, may abandon or lose these rights. The law officers, I think, would argue, as I am going to try to do right now, that a right to a public servant given by a salute cannot be removed from that individual by a

regulation. In other words, this statute gives to a public servant the right of security of tenure and a regulation passed by the commission would not be sufficient to, in effect, say to that employee that he has abandoned his position.

Mr. KNOWLES: Mr. Cloutier, would you relate what you are now saying to section 24 which reads as follows:

> 24. The tenure of office of an employee is during the pleasure of Her Majesty, subject to the provisions of this and any other Act and the regulations thereunder and, unless some other period of employment is specified, for an indeterminate period.

Senator MACKENZIE: Mr. Chairman, I think that Mr. Lewis and his colleagues are not objecting to a person losing his status as a civil servant for being absent without cause, but I understand him to argue that this is already provided for by the regulations which gives to the commission the power to dismiss the person if he is absent or shows any inclination for frequency of absenteeism.

(*Translation*)

Mr. ÉMARD: I think that in this particular case it is a little bit different. It is not a question of dismissing an employee for a reason. In this case he is being dismissed because of absence from work, but when the time comes to put that on file, he is no longer there to defend himself. If the employee is not dismissed, if he comes back at the end of 4 or 5 days, although he is absent every week on Mondays as in some cases, he is always there to defend himself. In that case however he would come under the procedure established for collective bargaining. But this is in the case where an employee disappears completely. We have already seen cases like that. I do not think that this is covered by the collective agreement, nor is the dismissal procedure, and I think that the Act is right in this particular case.

(*English*)

Mr. KNOWLES: I wish you would try to answer my question, which I think is still relevant: Can the commission not do this under clause 24?

Mr. CLOUTIER: It, of course, talks about "subject to the provisions of this and any other act and the regulations thereunder".

Mr. LEWIS: The regulations thereunder.

Mr. CLOUTIER: Yes. I would argue that the provision of that particular reference relates to the conditions of employment rather than the termination of that employment.

Mr. KNOWLES: It says "security of tenure".

Mr. MCCLEAVE: Mr. Chairman, I suggest that Section 31 is also in this field and is relevant and that the only limit on 31—I am sorry, the only limit on 24, which Mr. Knowles has mentioned, and upon 31, is this section 27. Somebody has decided it is all right for an employee to go off for a period of one week or more; but for any other reason, the deputy head, for example, in section 31, can decide if an employee is incompetent or incapable and by stating this to the employee, knock him out or knock him down. It is probably just the fact that we are getting three somewhat separated sections of the act which are confusing but I think I can see the point in them.

Mr. WALKER: I would like to remind the Committee that the rewording of this clause was for the protection of a civil servant who might have been in an automobile accident, suffered amnesia, and because he had no control over the length of time he was away, this was the purpose of spelling it out so precisely. It had nothing to do with the catching of a malingerer. It was just for the opposite purpose that this was put in, to protect somebody through additional language. This does not cover the principle you are speaking of, I know, but when this was discussed at first, we felt this additional language was needed for the protection of somebody who had no control over the accident which made him absent himself. Is this not so?

Mr. CLOUTIER: I think so. The whole intent of the clause is to protect the employee, or to deal with the employee who is not there to be the subject of a reprimand or disciplinary action and thereby to provide a legal manner in which he could be struck off from the records.

Mr. KNOWLES: Mr. Chairman, on looking at the marginal note which is one word "abandonment", I would think that what you are trying to provide here is machinery for the case of an employee who abandons his job. At that point you say he has abandoned his job and is out. But you equate abandonment with just what act? Absence for a week or more. If you had said and you were nodding your head when I was paraphrasing, and if this section read: "An employee who has abandoned his job shall thereby be out", I do not think that would have quite the odour which this clause seems to have.

Mr. CLOUTIER: The clause will have to be more precise as to what abandonment is. The attempt in this subclause is to precisely define what abandonment is. It would be good enough to say he has abandoned his job because he could leave for a couple of hours during the day and the deputy would then—

Mr. KNOWLES: Or he could be there; he could be present.

Mr. CLOUTIER: I do not think that anybody would follow that line of argument very far.

An hon. MEMBER: I would like to ask Mr. Cloutier if there is a clause similar to this in the present act and to what extent has it been used?

Mr. CLOUTIER: Yes. The similar clause is in section 53, if I may read it:

> An employee who is absent from duty without leave for a period of one week or such longer period as may be prescribed by the regulations, may by an appropriate instrument in writing be declared by the deputy to have abandoned his position and thereupon the position becomes vacant and the employee ceases to be an employee.

Mr. WALKER: All we were trying to do was to take that old section of the act but build into it a protection for an employee who had no control over the cause of his absenteeism.

Mr. LEWIS: My answer is, Mr. Chairman, that when you did not have Bill No. C-170 I could well understand the Civil Service Act making this kind of provision, but if standards of discipline are negotiable I still cannot, for the life of me, see why one subject of possible discipline gets written into the act itself.

Mr. CLOUTIER: My answer to your point, Mr. Lewis, has to be that the employee who is not there cannot be disciplined.

Mr. LEWIS: I am sorry, but I do not follow that, Mr. Cloutier. You can discipline someone who is not there. Dismissal of a person because he is absent is a form of discipline, surely, and it is because he is absent you dismiss and because he is absent he is not there. Certainly we can discipline an employee who is not there. The thing that worries me about this—let me put it to you in another way. Suppose an employee is absent for ten days, and on the eleventh day the deputy head takes the action provided in this clause. On the twelfth day the employee appears with a perfectly good reason for his absence. What authority has the deputy head then, because as of the date of the deputy head stating in the appropriate instrument in writing, he ceases to be an employee. What do you do, do you rehire him?

Mr. CLOUTIER: The interpretation under that circumstance is that if the reason is satisfactory to the deputy head, then the deputy head did not have legal basis under which to have declared him—

Mr. LEWIS: The instrument is null and void.

Mr. CLOUTIER: That is right. So he is then back in his job.

Mr. WALKER: May I ask a question, Mr. Chairman? Mr. Lewis I would like you to hear this, too. May I ask Mr. Cloutier through you Mr. Chairman, does the inclusion of this clause do away with the right of abandonment being dealt with under collective bargaining? I do not see that it does.

Mr. CLOUTIER: Definitely not.

Mr. WALKER: I do not think this takes from bargaining the right to deal with cases such as this, but you can say a man can be represented if he is not there. I suppose in a measure he can but you cannot put up much of a case for him surely if he is just represented by someone who does not know the circumstances.

An hon. MEMBER: Mr. Chairman, I do not want to take up much more time but I think we are assuming in this clause that if the man is away for ten days that nobody is going to make any effort to contact him or find out why he is not there or if he has been in an accident or something. The other thing I was going to ask, just as a point of interest is, if the absenteeism is going to be a bargaining matter, is there any present code of discipline in the civil service on absenteeism?

Mr. CLOUTIER: Not at this point in time. There is not an over-all standard of discipline which would govern such situations. There are provisions in various departments. Of course, this would be changed under collective bargaining.

An hon. MEMBER: I was just trying to get an idea where we were starting from.

Mr. KNOWLES: You are on our side of the argument now, Mr. Cloutier.

Mr. CLOUTIER: Do you really think so?

Mr. LEWIS: Yes, you have just stated the case. You have not had any code of procedure for absenteeism but you now will have it, under collective bargaining.

Mr. CLOUTIER: I must have misunderstood the question quite seriously if I gave that impression. I thought that the question which was asked of me was whether there is now in the public service a standard code of discipline applying to the whole of the public service. I said: "No, there is not one," but there are

standards of discipline in each department dealing with this sort of thing. The revision to the Financial Administration Act which the Committee will be studying under Bill C-182 would provide the Treasury Board with the authority of establishing standards of discipline covering all departments.

Mr. LEWIS: If Mr. Cloutier feels that this is absolutely essential, I will go along with it.

Mr. WALKER: I move clause 27 be amended by substituting the following:

"27. An employee who is absent from duty for a period of one week or more, *otherwise than for reasons over which, in the opinion of the deputy head, the employee has no control* or otherwise than as authorized or provided for by or under the authority of any Act of Parliament, may by an appropriate instrument in writing to the Commission be declared by the deputy head to have abandoned the position he occupied, and thereupon the employee ceases to be an employee."

Senator MACKENZIE: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment carry?

Amendment agreed to.

Clause, as amended, agreed to.

Some hon. MEMBERS: On division.

The JOINT CHAIRMAN (*Mr. Richard*): We will now go on to clause 28.

On clause 28—*Probationary period.*

Mr. CLOUTIER: On clause 28, there are again two comments which were made. The first one, Mr. Chairman, was made by the staff association who argued that the new bill, or Bill No. C-181, like the present Civil Service Act, should require the deputy head to communicate to the commission the reasons for which he proposed to reject an employee on probation. As I indicated at the last sitting, the commission supports this view. In addition, the point was made by members of the Committee that in the case of an individual on probation, following a promotion, thereby in the case of a so-called, long time public servant, there should be an obligation on the part of the commission not only to try to place him but actually to put him on an appropriate eligible list. Indeed, the proposed amendment would seek to accomplish these two objectives. If I may read it, Mr. Chairman:

"That Bill C-181 be amended by striking out subsection (4) of section 28 and substituting the following:

(4) Where a deputy head gives notice that he intends to reject an employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

(5) Notwithstanding anything in this Act, a person who ceases to be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service, and,

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

(*Translation*)

Mr. ÉMARD: The Deputy Head is apparently required to give notice to the Commission when he decides to dismiss a person, but does the Commission have to give notice to the employee if the employee wants to know the reason for his dismissal, or does it satisfy the Act if the Commission itself is aware of it?

Mr. CLOUTIER: The interests of all concerned would be better served if the Commission is left free to decide, at its discretion of the best way to communicate with the employee.

Mr. ÉMARD: If an employee absolutely wants to know the reason, it does not mean he will be told?

Mr. CLOUTIER: The Deputy Minister communicates with the Commission on an official basis. When it is necessary to inform the employee of the reasons for his dismissal, it is often necessary to provide further explanations, or amplification, or to proceed with a little more restraint than would be the case in an official communication.

Senator DENIS: The Commission is not absolutely required to approve the deputy head's decision, even if he gives reasons for it?

Mr. CLOUTIER: The reasons given by the Deputy Minister are considered by the Commission. It might be that the reasons which the Deputy Minister gives appear valid in so far as the actual work being performed by the employee is concerned, but might not be so in other circumstances. This would enable the Commission to appoint the individual in question to another position.

(*English*)

Mr. LEWIS: But you do intend—and I am not for the moment saying I disagree—by the previous section, but at all events by your new subclause (4), do you not, to give the deputy head the sole authority not subject to review even by the commission—

Mr. CLOUTIER: That is right.

Mr. LEWIS: —to reject a person during his probationary period.

Mr. CLOUTIER: That is right, and this is consistent with the usual practice both inside and outside the civil service.

Senator DENIS: Do you think that the reasons given are not sufficient for the rejection of an employee?

Mr. CLOUTIER: Where the commission might be of that opinion then the commission will place that individual elsewhere.

Senator DENIS: But he will have to move, anyway.

Mr. CLOUTIER: Exactly.

Mr. LEWIS: You cannot override the deputy head?

Mr. CLOUTIER: Not in this case.

Mr. LEWIS: Not during the probationary period.

Mr. CLOUTIER: Yes, that is right.

(*Translation*)

Senator DESCHATELETS: There may be minor reasons, such as incompatibility, let us say

Mr. CLOUTIER: Possibly.

Senator DESCHATELETS: It could be for more fundamental reasons, but it is important in these cases to give some discretion to the Commission so that it can act in the best interests of all concerned.

(*English*)

Mr. KNOWLES: It is now clear from this re-wording—and I am thinking back to the discussion we had the other day—that in the case of a new employee from outside who is recommended and given his first probation, if he fails in the view of the deputy head, he is out and there is no binding obligation on the commission to do anything about it?

Mr. CLOUTIER: That is right.

Mr. KNOWLES: But in the case of an employee who was promoted from within the service, whether it was a one year employee or a fifteen year employee, if he fails to measure up to the responsibilities of the new job in the opinion of the deputy head, he is out but the commission is obligated to—

Mr. CLOUTIER: To put him on an appropriate eligible list.

Mr. KNOWLES: That is better.

Mr. CLOUTIER: In all fairness, I think I should draw to your attention, Mr. Knowles, that if the reasons for the rejection are such that they would render this individual unfit for service anywhere, then there are no appropriate eligible lists for that kind of individual.

Mr. KNOWLES: But if the commission has recommended that a grade five employee should move up to a grade six position, and then finds out he was not good for anything, something would be fishy. It is not likely to happen, is it?

Mr. CLOUTIER: This points to the humanity in all of us.

Mr. WALKER: I move the amendment.

Mr. CROSSMAN: I second the motion.

Amendment agreed to.

Clause 28, as amended, agreed to.

On Clause 45—*Annual report on operations under Act.*

Mr. CLOUTIER: The amendment under Clause 45, Mr. Chairman, again was suggested by one of the staff associations when they argued that it might make sense for the commission to report to parliament any delegation made to a deputy head but, more important, any revision or amendment or rescinding of that delegation which had to be made by the commission. The amendment would provide for this. If I may read the proposed amendment, Mr. Chairman:

> "That Bill C-181 be amended by striking out clause 45 and substituting the following:
>
> 45. The Commission shall, within five months after the thirty-first day of December in each year, transmit to the Minister designated by the Governor in Council for the purposes of this section, a report and statement of the transactions and affairs of the Commission during that year, *the nature of any action taken by it under subsection (1) or (4) of section 6,*. . .

Mr. LEWIS: I think it is (5) now.

Mr. CLOUTIER: We could make that change right away then.

Mr. LEWIS: It should read: ...the nature of any action taken by it under subsection (1) or (4) of section 5.

Mr. CLOUTIER: No, it is still (4), Mr. Lewis. It is still subclause (4). We caught that. The new Clause 6(4) would read:

"The Commission may from time to time as it sees fit revise or rescind and reinstate the authority granted by the subsection.

Mr. LEWIS: (4) has not changed. You have (1), (4) or (5).

Mr. CLOUTIER: Surely you would not want the report from the commission to append the signing authority for each department. What the associations had in mind was this.

Mr. LEWIS: No, it was part of (5) that I was thinking of. What you are now saying, I appreciate fully. I was thinking of the part of subsection (5) which authorizes the deputy head to delgate someone under him in the same way and for the same purposes as the commission delegated authority to him. It seems to me that if you do not think it is too big a task that, too, should be in the report.

Mr. CLOUTIER: It would be a voluminous operation which, I would like to suggest, would accomplish very little.

Mr. LEWIS: Right.

Mr. CLOUTIER: If I may continue then:

...*the nature of any action taken by it under subsection (1) or (4) of section 6,* and the positions and persons, if any, excluded under section 39 in whole or in part from the operation of this Act and the reasons therefor, and that Minister shall cause the report and statement to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting."

Mr. ÉMARD: I move the amendment.

Mr. BERGER: I second the motion.

Amendment agreed to.

Clause, as amended, agreed to.

Mr. CLOUTIER: Mr. Chairman, that completes that group of amendments which the committee indicated were the last two things they would consider, with the exception of a few amendments dealing with appeal.

The JOINT CHAIRMAN (*Mr. Richard*): That is, clauses 5, 6, 21 and 31.

Mr. CLOUTIER: That is right. I believe it is 5, 6(3), 21 and 31.

The JOINT CHAIRMAN (*Mr. Richard*): That is correct.

Mr. CLOUTIER: In this case also I have ready for the members of the committee a printed text of the proposed amendments. If I may preface the consideration of these amendments, Mr. Chairman, I would like to say that my colleagues and I have examined and considered at length and in depth the arguments made by various members of the committee in relation to the appeal provisions of Bill No. C-181. Also, we have had long discussions, in the light of these representations.

Mr. Chairman, I would like to be very very clear in that we remain unchanged in our conviction that if it is worthwhile to have the merit principle in the public service, then there can be only one custodian of that principle. Indeed, we could not agree with any arrangement whereby appeal under this act, or more particularly, appeals for reasons such as those provided for in clause 21 and 31, would be capable of submission to a board independent from the commission, to a board appointed by the governor in council as has been mentioned in some quarters. Indeed if it were otherwise decided, if it were decided that this is the arrangement that was to prevail, I think, Mr. Chairman, that my colleagues and I would have to re-examine our own position as commissioners in the civil service. I would submit that under such arrangements we would think it extremely difficult for any government to find candidates who would be willing to assume responsibility for the administration of the merit principle in the public service. We simply do not see how the system could make sense. However, as I said, we have examined very very carefully the representations or the suggestions made last Thursday at both sittings of the committee. My suggestion is that the principle—or some of the principles advanced—could be accommodated by giving to the appeal board under the Civil Service Commission the same kind of executory decision making authority as the adjudication boards would have under the bargaining system. In other words, the appeal boards would have the power of making a final and binding decision which would be binding on the parties, binding on the commission as well as on the deputy heads. The unity of administration of the merit principle would be conserved by the commission having the authority to establish these appeal boards.

Mr. Chairman, we would be in agreement with amendments to clauses 5, 21 and 31 such as the members now have before them that would give a statutory basis to the situation that I have just outlined. If I may read the three amendments for the record, the first one is:

> that Bill C-181 be amended by re-lettering paragraphs (d) and (e) of clause 5—

—which, incidentally, Mr. Chairman is the clause that provides for the general powers and duties of the commission and which puts an obligation on the commission—

> —as paragraphs (e) and (f) respectively, and by inserting the following as paragraph (d):
>
> "(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6 and to render decisions on appeals made to such boards under sections 21 and 31."

The reference, of course, to clause 6 will not go unnoticed by Mr. Lewis.

The next amendment reads as follows:

> that Bill C-181 be amended by striking out all that portion of clause 21 following paragraph (b) thereof and substituting the following:
>
> "may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of

being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment, accordingly as the decision of the board requires."

The other amendment, Mr. Chairman, would read:

that Bill C-181 be amended by renumbering subclauses (4) and (5) of clause 31 as subclauses (5) and (6) respectively, and by substituting for subclause (3) of clause 31 the following subclause;

"*Right to appeal.* (3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the employee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(a) notify the deputy head concerned that his recommendation will not be acted upon, or

(b) appoint the employee to a position at a lower maximum rate of pay, or release the employee, accordingly as the decision of the board requires."

Mr. KNOWLES: Mr. Chairman, on looking up the amendment that you have just read, you would substitute this new subclause for the old (3); then you renumber the present (4) and (5) as (5) and (6); you seem to me to leave a vacuum.

Mr. CLOUTIER: Oh, I am very sorry, Mr. Knowles. Earlier this morning there were two subclauses where there is now only one subclause. So, actually the introduction of this amendment should read:

that Bill C-181 be amended by substituting for subclause (3) of clause 31 the following. . .

Mr. KNOWLES: Now you arouse my curiosity as to what (4) was that you did not bring with you.

Mr. CLOUTIER: Well, actually at an early stage of the drafting process, paragraphs (a) and (b) were in a subclause which we had called (4).

(*Translation*)

Mr. ÉMARD: I do not understand exactly, Mr. Chairman, what changes there are in the amendments being submitted now and the ones that are here. Could you explain briefly what they are?

Mr. CLOUTIER: Briefly, Mr. Émard, here they are. First of all, in clauses 21 and 31 as printed in Bill C-181, there was no mention made of representatives of the employees. These amendment that we are now speaking of provide that employees can be represented in an appeal. Secondly, if I understood the discussion

which occcurred last Thursday correctly, some members of the Committee suggested that it might perhaps be desirable to make a distinction between the Commission as a statutory body, if you wish, which on the one hand, makes appointments and on the other hand, must receive appeals. If you will notice clauses 21 and 31 as they appear in Bill C-181, these provide that appeals must be presented to the Commission and indicate also that a report on the inquiry must be made, and forwarded to the Commission which in turn, renders the decision. If I interpreted the comments of several members of the Committee last Thursday correctly, we deemed advisable or desirable to provide an arrangement by which appeals would be made directly to the Appeal Board and that the decisions of the Appeal Board would then be final and binding.

Mr. ÉMARD: The last line on pages 2 and 3,

Mr. CLOUTIER: This is what makes it binding. If the Appeal Board says, for instance, that the appeal must be granted.

Mr. ÉMARD: Oh, now, I understand.

(*English*)

Mr. WALKER: Mr. Chairman, I want to thank those of the commission who consulted among themselves before bringing forward what I consider to be an excellent amendment. This had given me some concern at the previous meetings. I felt it was very necessary to establish the Appeal Board as a board at arm's length to the commission so that the employees would not feel that in fact their appeals, even though handled by a board, were finally being decided by the commission, and I think this amendment effects this.

Mr. LEWIS: The basic change that you have made really, is that you make the board a statutory body.

Mr. CLOUTIER: And their decision is binding.

Mr. LEWIS: And their decision is binding.

Mr. CLOUTIER: In other words, they have exactly the same statutory existence and statutory authority as the adjudicator would have under the grievance process.

Mr. LEWIS: May I point out, Mr. Cloutier that it seems to me that Subclause (4) of clause 31 ought also to be amended. And then I have another question to ask you. If no appeal is taken to the commission.

Mr. CLOUTIER: Yes.

Mr. LEWIS: Are we not trying to get away from the notion that the appeal is taken to the commission.

Mr. CLOUTIER: Oh, I am sorry.

Mr. LEWIS: "—if no appeal is taken under subclause (3) or something like that, or if no appeal is taken.

Mr. CLOUTIER: If no appeal is made—

Mr. LEWIS: Take out the words "to the commission"; that is what I would like to see. I would like to see the subclause read, "If no appeal is taken under sub-section (3)" or you can say, "If no appeal is made against the recommendation of the deputy head". I will move that, if I may Mr. Chairman as part of the amendment before you. Do you want me to write it out? It is very short.

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. LEWIS: Can I just give it to the clerk on the same page as clause 31 is dealt with, and after what is there you add, subclause (4) be amended by deleting the words "taken to the commission" and substituting therefor the word "made". And I so move.

Mr. WALKER: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): It has been moved by Mr. Lewis, seconded by Mr. Walker, that subclause (4) of clause 31 be amended by deleting the words "taken to the commission" in line 21 and inserting the word "made" after the word "is".

Motion agreed to.

Mr. LEWIS: On a subsection that is not dealt with in the amendment the word "skill" gives me concern. That is in subclause (b) of clause 21. I do not know whether you want to take these each separately. I will wait if you wish, but if not I will raise it now.

The JOINT CHAIRMAN (*Mr. Richard*): That is clause 5, is it?

Mr. LEWIS: No, clause 21 of the amendments. I can wait until you get to clause 21, if you wish.

The JOINT CHAIRMAN (*Mr. Richard*): We will take clause 5 first.

On clause 5—*Powers and duties.*

Mr. WALKER: I move that clause 5 be amended as per the attached draft in the hands of the committee.

Senator MACKENZIE: I second the motion.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 21—*Appeals.*

Mr. LEWIS: I would like to know why you need the words in (b) of clause 21 "... in the opinion of the Commission ..." It reads: "... every person whose opportunity for advancement, in the opinion of the Commission, has been prejudicially affected..." may make an appeal.

Mr. CLOUTIER: This is essential for delineation purposes. If I am holding a competition for, say, Level 10, the Commission, by another section—and I do not know whether I can put my finger on it.

Mr. LEWIS: I remember what it said, and that is why I am asking the question. It says, "that the Commission may determine the field of competition and determine the area within which..." Therefore I would read these words to mean that within that area—because it cannot be any other area—designated by the Commission for the competition, or if it is without competition. This is no competition at all.

Mr. CLOUTIER: That is right. If there is no competition that wording is there to ensure that if a competition had been held then the area from which appellants may come would be the area to which the competition would have applied had there been a competition. Coming back to the example that I gave—I forget whether it was last Thursday morning or Thursday evening—the case of the department that had reorganized, we were able through a process that observed

all the competitive elements of a competition but which cut down the time from possibly eight or nine months to about six weeks, to fill about 25 or 30 positions. In this case the examination of all possible candidates was determined in exactly the same way as we would have determined the field of competition. If the position to be filled was at Level 10 then we say that we would entertain applications from everybody at levels 7, 8 and 9; but we would not consider that an appointment made without competition at Level 10 would prejudice the opportunity for advancement of a person who is still at the level 2 or 3.

Mr. LEWIS: I believe I understand that, and I think that perhaps I might even have appreciated it when I asked you the question, Mr. Cloutier. What I am unhappy about is that anything like this should be at the sole discretion of any one body. If I feel aggrieved, why should I not be able to make the appeal—and it may well be that one of the subjects under discussion in the appeal is whether or not I was prejudicially affected. Why should you, before I get to the appeal, decide that I cannot even appeal because you have decided that I am not prejudicially affected. Why do you need that? You could come to the appeal board, which you set up in the next part of section 1. The commission can come to the appeal board, or the deputy head or whoever, and say that we think that this appeal is badly founded because when we invited applications for this job we invited them from such and such classes of employees for these reasons, and if you are right, the board will say, you should not be here.

Mr. CLOUTIER: Actually the employee may still write to the appeals division of the commission and say that he or she wants to appeal; in that case, Mr. Lewis, he would be informed by letter that his appeal is not admissible because he does not come under here. So he would be given the explanation that you are saying he should be given.

Mr. LEWIS: But, suppose he disagrees with your explanation?

Mr. CLOUTIER: If the field of competition is delineated then, it is, black or white whether he is within or without the appeal. Our point is that it is an administrative delay and expense to have the formal appeal machinery consider a case of that sort.

Mr. LEWIS: Mr. Cloutier, I really do appeal to you to give it some thought. You may be entirely right. I think the opposite is also right, that in very rare instances will you find a person in 2 appealing because he was not appointed to a position in 10 or 9. But there may be the occasion—and that is what an appeal tribunal is for—when you make an error, or I think you make an error. You do not have to make it; I just think you made it—I am the employee. Why should you be able to tell me that I cannot even go to the appeal board which you now establish yourselves. I really do not see how this subsection would be any worse if it simply said "without competition, every person whose opportunity for advancement has been prejudically affected." Now it is simply a matter of fact whether this job was open to him, whether you invited applications from his class or group whatever it may be, but why should you predetermine his right to appeal.

Mr. CLOUTIER: Because we are in a position to predetermine whether he is a logical applicant for that job.

Mr. LEWIS: We are going around in circles, I am afraid, Mr. Cloutier. I do not think the Commission will be hurt in the slightest, and I do not think your administrative machinery is likely to be overlooked if you permit the man the freedom to say, "I am prejudically affected," instead of taking to yourselves the authority to tell him beforehand that he is not.

Senator MACKENZIE: Who would decide this? Would it be the appeal board?

Mr. LEWIS: Yes.

Senator MACKENZIE: If the applicant were unhappy about the fact that he was not appointed, he would have the right to appeal.

Mr. LEWIS: As I see my suggestion, Mr. Chairman, it is really very simple, if I am an employee and I feel that I have been prejudicially affected by some other appointment, I write and make the appeal. Mr. Cloutier or someone in the office of the commission, can still, administratively, write me and tell me that in fact I was not open to take that position because of the area that was opened up for that particular position without competition. If I am satisfied, that will end it; if I am not satisfied, why cannot I go to the appeal board and put my case before it?

Mr. CLOUTIER: Because you would be putting a fabulous administrative problem on the hands of the commission. Let me explain. How would one determine and let be known the field of competition?

Mr. LEWIS: This is without competition.

Mr. CLOUTIER: Yes. When we make appointments without competition by the virtue of that wording, we post the proposed appointments and we say these employees within these areas who were considered may now appeal. If there is no determinable area from which potential candidates came, how do we give notice to the people who might want to appeal? Furthermore, once the appointment is made or is about to be made, then you are open to the possibility of scores of appeals which, according to the provisions of this bill, would have to be the subject of formal inquiry—and before we even go to this, we know that the outcome is obvious. Mind you, I do not think the commission can be accused at any time of having restricted the area from which employees may appeal because this is the essence of the merit system. On the other hand, I think it is incumbent on the commission, as the administrator of this system, to administer it with some semblance of efficiency and with some assurance that it is not really overextending the benefits of the merit system.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 21, as amended, moved by Mr. Walker, seconded by Senator Fergusson—

Mr. LEWIS: Well, on Clause 21, Mr. Chairman, I want to move the amendment that I have been arguing with Mr. Cloutier about, and put it to the committee. I just do not like leaving that kind of decision in the hands of anybody.

The JOINT CHAIRMAN (*Mr. Richard*): Make a motion, Mr. Lewis.

Mr. LEWIS: I want to move that the words, "in the opinion of the commission" and the commas before and after those words in subclause (b), lines 21 and 22, be deleted.

Senator MACKENZIE: Again, Mr. Chairman, I would like to ask Mr. Lewis as to who would decide the person had been prejudicially affected.

Mr. LEWIS: The appeal board.

Mr. MCCLEAVE: And who had the opportunity for advancement.

Senator MACKENZIE: In other words, any individual who has the opportunity for advancement and did not get it, would have the right to appeal. Is that it?

Mr. LEWIS: That is it, except that I do not think, despite Mr. Cloutier's fears, that anyone in the service who was not within the area from which the commission invited applications is likely to take this appeal. But there is such a person, or if there is a person in the area—you see, this language is not limited to any area from which applicants are invited, it simply says any person—and it may, conceivably, so far as the language is concerned, be a person within the area whose opportunity for advancement has been prejudicially affected—can appeal only if, in the opinion of the commission, his opportunity for advancement has been prejudicially affected. I cannot for the life of me see why the commission should have the authority to predetermine this point. It may well be the point of grievance. I see no reason I should not be able to go to an appeal and say, my opportunity for advancement has been prejudicially affected, if the answer is, that it is not because this job was not open to me in the first place, then that is the answer. Then the appeal board will hear it.

Mr. WALKER: Mr. Chairman, I will support the fear of establishment problems expressed by Mr. Cloutier rather than the fears expressed by Mr. Lewis in his amendment.

The JOINT CHAIRMAN (*Mr. Richard*): The motion made by Mr. Lewis, seconded by Mr. Knowles moves that clause 21, subclause (b), lines 21 and 22, the words "in the opinion of the Commission" and the commas before and after that part of the sentence be deleted. All those in favour of the amendment?

All those against? I declare the motion lost.

Shall clause 21 as amended, moved by Mr. Walker, seconded by Senator MacKenzie carry?

Clause 21, as amended, agreed to.

On clause 31—*Recommendation to Commission.*

Mr. WALKER: I move that clause 31, as amended, carry.

Senator MACKENZIE: I second the motion.

Mr. LEWIS: Amendment 4, as well?

An hon. MEMBER: We already have carried that.

Clause 31, as amended, agreed to.

Mr. WALKER: Mr. Chairman, may I point out, unless I am wrong, we have yet to deal with clause 6, subclause (3).

The JOINT CHAIRMAN (*Mr. Richard*): That amendment was circulated earlier.

On clause 6(3)—*Delegation to Deputy Head.*

Mr. CLOUTIER: This is the same principle as embodied in the new clauses 21 and 31. The sole difference is that the initiative in these instances does not rest with the employees but with the commission to ask its appeal officers to investigate the situation and report to them. But here again, the wording of the clause is that the Commission shall act on the recommendation and according to the recommendation of the appeal board.

Mr. WALKER: I move the amendment.

Senator MACKENZE: I second the motion.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): That leaves clause 34(1)(c). I think it was Mr. Knowles who made some comments on this.

Mr. KNOWLES: It is a cross-reference to clause 32.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 35(1) was stood the other night.

Mr. KNOWLES: It was a cross-reference to clause 39.

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes. Clauses 39 and 35(1) can carry now.

Clause 39 agreed to.

Clause 35(1) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now there is only one clause left.

Mr. KNOWLES: There are 32, 34(c) and the title.

The JOINT CHAIRMAN (*Mr. Richard*): It is ten o'clock. We will have another meeting.

Mr. KNOWLES: When we get to clause 1, Mr. Chairman, I am going to propose, in order to simplify it, that it be cited as the Public Service Act. We have been used to the Civil Service Act as long as we have lived, and I think this Public Service Employment Act already confuses people like Jim Walker and others around the place.

The JOINT CHAIRMAN (*Mr. Richard*): We will adjourn until Thursday morning at ten o'clock, when we will try to finish this bill. I do not necessarily wish the committee to delay the matters pertaining to clause 32—

Mr. KNOWLES: Because it is in the other act as well.

The JOINT CHAIRMAN (*Mr. Richard*): —until we have disposed of all the bills.

Mr. WALKER: Mr. Chairman, I have just had word that Dr. Davidson will not be available Thursday morning, but that he will be Thursday night. I wonder if we could not have a useful discussion on Thursday morning about clause 32.

Mr. ÉMARD: You mentioned Thursday night. We do not sit this Friday.

The JOINT CHAIRMAN (*Mr. Richard*): We may close early.

Mr. WALKER: I regret to say that if Dr. Davidson is required for the next bill, he will not be available Thursday morning.

Mr. BELL (*Carleton*): I think it would be more useful if we could have some informal discussions on draft clause 32. I hope perhaps Mr. Walker could come up with some suggestions.

Mr. WALKER: If I suggest Thursday morning, will the committee meet?

Mr. BELL (*Carleton*): Of course the committee will meet, but I think that we would get farther if we had some preliminary informal discussions in relation to that clause.

Mr. WALKER: All right then; we will do it Thursday morning.

Mr. LEWIS: This is as good a time to deal with it as when it appears in another bill.

The JOINT CHAIRMAN (*Mr. Richard*): Well, I had that in mind, and we could discuss it. I have another suggestion. If the committee would rather meet informally on Thursday morning, it might be a much more useful discussion.

Mr. LEWIS: I am a junior member.

The JOINT CHAIRMAN (*Mr. Richard*): Well, I do not agree with that; you are only trying to give that appearance.

Mr. LEWIS: I am trying to give the opposite appearance.

The JOINT CHAIRMAN (*Mr. Richard*): You understand me very well. Since this would be a discussion and no evidence would be presented by witnesses, I think this is a matter that could be discussed informally amongst the members without any reporting. If you want it in camera—I do not like the word—we can do it that way.

Mr. LEWIS: It is more than that; there will not be any record.

The JOINT CHAIRMAN (*Mr. Richard*): That is it, without record. Since Mr. Cloutier will not be with us on Thursday, since this will be a closed meeting, he would like to make a statement.

Mr. CLOUTIER: Mr. Chairman, it relates to a task that the committee charged the commission with sometime ago, and in response to which the commission had presented to the committee a memorandum. As I recall the request that was made of the Commission, it was to examine practices in other jurisdiction and present to the committee ideas as to arrangements that might work in the public service of Canada. I would like the record to be very clear, Mr. Chairman, that the memorandum that was circulated to the committee from the Commission was prepared in response to this request and in no way represents a recommendation from the Commission. I would like to make this point clear because in some news media we were reported as having made recommendations on—again, to be very proper, I will just use the title that appears in the act—political partisanship. We have not made recommendations to the committee. We have tried to give the sort of information to the committee that it requested, and in no manner does the Commission consider itself qualified, competent or otherwise to express opinions on political activities or the lack thereof on the part of public servants.

Mr. KNOWLES: You have been misquoted in the press; that makes you a member of the club.

The JOINT CHAIRMAN (*Mr. Richard*): We will meet on Thursday morning, right here.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 18

THURSDAY, NOVEMBER 17, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board;* Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25152—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-Guysborough*),
Mrs. Quart—(12).

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
[2]Mr. Madill,
Mr. McCleave,
[3]Mr. Orange,
Mr. Rochon,
[1]Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—(24).

(Quorum 10)

[1] Replaced Mr. Keays on November 10, 1966.
[2] Replaced Mr. Ricard on November 10, 1966.
[3] Replaced Mr. Munro on November 15, 1966.

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(House of Commons)

THURSDAY, November 10, 1966.

Ordered,—That the names of Messrs. Sherman and Madill be substituted for those of Messrs. Keays and Ricard on the Special Joint Committee on the Public Service.

TUESDAY, November 15, 1966.

Ordered,—That the name of Mr. Orange be substituted for that of Mr. Munro on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

25152—1½

MINUTES OF PROCEEDINGS

THURSDAY, November 17, 1966.
(32)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 11.07 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Deschatelets, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Hymmen, Knowles, Lachance, McCleave, Orange, Richard, Walker (10).

Also present: Mr. Pugh.

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. MacLeod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee began its clause by clause consideration of Bill C-170.

On a suggestion by the Secretary of the Treasury Board, the Committee decided to consider en bloc the following clauses:

Interpretation—Clause 2;
Application—Clauses 3 to 5 inclusive and 113;
Basic Rights and Prohibitions—Clauses 6 to 10 inclusive, 20, 21 and 106;
Public Service Staff Relations Board—Clauses 11 to 25 inclusive;
Commencement of Collective Bargaining—Clause 26;
Certification and Revocation—Clauses 27 to 48 inclusive;
Negotiation of Collective Agreements—Clauses 49 to 58 inclusive;
Dispute Settlement—Clauses 59 to 89 and 101 to 105 inclusive;
Grievances—Clauses 90 to 99 inclusive;
Miscellaneous items—Clauses 100 to 116 inclusive.

Clause 1 was allowed to stand.

At 12.45 p.m., the discussion of Clause 2 ensuing, the meeting adjourned to 8.00 p.m. this day.

EVENING SITTING
(33)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.23 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Deschatelets (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Hymmen, Knowles, Lachance, McCleave, Richard, Tardif, Walker (9).

Also present: Hon. Mr. Pennell.

In attendance: (As for morning sitting).

The Committee allowed Clause 2 to stand. A Chart used in the discussion of Clause 2 to illustrate "*Application*" was accepted by the Committee as an appendix to this day's proceedings. (*See Appendix R*)

Clause 3, carried.

Clause 4, carried.

Clause 5, carried.

At 9.52 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 17, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we will take up Bill No. C-170, an act respecting employer and employee relations in the Public Service of Canada.

Before we proceed with the examination of the sections, I would like to ask Dr. Davidson to make any statement which he deems useful at the present time.

Dr. George F. DAVIDSON (*Secretary of the Treasury Board*): Thank you, Mr. Chairman. I hope the Committee will accept my expression of regret that I had to inconvenience them this morning. Unfortunately, by the time I received notice of the meeting I had already made inescapable commitments which I had to carry out. I hope it was not too inconvenient for members of the Committee that the meeting was set for 11 o'clock rather than 10 o'clock this morning. You may have also heard through the secretary, Mr. Chairman, that if the Committee wish, we will be glad to make ourselves available for a meeting this evening.

We have a regular meeting of the Treasury Board this afternoon therefore I think it would be difficult for us to be here at that time.

The JOINT CHAIRMAN (*Mr. Richard*): I think that will suit the Committee.

Mr. DAVIDSON: The members of the Committee may recall that when I appeared before the Committee on the most recent occasion I concluded my remarks by suggesting, for the consideration of the Committee, a method by which we might proceed with the consideration of Bill C-170. I propose to repeat that proposal and to make only one change in the suggestion I made at that time.

You will recall that I indicated that we propose, with the Committee's consent, to give the Committee an outline of the blocks of sections of the bill that we thought we could consider one after the other. It is our intention to make an introductory statement preceding the discussion of each block of sections following any question the members of the Committee might wish to pose, after which we could then proceed to deal with each of the individual sections in the block under discussion. I also suggest at that time we leave aside, for the time being, discussion of clause 2 of the act, which has to do with interpretation. At this time I suggest, contrary to my previous proposal, that it might be useful for the Committee to give consideration from the outset to the definitions at least to the extent of running through them and familiarizing ourselves with them, so that as we proceed to the later sections we will have some familiarity, at least, with the main definitions.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me, Dr. Davidson, you are suggesting that we consider them without necessarily going through the passage of a clause.

Mr. DAVIDSON: Correct, Mr. Chairman, and I also think that it may be necessary, as we begin to delve into the definitions, to suggest from time to time, if we are getting too deeply into the substance of the definition that we refer further consideration of it until we come to the sections of the act to which that definition pertains. I suggest that it would be worth the while of the Committee to spend the greater part of this morning running through the definitions set out in section 2 so we will have a general idea of how they relate one to the other.

Assuming that that would be agreeable to the Committee, we would then proceed to deal with the following groups of sections block by block. I will put these on the record, Mr. Chairman, so that members of the Committee may pick them up from the record of today's proceedings.

The first group of clauses following clause 2 that we propose to deal with is the group coming under the heading "Application", this includes clauses 3 to 5 inclusive of the bill as well as clause 113.

The second block of clauses we will deal with is under the heading "Basic Rights and Prohibitions", included in this block will be clauses 6 to 10 inclusive and clauses 202 and 106.

The third block of clauses will have to do with the Public Service staff Relations Board; this covers clauses 11 to 25 inclusive.

The fourth block of clauses consists of clause 26 alone, dealing with the commencement of collective bargaining. This is an important and complicated and difficult one and we will have some changes to suggest to members of the Committee when we get to that particular clause.

The next block of clauses has to do with problems relating to certification and revocation; clauses 27 to 40 inclusive cover this block.

The next block has to do with the negotiation of collective agreements; clauses 49 to 58 deal with this.

I think there is something wrong, Mr. Chairman: I will ask the Committee to go back for a moment and correct my reference to clauses 27 to 40 so that it will read clauses 27 to 48 inclusive.

Block six the negotiation of collective agreements, will include clauses 49 to 58 inclusive.

The dispute settlement processes envisaged in the act are covered by clauses 59 to 89 inclusive and clauses 101 to 105 inclusive.

The problems of grievances and grievance adjudication are dealt with in block number eight, clauses 90 to 99 inclusive.

Finally, there is a miscellaneous group of clauses at the end of the bill covered by clauses 100 to 116, with the exception of a number of specific references that will already have been dealt with in previous discussions. In all, Mr. Chairman, we will have nine separate blocks.

Mr. ÉMARD: Could you repeat number eight please, from clause 90 to what?

Mr. DAVIDSON: From 90 to 99, sir. Mr. Chairman, this would mean, if the Committee agrees, that we would have a discussion first of all on the interpretation section and the definitions contained therein. We would then proceed to break up the further discussion of the contents of the bill into nine discussions within the total discussion, and at the beginning of each of those nine presentations I would make an introductory statement explaining the basic outline of the

proposals contained in the section after which we could proceed to questions in a clause by clause discussion.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure the Committee will agree that that is a very good way to proceed. Your intention this morning is to proceed with clause 2?

Mr. DAVIDSON: If that is agreeable.

The JOINT CHAIRMAN (*Mr. Richard*): I will call clause 2.

Mr. BELL (*Carleton*): Before we reach clause 2, Mr. Chairman, I think we should deal with one or two matters on the general policy of the act which is not really covered in this. For example, there have been very strong representations made that the procedure ought to be by way of amendment to the I.R.D.I. act, and I think we should settle that before we get into any particular discussion. I believe there might be a great deal to commend itself by way of amendment to the Industrial Relations and Disputes IInvestigation Act, rather than through this very cumbersome bill. If the I.R.D.I. act were amended so it properly protected the merit system, I think it might easily be a superior technique. I do not know whether any other members of the Committee share that view, but I think it is something that we should at least clear out of the way.

Mr. KNOWLES: You you know very well that there are other members of the Committee that share that view. In addition to that, I think there is another alternative that should be considered, and that is whether we adopt Bill No. C-170 for some portions of the Civil Service, mainly those who want it, but adopt a modified form of it, or the I.R.D.I. act, for those who prefer to be in that. I agree with Mr. Bell, in fact I think we agreed to this in the steering committee that at some point we should have this kind of a general discussion. Whether we have it now on clause 2 or whether we have it when we get back to clause 1, I think—

Mr. BELL (*Carleton*): Surely there is no use going ahead with all the detail clauses if there is a chance we might discard the bill completely.

Mr. CHATTERTON: Mr. Chairman, I am sorry to disagree with my colleague. I agree with him in so far as the possibilities of the I.R.D.I. act are concerned, but I think by going through this bill first it would give me, in any case, a better understanding of what the bill actually provides. I have gone through the bill and there are many parts of the proposal that are not too clear to me, and I am wondering if it would not be better to first clear our own minds on exactly what this bill provides before we go into the other act. I certainly agree with him as to the possibility of the other act. It is just a question of procedure on which I tend to differ with him.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Émard.

(*Translation*)

Mr. ÉMARD: I think that in spite of all the things that I have against it, Bill C-170 is still the best for employees of the Public Service. I am sure we will be able to give arguments during the coming sittings in Committee. We must, however, consider that employees of the Public Service have had the opportunity

of seeing and studying what was going on elsewhere in various countries. It is rather rare in different countries, even those which are the best organized from a labour point of view, to have special considerations for public servants. I think that we surely should begin with Bill C-170, and then after that we could hear some arguments relative to the Industrial Relations and Disputes Investigations Act.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. WALKER: Mr. Émard has expressed my views eloquently.

Mr. KNOWLES: Mr. Chairman, I am prepared to go along with this view, and I think Mr. Bell probably is too, that maybe we can look and see what improvements can be made in this before we go at the other issue, provided it is clear that at some point we will have the right to discuss alternative methods to the one that the government proposes, namely Bill No. C-170. The two alternative methods, or the two other choices, are the I.R.D.I. act be amended instead of this or we have a combination of this for some of the service and the I.R.D.I. act for the other.

The JOINT CHAIRMAN (*Mr. Richard*): Your two alternatives, Mr. Knowles, are either to amend the bill or reject it completely, because we are not amending the I.R.D.I. act here. It is not our mission to do so.

Mr. KNOWLES: No, but we have the right as a committee to make a report to parliament and we could recommend, just as I think we are going to recommend something about parliament hill. All I am asking at the moment is that it be clear that at some point we will have the right to have that kind of a discussion. As far as I am concerned it can be done on clause 1.

The JOINT CHAIRMAN (*Mr. Richard*): I agree it could be done on clause 1 once we have gone through the bill.

Mr. KNOWLES: As long as you agree that we may do it if we wish. I am prepared to wait.

Mr. BELL (*Carleton*): I will go along with that procedure, although it did seem to me that perhaps when there was a possibility of removing this act completely it was better to do it before we got started and spent any time on it.

The JOINT CHAIRMAN (*Mr. Richard*): Do you envisage that possibility, Mr. Bell?

Mr. BELL (*Carleton*): I always envisage all sorts of possibilities.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed then with the examination of Bill No. C-170.

Agreed.

Mr. DAVIDSON: Mr. Chairman, I ask to be forgiven for adding a word, but it might save us a tremendous amount of time on the staff side if the Committee chose to table this decision now.

Mr. WALKER: Mr. Chairman, I think what Dr. Davidson should not feel any less enthusiastic about this bill because of the possibility that Mr. Bell has opened up in his disucussion. I certainly do not think it should stop there if we

want to discuss the merit system all over again. I think this committee has had a pretty thorough discussion on this whole basic principle, the denial of which would make this legislation useless, that the base of the necessity of this legislation, rather than amending the I.R.D.I. act, was the preservation and the further blossoming of the merit system in the civil service. We have discussed this many times in relation to a lot of clauses which have come along. We have done this before and I do not mind doing it again. If I felt there was any possibility of Mr. Bell's thought developing to a dangerous extent, then I would suggest we should go through the debate on the merit system again.

Mr. BELL (*Carleton*): The merit system has nothing to do with that.

Mr. WALKER: Certainly in my mind it is firmly established that this legislation is based on the basic principle that in the civil service it is the merit system and the preservation of the merit system which makes this kind of legislation necessary, rather than amending legislation that is used in the private industrial field.

Mr. BELL (*Carleton*): Mr. Chairman, I wonder if Dr. Davidson could explain to me why somebody went to a great deal of trouble to produce this act if the amendment to the I.R.D.I. act would have been just as satisfactory and in a much more compact and brief form?

Mr. WALKER: That is a nice opening, doctor.

Mr. DAVIDSON: I would certainly like to ask myself that question too, if there is a ready answer to it. I could say, however, that we lacked the wisdom and the insight of Mr. Bell and Mr. Knowles in the preparatory committee, because they apparently think they do see how this could be done. I confess that I cannot see how it could be done without rewriting the Industrial Relations and Disputes Investigation Act, to the extent that no matter how you rationalize it you would end up with a completely different piece of legislation and one that would not be the Industrial Relations and Disputes Investigation Act as amended. Rather, it would be a bill which would wipe the Industrial Relations and Disputes Investigation Act out of existence and replace it with something else.

I would, with respect, draw your attention to three or four very obvious points and I would hope that the members of the committee would keep in mind at least these points as well as a good many others as they consider, in the course of the discussions which will follow on a clause by clause basis, the practicability of the suggestion which is now tentatively being put forward.

In the first place, I would suggest with respect that the very name of the legislation would have to be changed. The present legislation on the statute books is the Industrial Relations and Disputes Investigation Act.

Mr. KNOWLES: It has to be changed anyway.

Mr. DAVIDSON: That may be, but I merely point out that if you are going to include, in this legislation that deals with the problems of collective bargaining in the federal service, provision to regulate the bargaining relationships between the Crown in the right of Canada and its employees, it would be—to put it mildly—incongruous in my opinion that you should place the relationships of the Crown with its employees under legislation that was labelled the Industrial Relations and Disputes Investigation Act.

Secondly, I would suggest that you would have to turn your attention to one of the central mechanisms by which the administration of the Industrial Relations and Disputes Investigation Act is carried out. The membership of the Canada Labour Relations Board—which is the body under the I.R.D.I. Act that corresponds to the proposed Public Service Staff Relations Board in the bill before the Committee—contains at the present time, I would suggest, no one on either side of the membership of the board who can be said to represent, in any direct way, the interests of the employees who are members of the public service or the employer interests, as represented by the Crown in the right of Canada.

The membership of the Canada Labour Relations Board is made up of representatives of the employees who, if I am correct in my understanding, are put forward on the nomination of the organized labour groups concerned. On the other hand, the employer interests have been picked to represent the employer interests in the industrial sector of the Canadian economy. It seems to me that it would present very real problems in terms of ensuring adequate representation of either the employer interest—that is to say, the Crown's interest as the employer—or the public service interest. It would require substantial changes, I would suggest, in the membership of the Canada Labour Relations Board if the interests of the employer-employee relationships, in the context of the public service, were not to be lost in the continuing responsibility that the Canada Labour Relations Board has for regulating and administering employer-employee relationships in the industrial sector.

Thirdly, there is the role of the Minister of Labour. I believe Mr. Heeney previously touched upon this point, that the I.R.D.I. Act would have to be re-examined. The Minister of Labour, in the discharge of his role under the Industrial Relations and Disputes Investigation Act, is not a party in any dispute that may arise.

In the case of the disputes that might arise between the Crown as employer and its employees in any collective bargaining framework, the role of the Minister of Labour would certainly be an ambiguous and difficult one. How would you regulate this problem? It seems to me that this would require some pretty careful consideration. Would the Minister of Labour be in a position where he could assert that he was detaching himself completely from his position as a member of the government of Canada, the employer, and acting as a neutral party? Is it suggested that the employee organizations would regard the Minister of Labour as a neutral party in the nomination of the various officers for conciliation and other purposes that the Minister of Labour from time to time in industrial disputes is required to nominate? That is an area that certainly has to be considered.

Reference has been made to the exclusion under this Bill of the whole staffing function in terms of initial appointments, promotions, and so on. Most of these functions which rest with the Civil Service Commission are dealt with in a collective bargaining context under the I.R.D.I. Act. It seems to me that either the role of the Civil Service Commission would have to be changed even further than it has been changed under the proposals now before the Committee or, alternatively, some very special provisions would have to be written into the Industrial Relations and Disputes Investigation Act to safeguard what the parlia-

ment of Canada wishes to safeguard so far as the preservation of the merit system in the recruiting and staffing function is concerned?

Is the Industrial Relations and Disputes Investigation Act going to have written into it a complete section dealing with compulsory arbitration? I would remind the Committee, that this is a device for the settlement of disputes which has been requested of the parliament of Canada by organizations representing the majority of the public service. I recognize that compulsory arbitration is not acceptable to a number of the unions of the public service. It is equally not acceptable to the vast majority of trade unions who now come under the Industrial Relations and Disputes Investigation Act. In the judgment of the Committee, would it be feasible or desirable to write into the Industrial Relations and Disputes Investigation Act provisions, with respect to compulsory arbitration, that the community of organized employees now coming under the legislation regard as being, from their point of view, entirely undesirable? Would this be interpreted as the entering wedge by which parliament was trying, first of all, to introduce for the public service, and later for a larger segment of organized labour, the concept of compulsory arbitration in a piece of legislation that trade unions regard as the charter of organized labour so far as matters coming under federal jurisdiction are concerned. I will leave that question with the Committee.

I now leave two final points with the Committee. First, there is the particular problem relating to the safeguarding of the national interest in so far as questions relating to public safety and security within the public service are concerned. It seems to me that these considerations are of a different order from the maintenance of service in an ordinary industrial plant. There is a higher need here to make special safeguards reflecting the responsibility of the government of Canada as such to ensure the safety and security of the public interest.

Certification, if proceeded with under the provisions of the Industrial Relations and Disputes Investigation Act, would require the Canada Labour Relations Board to confront itself, from the moment this act is passed, with a flood of applications from a wide variety of organizations for certification on the basis of rules which are not set out in the Industrial Relations and Disputes Investigation Act. There are no rules set out for the certification of bargaining units there. The matter is left to the Canada Labour Relations Board.

While I would not go so far as to say what Mr. Heeney said, that it would take years and years and years to disentangle the problem of certification of bargaining units if there were not some form of predetermination, I would say that it would take months and months and months, and for large segments of the public service, the result would be, a further delay in according to them, in reality, the collective bargaining rights which the method of initial predetermination of bargaining units is intended to ensure within a minimum period of time under the Public Service Relations Act.

Now, Mr. Chairman, I assure you, I did not come here this morning prepared to give you all of the questions with which I think the members of the Committee would have to grapple, if several weeks from now they decided they were going to reject this piece of legislation and turn their attention to the problem of substituting an alternative bill. Any such bill would—I repeat again—have to rewrite the present federal charter for organized labour and rewrite it in a

context which would, in addition to bringing up to date all the provisions relating to the organization of the relationship between employer and employee in the industrial setting, have to also include very special provisions, I think everyone would agree, to cover the variety of different circumstances that it is necessary to include in the legislation if the interests of the public servants of Canada as expressed by themselves, are to be adquately protected under the new legislation that we are intending to provide for them. I would be surprised if these questions can be answered quickly. I would then have time to produce a further series of questions which I think would still have to be dealt with before this proposition would become a feasible one.

Senator MACKENZIE: May I ask Mr. Bell through you, Mr. Chairman, whether it—I know Mr. Bell is a very able, energetic and busy person—was because the labour of going through this long, complicated bill might be shortened that he is proposing to substitute for it the Industrial Relations and Disputes Investigation Act, or whether there is a basic reason?

Mr. BELL (*Carleton*): I am simply dealing with the fact that many national organizations have come before this Committee and have made very strong representations to this effect which, for the moment, I was not adopting parricularly, I was saying we should settle which avenue we are going to follow.

Senator MACKENZIE: Were they public service organizations or—

Mr. BELL (*Carleton*): Some public service organizations and some not. But when you get the Canadian Labour Congress taking the position they do, I think this Committtee has to take it very seriously. I think the views of the Canadian Union of Postal Workers and the Letter Carriers Union have to be given consideration, and they must be set across from the views which Mr. Heeney, and now Dr. Davidson, have expressed to the Committee. I was only saying that I thought this was basic and ought to be decided before we undertook the bill. I thought that we had agreed that we would take the other course, and now we have gone back to argue it and Dr. Davidson has expressed his views with his usual eloquence and vigor. You determined earlier, Mr. Chairman, that we would reserve this matter to give ourselves the opportunity to analyze Dr. Davidson's views and give organizations who feel very strongly about it the opportunity to analyze the views that have been expressed by Dr. Davidson.

Mr. KNOWLES: I think one or two further questions should be put to Dr. Davidson and I also think, in view of what he has said, that one or two further comments should be allowed. May I pick up the terms of the questions Senator MacKenzie asked Mr. Bell and say that I think there is something basic about all of this, and with great respect to my friend, Dr. Davidson, I think that though he has given us a multiplicity of problems and questions he has not dealt with the fundamental problem. Having said that, I must say what the fundamental problem is, and let me put it this way: When the Industrial Relations and Disputes Investigation Act was drafted, it was drafted by a government which was a third party to disputes between two other parties. Therefore, it was in the position of trying to draft legislation that would put those other two parties on a basis of equality.

When the government of Canada drafts this bill, it is drafting a bill for relationships between itself and its employees, and with all the will in the world,

I do not think that the government has succeeded in developing the pattern of equality. or developing the objectivity, with respect to the relationships between itself and its employees, that it has developed with respect to relations between two other parties. And when we are asking for the Industrial Relations and Disputes Investigation Act to be applied, or for a modification of it to be applied, we are asking for that other principle.

Dr. Davidson says there are problems such as the name. I have thought for years that the name should be changed. It is too clumsy a group of words. Surely it is the Canada labour relations act, or something of that sort. Dr. Davidson says there are problems about the membership. Of caurse there are problems, and either it would have to be changed, or through all of this we set up a parallel act for civil servants, but with emphasis on the parallelism, so that there are parallels of principle with the other act. The role of Minister of Labour I certainly think would have to be looked at.

Starting functions and Compulsory arbitration: Dr. Davidson does not go quite as far, I think, as Mr. Heeney did on this, but Mr. Heeney seems to take this as the final answer. There is compulsory arbitration in this Bill No. C-170. There is not compulsory arbitration in the other bill. That is precisely the reason that some of us, and some of those who have been here, do not like this bill. It is because it does have compulsory arbitration in it. We think that the safeguarding of the national interest is something that applies, not just in a particular civil service group is having a dispute with its employer, but that it applies if the railroad workers of Canada are having a dispute. The national interest is there.

I just do not think there is yet the gulf between the two relations that Dr. Davidson suggests. I think that they are much closer together. They are employer, employee relationships, and I think that the principles that we seek to apply to other parties out there, when we say "you shall sit at the table on equal terms" should be made to apply in this relationship. This is where I think Bill No. C-170 does not measure up to the terms of the Canada labour relations act, if I may call it by a more euphonious name.

I readily recognize that, rather than just applying the other act as is, it might be better to draw a new act which is parallel to the I.R.D.I Act, though the other has been done. I mean there are jurisdictions. Saskatchewan is one that comes to mind, where the Trade Union Act covers employees of the Crown as it covers employees in the private sector; so that it can be done. But I just do not feel that Dr. Davidson has successfully dismissed the idea of using the principles and the spirit of the other act in this relationship by citing these various difficulties.

Now, through most of the discussions that we have had—I seem to be in the position of letting Mr. Bell take the extremely radical position, and I am the moderate around here—I have admitted that the majority of civil servants do seem satisfied with Bill No. C-170, even satisfied with compulsory arbitration. Dr. Davidson says that some of them are actually asking for it. But I ask members of this committee to admit that there are sections of the public service that do not like this, that want the other. This is my further question Dr. Davidson: what—

Mr. WALKER: Might I have the choice—

Mr. KNOWLES: Listen, Mr. Walker.

Mr. WALKER: Yes, Mr. Knowles.

Mr. KNOWLES: The choice that presumably they have within this legislation is, in my view, a deceptive one. You have the choice of a collective bargain as conciliation on the right to strike, rather than compulsory arbitration, only if you make your choice before you are certified.

Dr. DAVIDSON: Could I interject? There is more choice here than there is in the I.R.D.I. Act.

Mr. KNOWLES: Yes, but the—

Dr. DAVIDSON: There is no choice at all in the I.R.D.I. Act.

Mr. KNOWLES: But there is no compulsory arbitration in the I.R.D.I. Act.

Dr. DAVIDSON: There is no compulsory arbitration here except for those employees who demand it and invoke it.

Mr. KNOWLES: But let me continue, that it is a choice within the terms of this act; it is not a choice to have the provisions of this act, or to have the provisions of the other. I have pressed this before, and it is on the record. I think, at some point, that there is a practical proposition which we are going to have to face. I am prepared to go along with Dick Bell and say "Let us have a vote in this committee on whether we take the other instead of this", but in practical terms, I think that the proposition that we have to face up to whether or not the thing for us to do is to have this bill, improved as Dr. Davidson will improve it, for the civil servants who want it, but to have something like the I.R.D.I. Act for those civil servants who want that.

I mean we are all rejoicing yesterday and today over the settlement of the postal workers dispute. But I emphasize the fact that one of the terms of that settlement is that the postal workers will not strike now, or cause any more trouble now. They are looking forward to the day when they reach a collective agreement. Now, if we hand them a method of attaining a collective agreement which is not satisfactory to them we may storing up more trouble in the future. And I think it is for those people that we should take a better look than we have at the possibilities of having the other system. In other words, unless Dr. Davidson can persuade me otherwise in this clause-by-clause discussion, I have come down for two systems of collective bargaining—for the type that is in Bill No. C-170, for the majority of civil servants who want it but for the type of collective bargaining within the I.R.D.I. Act for the civil servants who want that type.

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Orange.

Mr. ORANGE: Mr. Chairman, Mr. Bell raised a point earlier on how we are to proceed, and I am afraid that somehow or other we have done what we agreed not to do. I think we should get back to the original question of how we are to proceed. Are we to look at Bill No. 170 clause by clause, or are we to talk in terms of the general philosophy of the I.R.D.I. Act versus this Bill No. C-170? At the moment we are discussing the I.R.D.I. Act with relation to how it might be applied in the event that Bill No. C-170 was not satisfactory.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I think that there is a basic difference which was not expressed in our discussion this morning. That is the fact that Bill C-170 is based on the merit system covered in Bill C-181. Whereas in the I.R.D.I. Act, what prevails is seniority. This is a basic difference, which would cause a great many problems because we do not think in the same way at all: in industry and unions, seniority prevails. In industrial unions, in a great many classifications and a great many groups it is strictly seniority; but you do not find this in government. I think that there are so many changes which would have to be made to the Industrial Relations and Disputes Investigation Act that when we were finished, we would then have another Bill which resembles approximately what we have here in Bill C-170.

The JOINT CHAIRMAN (*Senator Bourget*): I do not want to prolong this discussion. The decision of the committee was that we should go on with the clause-by-clause consideration of the bill, and in the process and sense of educating myself I was going to put a question to Mr. Knowles or to Mr. Bell—I will put it to both of them: Mr. Knowles mentioned the fact that the postal workers have accepted what might be called an interim agreement, or arrangement, to postpone striking, on the assumption and understanding that in due course they will get collective bargaining with the right to strike. If you would like a philosophical question, Mr. Knowles, is there any sense, any substance, any reality in trying to think about and discuss and consider here, or in some other forum, the possibilities of reaching the objectives and goals of labour without strikes? I think we are entering a period in our society when more and more people are reaching the conclusion that strikes are out-of-date; that they are wasteful; that they are harmful to the working force as well as to management, but in particular to the general public, who are in a defenceless position, not being a party to the dispute at all.

I know why strikes came into existence, and I know something of the purposes that they have served. They were, I think, necessary and inevitable, and right and proper, but I would like to hope that we are progressing to a stage of our labour relations in which some other substitutes can be found to ensure that employees are given justice, and a share in the productivity of this country and the community, without the wasteful process of striking, particularly at the expense of and inconvenience to the public generally.

Mr. Knowles and Mr. Bell may feel that this takes us far outside the area of discussion, so we can talk about it tonight, or some other time. It is a matter which has been giving me increasing concern over the past few years.

Mr. KNOWLES: Can I try my hand at answering you in half a sentence? I agree that we should try to find a better way, but I do not agree to what we now have being taken away before the better way has been found.

The JOINT CHAIRMAN (*Mr. Richard*): May I say that this Committee was requested to study a bill which was adopted in principle in the House, Bill No. C-170, and I think it is our responsibility to study it.

I think it is clear there is confusion here on the purpose of introducing this discussion on the Industrial Relations and Disputes Investigation Act. I think the real purpose is to show that in the consideration of the clauses of this bill

later, some members might wish to move amendments, such as to make exceptions to some classes of employees who might want to be under the Industrial Relations and Disputes Investigation Act.

However, at the present time surely our responsibility is to study this act and if, after adopting the clauses as amended or otherwise of this bill, the members of the Committee decide that the amended bill is not satisfactory, that will be the time, when we come to the final consideration of the bill, to say; "No I will not accept this bill even as amended". We are not here to prepare any other legislation, and I think everybody will agree that we should proceed with clause 2 on that understanding. Dr. Davidson?

Mr. DAVIDSON: Mr. Chairman, I shall just run through the definitions as they appear in clause 2, say a word about them if there is a need to do so, and give an opportunity for any questions to be raised?

The first one is "adjudicator", the definition of which is set out in the words before the members of the Committee. I would draw attention to the fact that the function of the adjudicator as set out in clauses 92 to 97 is, in effect, to adjudicate on disagreements that arise, between the parties concerned, on the interpretation of a collective agreement that has already been entered into. That is the principal task of the adjudicator. The adjudicator also has the responsibility of adjusting the disputes between the parties concerned in matters relating to discharge, suspension, financial penalties, and so on. We can come to the substance of this when we come to clauses 92 to 97 which contain the duties and responsibilities of an adjudicator. I will merely add that three kinds of adjudicators are provided for: (1) the chief adjudicator, set up under the act itself, can be resorted to;

(2) a board of adjudication, with representatives of each of the parties concerned in a disagreement, may be established; and

(3) a collective agreement may have written into it provision for the naming of an adjudicator. Whatever the three forms may be, in all cases the function of that adjudicator or adjudication board is the same.

The distinction to be kept in mind here is the difference between arbitration and adjudication. Arbitration is the arbitration of a dispute of interest having to do with the negotiation of a contract, or the renegotiation of a contract, where a dispute has arisen in the process of negotiation or renegotiation. Adjudication has to do with the adjudication of disputes arising over questions of interpretation—matters of right as distinct from matters of interest.

Going on, Mr. Chairman, "arbitral award" is self-explanatory. It is the written award that is made by the arbitration tribunal in respect of a dispute, and we will come to this further in clauses 67 to 76. I do not think there need be any further explanation of that at the present time.

"Arbitration tribunal" means the Public Service Arbitration Tribunal established under clause 60, and I will merely say that the general model followed here is the model of the arbitration tribunal set up under the Whitley Council arbitration agreement of 1923 in the United Kingdom.

The definition of "bargaining agent" is precisely the same as the definition given to "certified bargaining agent" in the Industrial Relations and Disputes Investigation Act.

"Bargaining unit" is defined here as meaning a group of two or more employees that is determined, in accordance with this act, to constitute a unit of employees appropriate for collective bargaining, and the determination, as members know, is the responsibility of the Public Service Staff Relations Board. There is a definition comparable to this in the Ontario legislation, although I understand that the Industrial Relations and Disputes Investigation Act has no definition of "bargaining unit".

The "Board", where referred to, means in all cases the Public Service Staff Relations Board, and I suggest, Mr. Chairman, that the composition of this Board is a matter we can discuss when we come to clauses 11 to 25 where the identity, composition and functions of the Board are set out.

"Chairman" means the chairman of the Public Service Staff Relations Board. You will note that it is capitalized and "chairman", when it is capitalized and stands alone in the bill, always refers to the chairman of the Public Service Staff Relations Board. There is additional reference in the bill elsewhere to the "chairman" (with a small "c") of the arbitration tribunal, but in all cases, the entire expression is used here—the chairman of the arbitration tribunal—and there is, I think, no reason for confusion if it is recognized that there is this distinction between the capitalized "chairman" of the Public Service Staff Relations Board and the other chairman.

Mr. WALKER: I have one question. Is there any other board? Your oral definition is different from the printed one. It just mentions that "chairman" means the chairman of the board.

Mr. DAVIDSON: There is the arbitration tribunal, and there is a board of adjudication which is referred to under "adjudicator" above. It is always written with a small "b" and the full phrase is used. Therefore, when capitalized "c" for "chairman" and capitalized "b" for "board" are used, there can be no doubt about the reference being to the Chairman of the Public Service Staff Relations Board.

"Collective Agreement"—the definition there is in all respects comparable to the definition set out in the I.R.D.I. Act. There is one reference which I think has been the subject of some discussion earlier. The I.R.D.I. Act refers to terms or conditions of employment including provisions with reference to rates of pay and hours of work. It is the view of the law officers who drafted this that the reference here to "provisions respecting terms and conditions of employment and related matters" covers fully all of the matters that are referred to and that there is no legal necessity for a specific reference to be made on provisions relating to rates of pay and hours of work.

"Conciliation Board" is similar to the definition in the I.R.D.I. Act. The distinction I think between the roles of the conciliator and the conciliation board is already known to members of the committee and unless they wish to have clarification of that I would assume that there is no particular need for further explanation.

"Conciliator", definition (j), means a person appointed by the chairman of the Public Service Staff Relations Board to assist the parties to collective bargaining to reach an agreement. It is possible to arrange for a conciliator to be named both in the case where negotiations leading to compulsory arbitration

are involved and also in the case where negotiations leading to the appointment of a conciliation board and the eventual possibility of the right to use the strike weapon are involved.

The conciliator is common to both of those choices. The conciliation board, however, applies only to the situation in which arbitration is not the final recourse but the possibility of a work stoppage is the final recourse.

"Designated employee" refers to employees who are members of bargaining units, who, because of the requirement to have safety and security provisions contained in the bill, are designated and therefore are not permitted, even if they belong to a bargaining unit which has opted for the conciliation board and right to strike, to walk off the job. The methods by which these designated employees are designated are set out in clause 79 of the act, which we will come to later. There has to be a process of negotiation between the employer and the bargaining agent, and the employer must indicate the employees whom he proposes to designate as men who cannot take part in a strike even though they are members of the bargaining unit that is going on strike; and the employees have the right to accept or reject the proposed designations of employer, and the ultimate resolution of any disagreement arising on this point lies in the hands of the chairman of the P.S.S.R.B.

The definition of "dispute" is based upon the definition contained in the Industrial Relations Disputes Investigation Act, but covers, because of the necessity of doing so here, references to disputes which are ultimately resolved by arbitration as well as disputes which take the course of the conciliation board and the non-arbitration route. There is a reference in the Industrial Relations Disputes Investigation Act to "apprehended" disputes, which is not contained in here, and we can explain to the members of the committee the reasons for that omission when we come to the relevant sections, if it is desired that we should do so.

Then we come to the important definition of "employee". I say that this is a particularly important definition because I would point out to members of the committee that the term "employee", as used in this legislation, applies only to persons who are contained within a bargaining unit. A person who is excluded for any of the reasons set out in the smaller items below in this definition of "employee"—a person who is excluded from the definition of employee—is excluded from the provisions of this law which relate to the granting of collective bargaining rights to employees. If I am excluded on the grounds that I am personally employed in a managerial capacity, or that my employment is of a purely casual or temporary nature, then by excluding me under that heading you are denying me the right of joining with my fellow casuals in organizing for the purpose of collective bargaining with my employer.

Mr. BELL (*Carleton*): How casual can you get? When the dean of the deputy ministers calls himself casual—

Mr. KNOWLES: Have you had an opinion from the Department of Justice on that?

Mr. DAVIDSON: I have had opinions expressed by others but not by the Department of Justice.

An hon. MEMBER: Including the Auditor General?

Mr. DAVIDSON: The first group who are excluded from the definition of "employee" are those persons appointed by the governor in council under an act of parliament. That would include officers of parliament, statutory appointees, deputy heads of departments, and so forth.

Mr. WALKER: Ministerial staff?

Mr. DAVIDSON: Yes; because ministerial exempt staff are appointed by the governor in council.

Mr. WALKER: Are they statutory—

Mr. DAVIDSON: They are not statutory positions, no.

Mr. WALKER: That is what I was wondering about; because you seem to specify that it has to be a statutory appointment.

Mr. BELL (*Carleton*): Under the new Public Service Employment Act the appointments will be by the minister and not by the governor in council.

Mr. DAVIDSON: I was thinking of that point, too. Most of the ministerial exempt staff are appointed at the present time by the governor in council. Two are appointed by the minister.

Mr. KNOWLES: Under the new Public Service Employment Act they are all appointed by the minister.

Mr. DAVIDSON: The question arises whether or not these employees are members of the public service in the sense of the definition that we have here. "Public service" is defined here as: "The several positions in or under any department or any portion of the public service specified from time to time in schedule A".

I would like time if I may, Mr. Chairman, to examine that point and come back to the members with an answer at the appropriate time.

Are there any other questions on that point, Mr. Chairman, before I proceed?

I think the reasons why persons locally engaged outside of Canada are excluded are obvious. These persons fall within the jurisdiction of other sovereign states and we cannot, by anything we do here, presume to establish employer-employee relations with respect to employees who may come under the jurisdiction of other legislation in other national jurisdictions.

Mr. LACHANCE: Do they not remain the employees of the Canadian government?

Mr. DAVIDSON: They remain employees of the Canadian government, but there are no means in law by which the Canadian government, or they, could apply or enforce the provisions of this Canadian law in the courts to which they are subject.

Mr. LACHANCE: How will their relations with their employer be conducted?

Mr. KNOWLES: This does not apply to a person engaged in Canada and sent abroad. It applies, say, to a chauffeur employed by an embassy in Washington or Moscow.

Mr. DAVIDSON: Locally engaged employees are for example those who are permanently resident in London, England, and who are employed by the high

commissioner there; they do not come under the provisions of the Civil Service Act at the present time.

Mr. LACHANCE: Could they not be Canadians living in London, England?

Mr. DAVIDSON: They could be, yes, sir; but they are locally engaged.

I recognize that there is a problem here and this is why I took the trouble to point out the reasons why. In this provision set out here, the view is taken that it is not possible, within the framework of this legislation, to provide the same kind of regime for persons lying outside the jurisdiction of the Canadian government even though they are employed by the government of Canada.

Mr. CHATTERTON: What is the position of the personnel in the Company of Young Canadians?

Mr. DAVIDSON: They are not part of the public service of Canada. It is specified in the law that the Company of Young Canadians, as in the case of the Canada Council, for example, is not an agency of the government of Canada; and that is why you will find, Mr. Chatterton, that there is no reference, in the schedule attached to this act, to the Company of Young Canadians or to the Canada Council. These are not part of the public service. If they have employees they are not contained within the confines of this legislation.

Mr. BELL (*Carleton*): There was a substantial point raised by the Civil Service Association in respect of subparagraph 5, in which they suggested that casual or temporary persons who may be brought back year after year, although they may serve for less than six months, should have the opportunity of joining a bargaining agency. It seemed to me that this had some substance. I am thinking, for instance, of the Central Experimental Farm where there may be quite a number of people brought in during the summer season only, but they come back year after year to the same position. I wonder if it is proper that such persons should be totally excluded?

Mr. DAVIDSON: There are many problems, Mr. Bell, and I think we recognize them. I dislike having to resort to the hackneyed expression that "You have to draw the line somewhere". The real problem is how far you can go in recognizing the attachment of employees who are short term, casual or temporary employees as permanent employees who are potentially permanent members of a bargaining unit, whose votes may determine who is recognized and who is not recognized as the bargaining agent for the bargaining unit; whose votes may or may not determine whether or not the option is going to be for the arbitration or conciliation board approach; whose votes may determine whether or not a proposal which is put forward on the negotiating table and agreed to is or is not going to be acceptable to the majority of the membership of the bargaining unit.

It seems to us, if I may say so, that there are real dangers both from the point of view of the bargaining unit and its continuity and the status of the bargaining agent and the extent to which he can accept and discharge a mandate for his constituency. There are very real problems here from the point of view of both the staff associations, or the bargaining units, and the employer.

All I can say is that while we recognize that there is a problem here, we think we have gone about as far as it is practicable to go; we think we are aware of the fact that there are these theoretical problems which will arise; for

example, what about the employer who deliberately employs people for 5½ months and then lays them off, or discontinues their employment, and then a month later employs them again for another 5½ months.

Theoretically there is this technical possibility open, but it is, in the final analysis, the Public Service Staff Relations Board which is going to determine whether an individual is or is not an employee for purposes of membership in this bargaining unit, and the interpretations of the Public Service Staff Relations Board in this situation, if I understand correctly, can be made a reference to the courts. Consequently, we feel that there is protection against flagrant attempts to abuse this provision in the bill, and that the best we can do is to prescribe a term shorter than which persons employed in a casual or temporary capacity are not to be recognized as employees and potential members of a bargaining unit, and beyond which they can be so recognized. It could be five months; it could be four months; it could be ten months. Six months, it seems to us, was the practical period. I should add that I am told that it is linked with the six months' probation in the Superannuation Act, as well. I do not know that that is a very weighty argument, but it is a consideration.

Mr. CHOQUETTE: I was wondering if the six-month period was established considering the position of students working in the summer time. I imagine this would exclude them almost 100 per cent.

Mr. DAVIDSON: It would exclude them, I think, almost 100 per cent. If I may read the note here: Temporary or casual employees are employed for a limited period to cope with the seasonal or some other fluctuation in the workload that cannot be economically handled by permanent employees. Examples are temporary employees in the Taxation Data Centre; temporary employees of the Unemployment Insurance Commission at peak periods during the high periods of claims, persons employed during the summer, such as summer students, persons employed in the survey parties which go north during the summer time, and so on. I think the term is obvious, but it is a matter of judgment where this line is drawn.

Mr. ORANGE: You are talking about a casual or temporary basis, but there is a category here and I am not sure where it fits. This is called the seasonal positions. These are the people who are hired for the national parks for approximately six months, and they appear on the establishment as half-year positions. These people will work any number of months; they can go beyond the six-month period. These are permanent positions. The people are permanent in these positions. They return year after year and they are employed for this period of six months, or even longer.

Mr. DAVIDSON: May I refer you, Mr. Orange, to subheading (4) here? If a person, in the course of a year, works one-third of the time during the year, he would come under this.

This may help, Mr. Bell, in the situation we were talking about earlier. If you have a person who is employed regularly year in and year out for a period equal to one-third of the work period of the year, I would think that they would come under (4).

Mr. BELL (*Carleton*): Would that not be the person who had the right to return each year? I think that the type of employee of whom we spoke, the one

at the Central Experimental Farm, has no right. He is actually re-employed at the beginning of each growing season.

Mr. DAVIDSON: I think that is true. At the same time I think that there are other seasonal employees whose employment is of an assured, continuing, or recurring nature from season to season, and these are distinct from those who just happen to be re-employed.

The reasons for (3) as well as (4) and (5), which we have been discussing, are, I think, obvious. Where a person's compensation is based upon duties of office or related directly to revenue there is not an employer-employee relationship. This is rather a contractual or agent relationship and such persons would be excluded. I am told that this covers election clerks, returning officers, shipping masters at small ports, nautical assessors, port wardens, annuity agents, postage stamp sales agents and the like.

Mr. KNOWLES: What about postmasters in the small towns—the ones appointed by patronage? Postmasters in post offices, whose income is related to the revenue of their office, are out?

Mr. DAVIDSON: I would not say that, Mr. Knowles.

Mr. KNOWLES: What would you say?

Mr. DAVIDSON: We have a problem here which we are working on at the present time. Quite frankly, it was our initial understanding, that this reference, "related to the revenue of the office in which he is employed" would have the effect of excluding what is called "revenue postmasters" whose remuneration is paid by the Postmaster General and is related to the revenue that the post office receives. We have gone into this intensively within recent weeks and it appears to us now that, in fact, the remuneration of these revenue postmasters, so-called, is related to a workload formula rather than directly to a revenue formula and that revenue postmasters probably will not be excluded by this provision. I have to say that this has not been fully straightened out in our own minds as yet, and I would like to ask the Committee to allow me to come back to this as soon as we are firm in our view. Our belief now is that revenue postmasters, particularly those who come under the provisions of the Superannuation Act and, therefore, are deemed to be employees in respect to that situation, are not excluded from the definition of employees as here set out. They are not excluded, certainly, by the provisions of clause 2 (m) (iii).

Mr. LACHANCE: How about their employees?

Mr. DAVIDSON: This applies in the same way to their employees as to them. But this is one that I would ask the Committee to keep in mind and insist that I come back to at a later stage in the proceedings.

Mr. BELL (*Carleton*): I am not clear whether, as a matter of principle, Dr. Davidson wishes to have them included or excluded.

Mr. DAVIDSON: As a matter of principle, Mr. Chairman, we who have participated in the drafting of this legislation, have proceeded on the assumption that the maximum possible number of persons whose employment is related to their responsibilities to the Crown in the Right of Canada should be covered by the provisions of this legislation. That is the basis on which we proceed, but there are these marginal problems. There is a problem of determining when an

employer-employee relationship exists and when it does not. If it were found that these so-called revenue postmasters, had their remuneration related entirely and directly to the revenue—were working, in effect, on a commission basis, which we understand now they are not—and if there were no other provisions of any other law which recognized them as employees for any other purpose, I think we would then be bound to say that they are like the others I mentioned and would have to be excluded because they really cannot be regarded as employees. But the two things we think we have established are: (1) that they are recognized as employees if they are above a certain level for purposes of the Superannuation Act and are covered under that law as employees, and (2) that the basis on which they are paid is now related, we understand, to considerations of workload formula rather than to strict considerations of revenue. This leads us to the tentative conclusion which we are trying to firm up, that they will not be excluded under the provisions of (m) (iii) as it is worded at the present time.

Mr. BELL (*Carleton*): When we come back to this, would you tell us the classes who will be excluded?

Mr. DAVIDSON: The classes of what?

Mr. BELL (*Carleton*): The persons who will be excluded by the existence of this paragraph.

Mr. DAVIDSON: I have mentioned them already, Mr. Bell. Election clerks and returning officers.

Mr. KNOWLES: They are not permanent now?

Mr. DAVIDSON: Shipping masters at small ports; nautical assessors. I do not know if there are any shipping masters in Carleton. Are there, Mr. Bell?

Mr. BELL (*Carleton*): At the foot of Island Park Drive.

Mr. DAVIDSON: Port wardens; annuity agents; postage stamp sales agents. These are some of them. There are probably some others.

Mr. KNOWLES: This is a serious inquiry and conducted not in jest. Are returning officers not on a permanent basis as distinct from election clerks who get called in only once a year or so?

Mr. DAVIDSON: Could we look at that? We do not follow, with reason, that legislation as closely as you do.

Mr. KNOWLES: I know. They are permanent until they get fired.

Mr. LACHANCE: Do you consider the substation postmasters in Montreal or in Ottawa on the same basis as revenue postmasters in rural areas or small towns?

Mr. DAVIDSON: I would not, myself, be able to answer that question, Mr. Chairman. Perhaps Mr. Love or Mr. Roddick could give a reply or perhaps we could get it for you.

Mr. LACHANCE: I would like to know if they are considered on the same basis as the revenue postmasters because I know there are five or six of them in Lafontaine riding. I would like to know if these substation postmasters are considered revenue postmasters on the same basis.

Mr. LOVE: I think Mr. Chairman, that there are two situations. Many postal substations, particularly in larger communities, are staffed by civil servants who

are in the full sense, employees. The revenue post offices, however, are not confined to small communities and I think there are some revenue post offices in larger centres.

Mr. LACHANCE: There are some in the Montreal ridings.

Mr. LOVE: The distinction is whether they are paid from postal revenues or not. Where they are paid from postal revenues, the problems to which Dr. Davidson has been referring, apply. The nature of the employment relationship is certainly different because, at the moment, among other things, their rates of pay are established by the Postmaster General rather than by the Treasury Board, and the money required to meet those rates is paid out of postal revenue. This is the problem which we are now trying to get sorted out.

Mr. LACHANCE: I do not think they have ever been considered as employees of the government.

Mr. DAVIDSON: There is a further group and I will illustrate it, if Mr. Bell will allow me, by reference to Carver's Drug Store, where there is a postal substation. Not all of the substations are in exactly that position because I believe that some of the postal substations do operate strictly on a commission basis, whereas in a drug store the proprietor of the drug store and his employees provide limited postal facilities.

Mr. BELL (*Carleton*): Some of them are very good, including Carver's drug store.

The JOINT CHAIRMAN (*Mr. Richard*): Order. I understand Dr. Davidson will clarify this.

Mr. DAVIDSON: I think the reasons for the exclusion of a person employed by or under the Board are obvious. The definition of "managerial capacity" is dealt with later on in this list of definitions. I should add that there are one or two other points that we will have to come back to with reference to (m), the most important one of which is a form of words that we would propose to add to the end of (m) which would protect the position of the employee during periods that there is a work stoppage, so that it makes it clear that they do not cease to be employees for purposes of this legislation during a period when they are involved in a work stoppage. A suitable form of words is being developed and we will put this forward as soon as we are in a position to do so.

Mr. KNOWLES: That is with regard to the court ruling following the Royal York case.

Mr. DAVIDSON: Well, I think it is a matter of equity quite apart from the Royal York case. There is also a problem of certain employees of the R.C.M.P. who are referred to at the present time in Schedule A and whom now, in our view, we should bring forward and exclude from the definition of employee as set out in clause 2 of the bill. If you look at Schedule A, Part 1, you will see a reference made to "Royal Canadian Mounted Police, (except the positions therein of members of the force)". That, with some change in wording, it is now proposed to bring forward to this point in clause 2 and add to this list as being excluded from the definition of employee.

"Employee organization" is the next definition. It means any organization of employees the purposes of which include the regulation of relations between

the employer and its employees—that is to say, within the relationships as set out within the provisions of this act, and includes, unless the context otherwise requires, a council of employee organizations. This again, Mr. Chairman, is similar to the definition of trade union as set out in the I.R.D.I. Act and the Ontario legislation. The I.R.D.I. Act, I think I am right in saying, contains no reference to a council of employee organizations but the Ontario legislation has been recently amended, I understand, to provide for that.

"Employer", which is the next definition given, means Her Majesty in the right of Canada. The representation here is provided for in two ways: one, by the Treasury Board acting for most of the portions of the Public Service, but there are, as members know, certain portions excluded in Schedule A, Part II of the legislation and set up as separate employers. In the case of these employee groups who are governed by the separate employer provision, the Treasury Board will not enter into the picture as the representative of the employer in bargaining relationships. When we come to the Schedule itself I think that would perhaps be the appropriate time to explain why in certain instances bodies like the National Film Board or the Centennial Commission have been set aside and given the status of separate employers rather than having their employers bargain, along with the rest of the Public Service, in relationship to the Treasury Board as employer.

There is an important definition of what constitutes "Grievance" here. It means a complaint in writing presented in accordance with this act by an employee except that for the purposes of any of the provisions of this act respecting grievances, a reference to an employee includes a person who would be an employee but for the fact that he is a person employed in a managerial capacity. That gives me the right to grieve even though it does not give me the right to bargain. The reason for the inclusion of this item, I assure members, is not to protect the position of persons like myself; it is rather to protect the position of persons who because of managerial responsibilities that they will carry at lower levels, should be entitled to have a channel by which their own grievances can be aired even though the fact of their being employed in a managerial capacity may deprive them of the right to be included in a bargaining unit along with the employees over whom they have managerial responsibilities.

Mr. KNOWLES: That right to grieve would be through the regular grievance procedure.

Mr. DAVIDSON: Yes, established within the department of which they are a member.

Mr. KNOWLES: To whom would you grieve?

Mr. DAVIDSON: I wish you could find someone and let me know who it is.

The other exception is for purposes of any of the provisions of this act respecting grievances over matters involving disciplinary action resulting in discharge or suspension. A reference to an employee for purposes of the grievance definition includes a former employee or a person who would be a former employee but for the fact that the time of his discharge or suspension he was a person employed in a managerial capacity. I think the members can appreciate the obvious reasons for that being included.

Mr. BELL (*Carleton*): There were a number of representations I observed from the fine memorandum which was prepared by the Clerk. I see three organizations, the C.L.C., the C.S.F. and one other organization. Have they been analyzed, Dr. Davidson?

Mr. DAVIDSON: They have been, sir, but I would ask Mr. Roddick to comment on this point. You are referring to the representations made by the staff associations—

Mr. BELL (*Carleton*): To this Committee.

Mr. DAVIDSON:—with respect to the definition of grievance.

Mr. BELL (*Carleton*): I see the Canadian Labour Congress, I have not been able to turn up their brief at the moment. Could Mr. Roddick perhaps make a comment?

Mr. RODDICK: Mr. Chairman, there have been a number of different representations made in respect to grievances. The ones that occur to me now are proposals that all grievances should be permitted to go to adjudication; proposals that the concept of grievance should include groups of employees as well as individual employees, and there was one other one but I have lost it for the moment.

Mr. BELL (*Carleton*): That was the point that I think the letter carriers made, that this definition should take in a grievance by a group of employees or by the bargaining unit itself. It is on page 7 of the brief of the letter carriers' union.

Mr. RODDICK: I think, Mr. Bell, the third representation that I have recalled was the desire of some of the employee organizations that the right of the grievance should be vested in the union rather than in the employee, but the one that you are referring to is the one of the letter carriers' union which relates to—

Mr. BELL (*Carleton*): It is at page 7 of the letter carriers' union brief, and deals with this definition:

> "The bill does not take into consideration that grievances might also be submitted by a group of employees or by the bargaining unit itself. This oversight becomes noticeable again in section 90 and we would request the Committee to make recommendations to correct this."

Mr. RODDICK: Mr. Bell, I think that when the bill was drafted it was at least my interpretation—perhaps I had better not put it further than that—that that provision would have permitted a group grievance. I think we may be willing to look at this to see whether in fact that assumption is correct or not, because I do not think there was any intent on the part of the people drafting the bill to deny the possibility. It seems quite a reasonable possibility.

Mr. BELL (*Carleton*): Perhaps you would go back to that and take a look also. I have not at the moment been able to find the particular point in the Canadian Labour Congress brief where this was dealt with.

Mr. DAVIDSON: Mr. Chairman, is there not a provision in the Interpretation Act—and this is not a reason for not making it more clear here—that says words

in the singular include the plural; or is it necessary to make specific provision for this in each individual bill?

The JOINT-CHAIRMAN (*Mr. Richard*): Perhaps Dr. Davidson we will have an opportunity to look this up.

Mr. DAVIDSON: We will be glad to look at this. Is that satisfactory?

Mr. BELL (*Carleton*): I am quite satisfied, as a general matter I am proposing to try to follow all the briefs and see that the points which have been raised are dealt with by the Committee, and perhaps your assistants, Dr. Davidson, would have in front of them the material that the Clerk has prepared for us so that if questions arise on any pages of the briefs we will be able to get immediate answers.

Mr. DAVIDSON: Thank you for that suggestion. We will follow that.

I am confirmed in my reference, Mr. Chairman, to the provisions of the Interpretation Act. The Interpretation Act, section 31 (1) says: "In every Act unless the contrary intention appears, (j) words in the singular include the plural, and words in the plural include the singular." It may well have been that we proceeded on that assumption and that the legal draftsmen proceeded on that assumption, but that does not say that it should not be spelled out in this particular provision, and we will be glad to report on that as soon as we have had a further look at it.

Mr. KNOWLES: Before we get to the part of the bill that deals with grievances.

Mr. DAVIDSON: Yes, clause 90.

Mr. KNOWLES: Clauses 90 and 99.

Mr. DAVIDSON: Could members make a note. We will make a note and we will come back to it if you do not. It would be useful if we kept in mind the need to—

Mr. KNOWLES: Just for the record.

Mr. BELL (*Carleton*): Just for the record. This is raised by the Canadian Labour Congress at page 21 of their brief, paragraph 54.

Mr. KNOWLES: There seems to be nothing in this definition we are now looking at which settles the point whether it is a person or a union. That comes when we get to clauses 90 to 99. Really all we are doing here is making sure that a grievance includes a grievance presented by a person who is in a managerial capacity.

Mr. DAVIDSON: Well, it goes a bit further than that. It says "a grievance means a complaint in writing presented in accordance with this Act by an employee" and the question really hinges on whether two employees or a group of employees or a spokesman for a group of employees can comply with the wording as here set out.

Mr. KNOWLES: Whether an employee does it directly or through a union.

Mr. DAVIDSON: Could I suggest to members of the Committee that with reference to the definitions of "initial certification", and "occupational category," in view of the complexity of the problems relating to the initial certification

and the occupational categories and the fact that we will have to deal with this entire problem under clause 26 when we come to look at it, that it be left until then. I have already mentioned that there are some changes that we are proposing to clause 26 and, therefore, I think these two definitions might be left on that account.

Mr. KNOWLES: But you do not propose any changes here.

Mr. DAVIDSON: There may be some changes to be made here, Mr. Knowles, but they will only be meaningful if we first of all, explain what we have in mind in clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Order, gentleman. We will adjourn until this evening at eight o'clock.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. We will resume on clause 2, subclause (r). Dr. Davidson.

Mr. DAVIDSON: Mr. Chairman, I had suggested, and I think the Committee agreed, that subclauses (q) and (r) should be set aside to be looked at when we come to clause 26. Further, as subclause (s), the "occupational group", relates also to the consideration of the definition of "occupational category", perhaps we should do the same with this one.

This brings us then to the definition in subclause (t), "parties", which I think is fairly clear and requires no explanation. It is comparable to the definition in the I.R.D.I. Act, section 2 (1) (n).

Then we come to an important definition, the definition of a "person employed in a managerial capacity".

Mr. WALKER: Excuse me, I would like to go back to subclause (t) (ii), which reads:

> (t)(ii) in relation to a grievance, the employer and the employee who presented the grievance;

I presume that "employee" can be enlarged to the "employee's representative".

Mr. DAVIDSON: This ties up, Mr. Chairman, with the discussion we had this afternoon with reference to "employee" when we were considering the definition of "grievance". I might indicate that what we plan to present for consideration of the Committee on this is a change in the definition of "grievance" that will make it possible for an employee to present a grievance himself or on behalf of a group of employees. It is not our thinking at the present time that there would be a third provision that the bargaining agent himself could present the grievance. The fact, of course, that a grievance is presented in writing by an employee, or by an employee on behalf of a group of employees, would be supplemented by the provision in the law that makes it possible for the employee to be represented by a representative of his own choice. Now, if we make it clear that the employee who presents the grievance may be presenting a grievance in his own name as an individual or on behalf of a group of employees, it becomes unnecessary to change the wording here because this merely refers to the employee who presented the grievance.

We come then to the definition under subclause (u)—

Mr. KNOWLES: We will come back to this subject when we get to the other sections.

Mr. DAVIDSON: Oh, yes. This comes up, Mr. Knowles, when we come to the substantive clauses dealing with grievances.

Mr. BELL (*Carleton*): I was very much at fault this morning when I mentioned other references in not having mentioned the references of the Civil Service Federation in relation to this.

Mr. DAVIDSON: I think this point that we have just brought forward very largely covers the concerns of the organizations which have made representations on this point.

Mr. BELL (*Carleton*): Exactly. I am only extending my apologies to the federation, which is now the alliance.

Mr. DAVIDSON: Could we then turn, Mr. Chairman, to the definition of a "person employed in a managerial capacity"? Here I draw the attention of the members of the Committee to the distinction in kind between those persons who are referred to under subclauses (i) and (ii) and those persons who are referred to under subclauses (iii), (iv), (v), (vi) and (vii). The persons referred to under subclauses (i) and (ii), as persons employed in a managerial capacity, are determined on the basis of fact. The persons who are referred to under subclauses (iii), (iv), (v), (vi) and (vii), as persons who are or may be designated as persons employed in a managerial capacity, are persons in respect of whom the decision is the decision of the board, and it will be the judgment or the opinion of the board that will determine whether or not they are in fact deemed to be persons employed in a managerial capacity. I do not think there is a problem so far as subclause (i) is concerned. The reasons for the inclusion of these persons, as persons employed in a managerial capacity, are self-evident. The reference to the chief executive officer of any other portion of the public service should be taken in conjunction with the list of the other portions of the public service which are set out in Schedule A to this bill. I mention that to indicate that it is not possible for anyone to arbitrarily subdivide the public service into small segments which would be called portions. The portions are those referred in the schedule to this legislation.

Subclause (ii) of the definition is included for the reason that the legal officers of the Department of Justice are called upon from time to time to provide the government, the employer, with advice and counsel in a greal variety of matters that could be related to this legislation, and consequently by that fact it is considered that they should be regarded as persons employed in a managerial capacity, with all that implies for their position under this legislation. On those two cases it is a matter of determining what the facts are, and while the proposal to designate a person under one of these two headings as a person employed in a managerial capacity could presumably be challenged by the bargaining agent on the ground that they are not in fact persons who come under subclauses (i) or (ii); the question of fact would be the sole point at issue. When we come to the remaining portions you will notice that in all cases the persons who are going to be designated under subclauses (iii), (iv), (v), (vi) and (vii) as persons employed in a managerial capacity are dependent upon, first of all, the proposal

being put forward by the employer. Second, they are subject to challenges by the bargaining agents and, in the event of challenge, the decision is the decision based upon the judgment of the Board as to whether the employer's case for designating the employee in question as a person employed in a managerial capacity is valid or not.

The persons under this series of headings who may be claimed by the employer as persons employed in a managerial capacity includes a person, first of all:

(u) (iii) who has executive duties and responsibilities in relation to the development and administration of government programs,

I think the reasons for that are obvious. If the employer goes too far in proposing to designate employers as persons employed in a managerial capacity under this heading, each individual case is subject to examination and challenge by the bargaining agent concerned. The reasons for the inclusion of personnel officers or persons whose duties include the duties of personnel officers in the category of persons employed in a managerial capacity are, I think, fairly obvious, as are the reasons for including in this category persons whose duties involve them directly in the collective bargaining process on behalf of the employer.

The next category of employees regarded as persons employed in a managerial capacity are those persons who have formal—and I would draw that word to the attention of the committee—formal responsibilities on behalf of the employer in the administration of the grievance procedures. Again, persons whose duties bring them into a confidential relationship with any of the persons employed in a managerial capacity—to which we have already referred—would be regarded, because of their relationship to their immediate employer, as being persons who are employed in a managerial capacity.

Mr. KNOWLES: Mr. Davidson, have you not gone a little further than the clause in the way you stated that? The clause says "employed in a position confidential to" any person. Now you say in "a confidential relationship".

Mr. DAVIDSON: I stand corrected. You are quite right, Mr. Knowles. I did not intend any difference in meaning. The fact is the reference here is to "a position confidential to" and it would have to be established that by the nature of the position it was a position that stood in a confidential relationship to the employer, who has already been designated.

Mr. KNOWLES: Not just a person who happened to come to you and tell you something of a confidential nature?

Mr. DAVIDSON: That is correct.

Senator DESCHATELETS: Dr. Davidson, this is quite a broad term though, confidential position, to any person.

Mr. DAVIDSON: Well, could I say first of all that before a claim could be lodged by an employer that an individual should be regarded under subparagraph (vi) as a person employed in a managerial capacity, it would be necessary first of all to establish that that person's employer was already determined to be a person employed in a managerial capacity under (i), (ii), (iii), (iv) or (v). Having established that fact, it would then be necessary to establish to the satisfaction of the bargaining agent concerned or, failing that, to the satisfaction

of the Public Service Staff Relations Board, that the person being claimed under subclause (vi) was in fact a person employed in a position confidential to the person already designated. The purpose of this provision, Mr. Chairman, is essentially to ensure, for example, that in the case of a secretary employed by the assistant secretary of the Treasury Board, or a secretary employed by the chief of personnel of a division in a department of government, the position of that secretary, being in a confidential relationship to the position of the personnel administrator, assuming that the personnel administrator were deemed to be a person employed in a managerial capacity—then it would follow, if established to the satisfaction of the board, that the secretary to that personnel administrator could likewise be claimed as a person employed in a managerial capacity.

Mr. KNOWLES: That would be in the nature of the position?

Mr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): What concerns me, Dr. Davidson, in relation to this is the fluidity of the situation. This would change from day to day. People would move in and move out of these excluded positions in the managerial capacity. How can you have any finality in this?

Mr. DAVIDSON: Well, I think that is the reason for attaching importance to the correction to which Mr. Knowles drew my attention. It is not the person, it is the position which has to be claimed by the employer in the first instance.

Mr. BELL (*Carleton*): Yes, but is it not the person who is going to vote in the bargaining unit. A person joins and is a member of the bargaining unit. How does the bargaining unit suddenly decide that because that girl has moved that day to another position that her right to vote is suddenly cut off?

Mr. DAVIDSON: Well, let me give you as an example the case of my own secretary. In this instance first of all it would be necessary to establish that I am a person employed in a managerial capacity under subclause (i) of this definition. If it is accepted that I am a person employed in a managerial capacity, then the employer may claim that the position on the establishment of the department of the Treasury Board—

Mr. KNOWLES: I am sorry to interrupt you, Mr. Davidson, but (i) is not included in (vi).

Mr. DAVIDSON: That is a good point.

Mr. KNOWLES: It is the second time you have done it. The first time I thought it was a slip.

Mr. DAVIDSON: That is a good point. I would like to check that.

Mr. KNOWLES: Subclause (i) is the clause that says that a person is in a managerial position if he "is employed in a position confidential to" a minister.

Mr. DAVIDSON: Correct. It has been pointed out to me by my advisers that I would be excluded under several of these headings. Let us agree that I am excluded under subclause (iii), if not under subclause (i). However, I would in fact be excluded under subclause (i), I take it, as a person employed in a position confidential to a minister of the Crown. In any event, I presumably would be judged to be a person employed in a managerial capacity under subclause (iii). That having been established—

Mr. KNOWLES: I would still like to be clear about (i). It seems to me that you should not regard yourself as being under (i), assuming this drafting was done pretty carefully, because (i) might include a stenographer's position in a minister's office. I take it the reason (i) is not included in (vi) is that a person working for that stenographer is not, by the nature of the job, in a managerial position. Therefore (i) is more restrictive, and you are in a managerial capacity not because you are in a position confidential to a minister but because you have executive duties and responsibilities?

Mr. DAVIDSON: That is correct.

Mr. MCCLEAVE: May I ask Dr. Davidson another question? Should it not surely be persons employed in a confidential capacity, because under the definition of subclause (u) (i) a messenger employed by a minister would be employed in a position confidential to that minister, yet you could hardly class that sort of person as a manager. Are you not trying to strike at the confidentiality rather than the so-called managerial capacity of the position?

Mr. DAVIDSON: What we are really doing here is trying to identify what is the management core in the public service.

Mr. MCCLEAVE: Does a messenger fit within your definition, Dr. Davidson? After all, he is confidential to his minister and, indeed, he may have to bear very important verbal messages to someone else.

Mr. DAVIDSON: He would then be regarded, for purposes of this definition, as a person employed in a managerial capacity.

Mr. MCCLEAVE: We are sort of playing around with words when you are really trying to strike at confidentiality rather than manageriality.

Mr. DAVIDSON: We are trying to circumscribe the group of persons who are designated as persons who should be excluded from the bargaining relationship. We have attempted to do that by saying that persons employed in a managerial capacity shall be designated as the persons who are excluded from the collective bargaining relationship.

Mr. MCCLEAVE: Maybe I am a verbal purist, or something like that, but I do not think you want to use the word "managerial" there and maybe you do not want to use the word "confidential" either. Could that one be looked at again to see if we can come up with a better word?

Mr. KNOWLES: I wonder if Mr. McCleave is not under some misunderstanding about subclause (i). It does not say "any person" working for a minister is necessarily in a managerial capacity. The messenger may not be a confidential person.

Mr. MCCLEAVE: But suppose that he is?

Mr. KNOWLES: It is not the person, it is the position.

Mr. DAVIDSON: But if you have on the ministerial staff a position known as a confidential messenger, for example, it seems to me that it is pretty clear that—

Mr. KNOWLES: Provided the position is so defined.

Mr. DAVIDSON: If you had a position of a personal secretary to a minister, it seems to me that it would follow that this person is in a position that is confidential to the minister because this person has access to ministerial papers,

is taking dictation from the minister and preparing letters for his signature, and so forth. It seems to me it would be necessary to regard a person in that position as so close to management that that person, together with the person by whom he is employed, would have to be regarded as excluded from the collective bargaining relationship.

Mr. McCLEAVE: I misread it completely. I would like that clause to be considered again because I think it takes words and tends to twist them out of their natural meaning. That is all I ask.

Mr. DAVIDSON: I see your point, Mr. McCleave, and we certainly will look at it. I am not as optimistic as I would like to be at this point that we can resolve that problem. In any event, may I come back to my example. Assuming that Mr. Love or I are eventually established as being persons who fall under clause 2(u)(iii)—and that has to go to the Board, if necessary, to be determined—then it is open to the employer to apply for the person who is in the position confidential to me or to Mr. Love, namely our secretaries, to also be certified as persons employed in a managerial capacity. This proposal as put forward by the employer is open to challenge by the bargaining agent on behalf of the stenographic group, and in that event it would have to be resolved by the Public Service Staff Relations Board.

We come finally to clause 2(u)(vii), and I must state quite frankly that as it is not possible at this stage to forsee all of the circumstances under which it might be proper for the employer to put forward a proposal to exclude an individual as being employed in a managerial capacity, we have proposed the inclusion of this provision which is again subject to challenge by the union and subject to final determination by the Public Service Staff Relations Board. The essence of subclause (vii) is that in any circumstance where there is a conflict of interest—and we are, incidentally, proposing to delete the words "tend to" from the third line from the bottom to meet the pre-occupations of the Civil Service Association of Canada and the Professional Institute—it will be necessary before claiming a managerial exclusion under the heading to establish to the satisfaction of the Board that it would, in fact, create a conflict of interest by reason of the individual's duties and responsibilities towards his employer.

Again I say this would be subject to challenge by the bargaining unit concerned and would be resolved, in the final analysis, by the Public Service Staff Relations Board.

Mr. KNOWLES: It is a kind of 15(a) item, is it not?

Mr. DAVIDSON: What kind of an item, 15(a)?

Mr. KNOWLES: You have not heard of 15(a)? Contingencies—Department of Finance.

Mr. DAVIDSON: That is next week's bill of fare. I am supposed to be appearing before the Public Accounts Committee.

Mr. BELL (*Carleton*): I thought that was on last week's bill of fare. I heard about it from the Deputy Minister of Justice.

Mr. DAVIDSON: I remember that now.

Mr. KNOWLES: From the way you have put it, you do recognize that it is a kind of catch-all?

Mr. DAVIDSON: I agree.

Mr. KNOWLES: And you were a bit apologetic about it, I imagine.

Mr. DAVIDSON: Well, frankly, I have been asking my own advisers under what circumstances a claim for the designation of a person as a person employed in a managerial capacity in this context could arise. They have given me one example which I will cite in a moment but basically they have said: "We have felt it necessary and desirable to include this because we do not feel we can envisage all situations. It would not be our intention to use this to apply for a determination by the board that such and such a person is employed in a managerial capacity except in a situation where a clear case existed. We do not expect it to be used very often, but we are just not in a position at this stage to spell out in every last detail every person who it may be quite clear, should be designated as a person employed in a managerial capacity".

The instance that I have been given of a circumstance under which application might be made under this subclause has to do with a situation in which a person at the first level of supervision in a large department might be designated as the person responsible for receiving and dealing with the grievance in the grievance procedure at the first level. That person—the first-line supervisor—will be excluded under clause 2(u)(v) as a person who has formal responsibilities in connection with the grievance procedure and is, therefore, a person for that purpose employed in a managerial capacity.

The next stage in processing that grievance may well carry beyond that person's immediate supervisor to a higher authority at the regional level. It is in circumstances where you would have one supervisory level in between two persons, each one of whom has supervisory responsibilities and is excluded because of responsibilities under the grievance procedure, that it might be necessary to apply for the intermediate person who supervises the first-line supervisor to be regarded as a person employed in a managerial capacity. Otherwise it would be rather incongruous to have a supervised person regarded as a person employed in a managerial capacity while his own manager or supervisor is not so categorized.

This was the example that my advisers indicated they had brought to their attention by officers of one of the larger departments, with the request that we indicate to them what we thought about this kind of situation. In that situation, if the employer were so disposed, it would be necessary for the employer to propose to the Public Service Staff Relations Board that that person be certified by the board as a person employed in a managerial capacity. This would be brought to the attention of the union, and if the union had an objection to that person being so certified it would have its opportunity to challenge the proposal before the Public Service Staff Relations Board, and then the matter would have to be decided by the board.

Mr. WALKER: Mr. Chairman, I do not see this clause solely as a clause for the protection of the employer. I think the reverse can also apply. It might well be that the union—and I do not know whether Dr. Davidson sees this—would be very pleased to have somebody removed whom they feel should not be in that unit because he is creating a conflict of interest. Apparently the conversation on this clause has been centred around the fact that this might well be to the benefit of the employer. I think it could well be to the benefit of the bargaining unit who

may have someone who is putting sand in the machinery, so this is a clause that is for their protection too. Is this not so?

Mr. DAVIDSON: I could at least draw the attention of the Committee to the fact that the Canadian Union of Postal Workers within the last year decided that a considerable number of individuals who had been members of their union up to that time should henceforth be excluded from membership because they regard them as having managerial or supervisory responsibilities.

Mr. KNOWLES: Most of the trouble in labour-management relations, regarding persons in a managerial capacity, is the other way.

Mr. DAVIDSON: Yes, and I would have to draw to Mr. Walker's attention what I think is the case—I would like to check the wording of this more closely—but it is not clear to me that it is open to the bargaining unit to make application for designation of a person as being a person employed in a managerial capacity. I think it is implied however in the fact that the Board may do it on its own initiative.

Mr. KNOWLES: Mr. Chairman, I would certainly feel a lot happier—

Mr. DAVIDSON: Perhaps that wording should be looked at.

Mr. BELL: This should be mutual.

Mr. DAVIDSON: Could I mention just one further point, Mr. Knowles. I think it must be recognized, in endeavouring to develop legislation that grants collective bargaining rights to members of the public service, that we are moving into an area, in terms of professional and administrative classes of employees, where there is very little in the way of experience in the industrial setting and it is in these areas that I think we are going to have very real difficulty in setting out in all cases the situations where highly classified professional personnel may have legitimate expectations of being accorded bargaining rights under this legislation, but at the same time may have very real managerial and supervisory responsibilities. I think it is in this very grey and difficult and sensitive area that there needs to be some provision in the bill somewhere that makes it possible at least to raise the question in certain individual instances whether or not this is a person who should be excluded from the bargaining process because he is a person employed in a managerial capacity. Now, I recognize there might be legitimate concern about this if there were not adequate safeguards against the improper use of this designation proposal on the part of the employer, and the safeguards here are the requirement that the union is free to challenge any proposal along these lines and that the decision, if the union so challenges, is in the hands of the Public Service Staff Relations Board.

Mr. KNOWLES: It is a safeguard as far as it goes but it does not go all the way. For this reason I am still going to press the point that you might try to improve this wording. You say that if an employer asks that such a position be so described the bargaining unit may object, but then the decision is made by the P.S.S.R.B. and, of course, the board is guided by the legislation and the legislation is right here in these definition sections. Now, I have no desire to go over and over what has been done in the House, but I am suspicious of these contingency items, these items that are there which are put in in good faith in the first place, but by and by some other administration or some other government finds them and uses them, and we have had a number of examples. Now if

you have got a case such as the one you have described, where you had an in-between person, why not find wording to cover that case rather than this blank cheque proposition?

Mr. WALKER: You are asking Dr. Davidson, not myself, but I would like to add the comment that I think the necessity for clause (vii) is because of the specific nature of the other clauses.

Mr. KNOWLES: What are the other clauses, Mr. Walker? Subclause (vii) speaks about people with duties and responsibilities and a possible conflict of interest, you have got the executive duties and responsibilities in subclause (iii), you have got the duties in relation to personnel in subclause (iv), you have got the duties and responsibilities in relation to grievances in subclause (v), and you have got "any other" duties and responsibilities because you are employed in a position that is confidential to a person already so described it seems to me your net is a pretty wide one already.

Mr. DAVIDSON: You will not mind my drawing attention to the fact that this net is much, much less wide than the net of exclusions under the I.R.D.I. Act, which categorically excludes all persons performing managerial or supervisory duties, and it excludes all persons employed in a confidential capacity—not positions, but all persons employed in a confidential capacity—in matters relating to labour relations, and also excludes certain classes of professional persons.

Mr. KNOWLES: I do not mind you telling me that because I would not mind showing you a private member's bill where I tried to get that section of the I.R.D.I. Act changed.

Mr. DAVIDSON: Well, I think we feel that the provisions here which attempt to define persons employed in a managerial capacity will have the result of excluding many fewer persons than would any provision such as a reference to persons performing managerial or supervisory duties. We have endeavoured to be as specific as we possibly could in restricting the specific classes that we have referred to here, and our only reason for feeling that there is a need for retaining a clause such as (vii) proposes is that we are satisfied that situations will arise, all of which we cannot foresee at the moment but which relate to the dangers inherent in a conflict of interest as between the person's membership in the bargaining unit and the person's responsibilities to his employer. We do not think that the employer should have any arbitrary rights to exclude people on a unilateral basis, but we do think that in these situations which seem to the employer to be situations involving a conflict of interest the employer should at least have the right to put forward the claim that a conflict of interest does exist. It is then left to the union to challenge that and if the union does challenge it, it is left to the Public Service Staff Relations Board to decide.

Mr. KNOWLES: To rule on the basis of the—

Mr. DAVIDSON: Conflict of interest.

Mr. KNOWLES: I am sure you appreciate my fear about this kind of blank cheque. It could be argued that every last civil servant in Canada has duties and responsibilities to the employer and that there is a conflict of interest between that and his being in a union that is trying to get something out of that employer. I am pushing it almost to the point of *reductio ad absurdum,* but that is the language...“any person for whom membership in a bargaining unit would tend

to create a conflict of interest by reason of his duties and responsibilities to the employer;" I submit that every civil servant has duties and responsibilities to his employer.

Mr. DAVIDSON: I agree with the last part, but I would not agree with the proposition—and I am sure you would not agree with it, Mr. Knowles—that every civil servant has duties and responsibilities to his employer that would result in the creation of a conflict of interests if he were a member of the bargaining unit.

Mr. KNOWLES: I agree; but this is the area of opinion, the area of decision, on which the court has to rule. Your other examples spell out the terms and conditions.

Mr. DAVIDSON: Yes, this is the difference, and I was quick to point this out to the Committee when I introduced this particular subhead. There is no doubt about it, that this is different in kind from the other specifically spelled out definitions of groups of people.

I can only say that even if we were to find a form of words that would deal with the example that I gave, I think I would still argue that there would be need of some clause such as the one that is set out here under subhead 7, suitably protected and suitably circumscribed, that would recognize that situations may arise, as we develop experience in this legislation, that would justifiably call for the employer to apply for the individual person to be excluded because of a clear conflict of interests. If it is not a clear conflict of interests, presumably the board—unless one has no confidence in the capacity of the board to make these decisions—would refuse to accept a frivolous or unsubstantiated claim on the part of an employer.

Senator CAMERON: Mr. Chairman, is it not inevitable at this stage of the game when we are dealing with an experimental program, that it is simply impossible to conceive of all the circumstances that might come up and to try to provide for them in the specific framework. You must leave some latitude, even at the risk of giving my friend, Stanley Knowles, some cause for concern.

Mr. BELL (*Carleton*): I wonder if I could pick a more general field and ask Dr. Davidson if he and his officers have considered what the Professional Institute has said in connection with this clause? The professional institute is perhaps more involved than any of the other groups, and they had some very specific language which they suggested might be used in respect of all of these particular clauses, and I assume they have been analysed by the Department of Justice and by Dr. Davidson and his advisers. Perhaps we might have some idea of what views they had on them.

Mr. DAVIDSON: Could I just say, Mr. Chairman, that it was partly because of the concern of the Professional Institute, as expressed in their brief to the Committee, and partly as a result of the concerns expressed by the other staff associations, that we did look at this again. We did feel that the criticism was justified, at least to the extent of proposing at the appropriate time, to suggest the deletion of the words "tend to". You can see instantly that this is much too shadowy an area to ask the Public Service Staff Relations Board to—

Mr. BELL (*Carleton*): I understood that that was all conceded. I was referring to the broader field where the Professional Institute, on page 5, deals with the other clauses.

Mr. DAVIDSON: I beg your pardon; I thought you were referring specifically to the new wording proposed by the institute for this particular clause.

Mr. BELL (*Carleton*): No. The whole of page 5 in the brief of the Professional Institute is taken up with the discussion of suggested qualifying amendments to each one of the subclauses under (u). I assume they have been carefully considered.

Mr. DAVIDSON: The institute has made the point, among others, that the expression "confidential to" in this section needs further clarification, inasmuch as the jurisprudence governing the use of these words in other labour legislation is not in their view clearly applicable to the public service situation.

Again, I would think that the experience, if not the jurisprudence, relating to the interpretation of these words in labour relations legislation generally, would certainly be taken as a guide by the Public Service Staff Relations Board in determining what it has to determine in relation to confidentiality under the provisions of these definitions.

Mr. BELL (*Carleton*): Yes, I agree with that.

Mr. DAVIDSON: I would also add, Mr. Bell, that I think it is important again to remember that the references here are references to positions "confidential to," whereas the references in the I.R.D.I. Act are references to persons "employed in a confidential relationship." This is an important distinction and I am sorry that I blurred it at the outset of my explanation; but clearly here there is a much more sharply defined attempt to designate what is meant by "confidential", and we attach that to the person's position rather than to the expression "persons employed".

Mr. BELL (*Carleton*): I agree with that, Dr. Davidson, but I would like to direct your attention to the paragraph earlier than that, where, in each one of these paragraphs, the Professional Institute suggested that there should be an amendment. I think that they did this with sincere goodwill and I assume that it has been considered. This starts at the top of page 5 of their brief.

I do not want you to comment individually, but I think that when a brief has been presented to this Committee, and it has had the study that the Professional Institute would give it, you and your advisers ought to deal with what is proposed by them as an alternative.

Mr. DAVIDSON: I would like to assure you, Mr. Bell and Mr. Chairman, that my officers have carefully reviewed each of the individual proposals contained in the brief of the Professional Institute, as well as in the other briefs, with respect of the various points raised in these definitions.

For example, we have a reference in the Civil Service Federation brief to the desirability of using the expression "personnel administrator" rather than "personnel officer."

Mr. BELL (*Carleton*): I am aware of that Dr. Davidson, but I am talking about page 5 of the Professional Institute brief at the moment.

Mr. DAVIDSON: Unfortunately, I do not have a copy of the brief here, but I have a series of notes which my officers have prepared, which relate to the points they have raised. Perhaps the best thing I could do here would be to undertake to you that I would examine this series of comments personally—the ones made

by the Professional Institute—and come back to this at a later meeting. Is that satisfactory?

Mr. BELL (*Carleton*): Yes.

Mr. DAVIDSON: Could I just be sure that I have the right reference now. Is it page 215 of the evidence?

Mr. BELL (*Carleton*): I am dealing with the original brief of the Professional Institute, and it is at page 5.

Mr. DAVIDSON: Dealing with the definitions set out under the heading "person employed in a managerial capacity".

Mr. BELL (*Carleton*): It is contained in subparagraph (u), and in each case, for each of the numbered subparagraphs, the Professional Institute has proposed substantial amendments, to confine these amendments. For example, let us look at subparagraph (ii) which, as it now stands, reads:

is employed as a legal officer in the Department of Justice.

The Professional Institute, which I would assume represents most of the legal officers, suggests that there be added the following words: "and whose assigned duties cause him to be directly involved on behalf of the employer in the process of collective bargaining and/or is required on behalf of the employer by reason of his assigned duties and responsibilities to deal formally with the dispute or grievance under the act."

These are the types of individual representations that I would like to have dealt with.

Mr. DAVIDSON: Well, I will be very glad to go through these in detail, Mr. Bell. I will review them over the period between now and the next meeting, and will be prepared with the consent of the Chairman to come back to each of these, and make a detailed comment.

Mr. BELL (*Carleton*): Thank you.

Mr. DAVIDSON: I wonder if we have completed to the satisfaction of the members of the committee, for the time being, the clarification of what is in the minds of those of us who have worked on the draft bill in so far as subheading (vii) is concerned. If that can be assumed for the time being, then we move on to the definition (v) which I think presents no problem.

Subclause (w), which is "process for resolution of a dispute", refers, of course, to the two avenues opened up by this legislation for dispute settlement. The substance of this matter, I think, can better be dealt with by the committee at the time we come to the substantive clauses, and this merely makes it clear that when reference is made to the process for resolution of a dispute it can be one of the two processes detailed in later clauses of the bill.

"Public Service" is defined here in relation to all departments and portions of the public service set out in Schedule A to the act, which includes both Part I and Part II.

The definition of "remuneration", I think, requires no elaboration. It is phrased in such a way as to make it clear that members of the public service staff relations board, or other bodies set up under this legislation, may be paid either

on a per diem basis or on a full-time basis, depending on the circumstances in the individual case.

"Separate employer" is a reference to Part II of Schedule A. We can examine in detail, when we come to the schedule of the bill, if the members so desire, the reasons which have prompted us to suggest that certain agencies of the government be treated as separate employers. This is merely for the purpose of making a definition that refers to the actual list set out in Part II of schedule A.

The next definition is, of course, the definition which is required by the provisions of the bill that make it open to employees, who have chosen the route other than arbitration, to resort to a work stoppage if circumstances arise under which the legislation so permits.

Mr. KNOWLES: You have no definition of a lock-out.

Mr. DAVIDSON: We have no definition of a lock-out, because there is no provision made for recognizing the right of the employer to resort to a lock-out under this legislation, as there is, I believe, in the I.R.D.I. Act.

Mr. KNOWLES: I trust that that belief is well founded.

Mr. DAVIDSON: Well, I can assure Mr. Knowles and members of the committee that the fact that there is no provision for lock-out in this legislation is not accidental. It was the deliberate view of those who worked on this legislation that although, under certain circumstances as outlined in the bill, there should be recognition of the right of employees who were not interested in following the course of compulsory arbitration to resort to the strike, this should not be countered by any provision that in any way authorized the right of the employer to resort to lock-out.

Mr. BELL (*Carleton*): This is in almost identical terms, is it not—I am looking for it—to the Industrial Relations and Disputes Investigation Act?

Mr. DAVIDSON: It is the identical terms Mr. Bell, down to the word "understanding". The reference to a "slow-down" has been added. The purpose of this is to make it clear that, in the case of the bargaining units which resort to the avenue of compulsory arbitration, it is not open to them to resort to strike action; and, equally, that is not open to them to evade the prohibition on strike action by resorting to slow-downs.

Mr. BELL (*Carleton*): Yes: I think that is the very point on which the letter carriers' union took exception to this particular definition. They objected to it on the grounds of the slow-down or other concerted activity, as being not really part of a work stoppage. I do not know whether you have had a chance to consider their brief on that yet.

Mr. DAVIDSON: Yes, sir, I have; and I would have to argue, I think, that in the circumstances with which we are concerned with this legislation this is an important and essential part of this definition.

Mr. KNOWLES: What about "working to rule"?

Mr. DAVIDSON: Well, "working to rule" is not covered by this definition, Mr. Knowles; and I would confess to finding some difficulty in accepting the proposition that an employer who has made the rules should then include, in a definition of this nature, a provision which would mean, in effect, that those who worked to the rules that the employer had created were resorting to strike action.

Mr. KNOWLES: Well, I would not expect you to include that in the definition, but is there not a danger that this wording, namely "a slow-down, or other concerted activity on the part of the employee designed to restrict or limit output," might be used against employees who had, in their terms, simply decided to work to rule? Working to rule on the part of the post office employees, in effect, slows down the normal rate of production. The employees say, "We have not struck; we are just working to rule," but the employer comes along and says, "Oh, you have slowed down. You are covered. This is a strike."

Mr. DAVIDSON: Well, I think this would then be a matter of interpretation by the courts, or by the Public Service Staff Relations Board, whether or not it was, in effect, a concerted activity on the part of employees, designed to restrict or limit output; and if it were contended by the employees concerned that this was, in fact, nothing more than compliance with the requirement that the employer had imposed on them, it seems to me that under any reasonable interpretation the Public Service Staff Relations Board would have difficulty in accepting the employers' contention that this came under the definition of "strike".

Mr. KNOWLES: This is why I emphasize Mr. Bell's reminding us of trouble here. Let me divide the two parts. "A slow-down—designed to restrict or limit ouput—" under this definition, then, is a strike; but a decision in concert to work to rule, which, let us admit, is designed to slow-down output for the recognized purpose, is, then, attacked under this section as a strike and yet all that the employees are doing is working to the rules that the employers have laid down.

Mr. DAVIDSON: Well, if that is all they are doing it is not a strike. But if they are doing this as a result of a concerted action on their part, that can be proven to be designed for the purpose of restricting or limiting output, then I think that I would have to agree that it is covered by this. But this is a matter of determination of what the intent or purpose of compliance with the work rules is in a given situation.

Mr. KNOWLES: Is this some legal doctrine of *mens rea*?

Senator CAMERON: The implications of this go far beyond this particular act. There is the implication that management has the responsibility of seeing that their rules are brought up to date. For example, working to rule on the CNR means, on runs through Nakina, going down to five miles an hour on every curve. This is nonsense, but that is the fault of management. You could go through the postal department and find the same kind of illustration. I do not know that that comes in here, so that you are correct in your interpretation; but the working to rule element should not come in if management has done its job. It obviously has not done it in the case of the railways or in the case of the postal employees.

Mr. DAVIDSON: It might, or might not, help the committee in its consideration of this point to note that in the Ontario Labour Relations Act, for example, the definition of "strike" is, I think, word for word, the definition that we have proposed here. There is that precedent for this definition.

I am not quite clear on whether or not this is a definition that has been adopted since 1960, or when this definition came out. It is an old definition, I am told.

Mr. BELL (*Carleton*): My own reaction to this is that the definition of "strike", whether it is in the public sector or in the private sector, ought to be the

same. It may be that the I.R.D.I. Act ought to be updated; I do not know. I am not suggesting, necessarily, that that is the case, but I do have some hesitation in seeing the two acts in this particular getting out of consonance.

Mr. DAVIDSON: I think this is a valid enough point, Mr. Chairman, but this committee has not got the mandate to consider what amendments, if any, should be proposed to the I.R.D.I. Act. I can only say that in our opinion this is a necessary part of the definition of "strike" in the civil service. It will be left to the committee to decide.

Mr. KNOWLES: Are prayer meetings also outlawed by this? I am assuming that at least Dr. Davidson knows what a prayer meeting is?

Mr. DAVIDSON: With my Presbyterian background, Mr. Chairman, I always thought the prayer meeting was designed for promoting one's eventual arrival in a higher sphere, not for the purpose of restricting or limiting output.

Mr. KNOWLES: It is euphemism for meetings that are sometimes held, and there is the Bill of Rights which protects religious freedoms.

Mr. DAVIDSON: That is right.

Mr. KNOWLES: I appreciate the point you are making, Dr. Davidson, but I still have a little apprehension about this wider definition. Perhaps I used a bit of jest, but these are the kinds of things, prayer meetings and working to rule, that could get us into trouble.

Mr. DAVIDSON: I must say I do not quarrel with that expression of concern on Mr. Knowles' part. I can only add that in the view of those of us who have worked on this the definition that we have proposed here is one that this committee should approve. We would not propose another one.

Senator DESCHATELETS: Moreover, if I understand correctly, this is a definition which has proved its effectiveness, because you say it is nearly word for work the definition appearing in another act.

Mr. DAVIDSON: Mr. Chairman, I would not say from my own experience that it is a definition which has proved its effectiveness. I would, however, say that it is the definition which has been considered necessary in the legislation of the province of Ontario.

Mr. BELL (*Carleton*): If you can assure us that that is the wording in Saskatchewan, Dr. Davidson, I think the problem will be all resolved.

An hon. MEMBER: Amen.

Mr. KNOWLES: It is not the definition in the I.R.D.I. Act? Did I hear an "amen"? We are having a prayer meeting of our own, are we?

The JOINT CHAIRMAN (*Mr. Richard*): Where do we go from here? It is 9.30. Shall we proceed with the next group of sections?

Mr. WALKER: Mr. Chairman, I am always interested in tying up little bundles as we go along. Would it create confusion if we approved the ones on which there has been discussion? When I say that I mean those on which there has been general agreement that they are all right.

Mr. KNOWLES: There are too many cases where Dr. Davidson has said that we will have to have further discussion or where the staff people have amendments to make.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think we could do that, Mr. Walker. We should rather deal with the whole section.

Are you ready to go ahead?

Mr. DAVIDSON: It is at this point, Mr. Chairman, that I think my proposal of earlier today becomes relevant. I would propose now to deal with the block of sections which deal with the extent of the application of this legislation, and for the convenience of the members my general remarks which will follow will relate to clauses 3, 4 and 5 inclusive, and also to clause 113.

Perhaps I could just read, for the benefit of the members of the committee, the notes which have been prepared for me, and after that we will direct some of our attention, if the members so desire, to the chart which is being placed on the easel.

The enactment of these provisions in the legislation before the committee will have the effect that all portions of the public service except the armed forces and the uniformed and specially-exempt personnel of the R.C.M.P. will have been brought under collective bargaining legislation, either under the I.R.D.I. Act or under this bill when it is enacted. The effect of these provisions is to ensure that there will be no groups who will fall between these two stools, except for the members of the armed forces and the uniformed and specially-exempt personnel of the R.C.M.P.

The legislation applies to all portions of the public service for which the Treasury Board, the Governor in Council or a minister of the Crown is authorized to establish some or all of the terms and conditions of employment. More specifically, the legislation applies to government departments, those portions of the public service specified from time to time in Schedule A, including even those corporations that may be excluded from the I.R.D.I. Act. The specific exclusions, which will not be covered under this legislation, are the members of the armed forces, the uniformed and specially-exempt personnel of the R.C.M.P. and the employees of corporations which have the full freedom to determine their own terms and conditions of employment and which for that reason have been not excluded from the provisions of the I.R.D.I. Act.

When we turn to the schedules attached to this legislation we will find that Part I lists those portions of the public service which, together with departments named in schedule A of the Financial Administration Act, will be represented in the bargaining process by the Treasury Board as employer.

Part II of Schedule A lists those portions of the Public service which will have the status of separate employers. These are agencies which have traditionally enjoyed considerable freedom in determining terms and conditions of employment, in respect of which it is considered to be desirable that they should continue to enjoy that degree of freedom and therefore they are classified as separate employers who have the responsibility for carrying out their collective bargaining directly with their own employees.

Under clause 4 of the bill before us the Governor in Council has the authority to bring any portion of the public service, heretofore or hereafter established, under the act. This looks to the future and to a time when, under circumstances that we cannot at the moment predict, the Governor in Council may create new entities within the public service that may be brought under this legislation through the authority given to the Governor in Council under Section 4 of the act.

The Governor in Council's authority to bring new entities of the public service under this legislation does not, however, apply to a corporation coming within the jurisdiction of the I.R.D.I. Act unless two things happen—unless the corporation has been specifically excluded from the I.R.D.I. Act, and unless there exist, in the terms and conditions under which that corporation is established, certain provisions which result in its not having the full authority to establish its own terms and conditions relating to its employees' conditions of employment.

Clause 5 provides for transfers. Under clause 5 the Governor in Council may transfer any portion of the public service from one part of Schedule A—that is, the part for which Treasury Board is responsible—to another part, the part for which separate employers are responsible, or he may do that in reverse.

This authority applies also to corporations listed in Schedule A that may have been excluded from the I.R.D.I. Act. Deletion of a corporation, which has not been excluded from the I.R.D.I. Act but which has been listed in Schedule A, from one portion of the schedule would make it necesssary for that corporation to be brought back under the provisions of the Industrial Relations and Disputes Investigations Act.

With that explanation of a general nature, Mr. Chairman, perhaps I could direct your attention now to the chart on the easel in the corner. Perhaps I could ask Mr. Love, if he would not mind, to take over from this point and to take the members briefly through the display that is shown on this chart relative to the application of this bill and the application of the I.R.D.I. Act.

Mr. KNOWLES: Perhaps for the benefit of those who will be reading Minutes of Proceedings and Evidence this chart could be reproduced at this point?

Mr. LOVE: Yes, it could be done. As a matter of fact, I think it has already been done.

Mr. KNOWLES: I mean to have it in our printed documents.

The JOINT CHAIRMAN (*Mr. Richard*): To be printed in the proceedings?

Mr. KNOWLES: To be printed in the proceedings at this point.

The JOINT CHAIRMAN (*Mr. Richard*): It is agreed?

Some hon. MEMBERS: Agreed.

Mr. LOVE: Mr. Chairman, this is an effort to simplify the provisions of the bill with respect to application. You will notice there is a heavy line here which attempts to illustrate the fact that these employees fall within the provisions of the I.R.D.I. Act, and these employees under the proposal, would fall under the provisions of the Public Service Staff Relations Act.

Mr. BELL (*Carleton*): The first "these" was below the line and the second "these" was above the line.

Mr. DAVIDSON: Mr. Chairman, might I interrupt for a moment. Is it possible to put a microphone closer to Mr. Love so that everyone can hear what he is saying?

Mr. BELL (*Carleton*): It would be of assistance if you would indicate whether you are talking about below or above the line.

Mr. LOVE: Above the line, we have really three main groups of employees who would be governed by the Public Service Staff Relations Act: that is, civil

servants; what is described here as exempt, departmental employees, which includes the very large group of prevailing rate employees; and employees of independent agencies, by which is meant agencies that up until now have had a large degree of freedom in establishing their own terms and conditions of employment.

You will notice that we use the phrase "central administration". This is a phrase that was coined in the course of the Preparatory Committee studies to encompass all the employees for whom the Treasury Board would function as the employer.

This represents the agencies that would ride under the bill as separate employers and would have the authority to bargain collectively with their own employees under the provisions of the Public Service Staff Relations Act.

Under the provisions of the Industrial Relations and disputes Investigations Act the employees of commercial Crown corporations are covered, unless the Governor in council takes action under, I think, section 54 of that act to exclude a particular corporation from the provisions of the I.R.D.I. Act.

What we have attempted to work on here, is the principle that no significant block of employees, other than the armed forces and the R.C.M.P. personnel to whom Dr. Davidson has referred, would fall between the two stools. The basic proposal is that if a corporation which would normally fall under the I.R.D.I. Act is excluded from that act by action of the Governor in Council, it would automatically have to come under the Public Service Staff Relations Act.

It is a fairly complicated problem in so far as commercial Crown corporations are concerned, complicated as far as the expression in law is concerned, although, in fact, at the moment, I believe only one corporation has been excluded from the provisions on the I.R.D.I. Act, namely, the National Research Council. The National Research Council would fall under the provisions of the Public Service Staff Relations Act; it is one of the agencies identified as a separate employer.

This, in effect, represents the agencies and departments that are identified in Part I of Schedule A, and this represents the agencies that are identified in Part II of Schedule A.

I think, perhaps, Mr. Chairman, that is it.

Mr. KNOWLES: What is the significance, Mr. Love, of the rectangle in the lower left hand corner?

Mr. LOVE: This one?

Mr. KNOWLES: Yes. You might read it, for the record.

Mr. LOVE: Private companies within federal jurisdiction. The only significance is that we wanted to indicate the total coverage of the I.R.D.I. Act. The basic coverage is represented by this lower block but we wanted to point out that the I.R.D.I. Act also applies to employees of commercial Crown corporations.

Mr. KNOWLES: It is fair to say that what you are trying to show by this chart is that when all this is enacted we will have collective bargaining for everybody who comes under federal jurisdiction?

Mr. LOVE: That is correct, sir; with the exclusions that have already been discussed.

Mr. KNOWLES: And Parliament Hill?

Mr. LOVE: That is right, sir.

Mr. BELL (*Carleton*): Mr. Love says that automatically any Crown corporation that is excluded under Section 54 would be brought under C-170. I want to be absolutely clear that such is the case. It may be that it is from the combined operations of clauses 4 and 5. It certainly is not from clause 4. Clause 5 may bring it in.

Mr. DAVIDSON: Would you take a look at clause 113(2), Mr. Bell?

Mr. BELL (*Carleton*): This becomes automatic. If there is an exclusion under Section 54 of the I.R.D.I. Act it now must come in under this act.

Mr. DAVIDSON: That is correct; and could I point out, further, Mr. Bell, that the effect here, as I understand it, is to limit very considerably the powers of the governor in council henceforth under Section 54 of the I.R.D.I. Act. Section 54 of the I.R.D.I. Act at the present time gives the governor in council the authority to exclude "any corporation established to perform any function or duty on behalf of the Government of Canada." Henceforth it will be possible for the governor in council to exclude corporations from the I.R.D.I. Act only if the terms and conditions under which they are established give them less than complete jurisdiction in respect of their own employer-employee relationships—to the extent that there is any withholding from the corporation and vesting in the Treasury Board, let us say, of any of the authorities over the terms and conditions of employment in that corporation. Only if that is done, will it be possible for the corporation to be excluded from the provisions of the I.R.D.I. Act, and if that is done it must be brought under the provisions of the Public Service Staff Relations Act.

I will cite, as an example, the National Film Board. This is a hypothetical case, because in fact I think it is not a crown corporation in the strict sense of the word. But let us take a corporation such as the National Film Board would be if it were established as a crown corporation. Let us assume that it was set up under the present circumstances. The film board at the present time does have in very large areas of its employer-employee relations jurisdiction within the board itself. On the other hand, the act makes clear that there are certain areas of employer-employee relations where the film board is dependent upon the authority given by the Treasury Board. If such a corporation were set up in the future it could be excluded from the I.R.D.I. Act, but in that event it would have to be brought under the provisions of the Public Service Staff Relations Act; and if the act establishing such a corporation were not to have any provisions restricting the jurisdiction of the corporate body with respect to its own employees, then in that event it would not be open to the governor in council to resort to Section 54 to exclude that corporation from the provisions of the I.R.D.I. Act.

Mr. KNOWLES: Mr. Chairman, as we all know, the employees of the printing bureau would like to have their part of the public service treated as a separate employer. Am I correct in believing that, under the legislation as it is worded, that shift could be made by an order of the governor in council? Clause 4 of the bill is the one I would rely on.

Mr. DAVIDSON: Mr. Chairman, in reply to Mr. Knowles' question, there is included in Schedule A, Part I, a portion of the public service designated as the Government Printing Bureau. It would be open to the governor in council, under Clause 5 relating to transfers within schedule A, to transfer the Government Printing Bureau from Part I of Schedule A to Part II of Schedule A.

Mr. KNOWLES: We could seek to amend the schedule ourselves here in this Committee but even if we were not successful it could be still done later by the governor in council, if it were so persuaded.

Mr. DAVIDSON: Nothing that you fail to do in this Committee would restrict the powers of the governor in council in this matter.

Mr. KNOWLES: If the law permitted to do what you have failed to do.

Mr. BELL (*Carleton*): Be careful!

Mr. DAVIDSON: That is not a legal opinion.

Mr. BELL (*Carleton*): The governor in council knows that nothing restricts their powers if it is within the law.

Mr. KNOWLES: Mr. Chairman, as we know, because we have been over it so often, the two groups whose requests are before us are the printing bureau people, which we have just discussed, and the postal workers, who prefer to come under the I.R.D.I. Act. I take it that, as the legislation stands, that kind of a shift from the P.S.S.R.A. to the I.R.D.I.A. could not be made by an order of the governor in council?

Mr. DAVIDSON: That is correct.

Mr. KNOWLES: Therefore, if we want to achieve that we have to do it by amending the bill or by legislation of some kind?

Mr. DAVIDSON: I would think, Mr. Knowles, that it would probably be necessary to amend the I.R.D.I. Act. That could be done, presumably, by including in this bill a clause which would have the effect of making an amendment to the I.R.D.I. Act. However, if I recall correctly the only federal entities which can be considered for inclusion in the I.R.D.I. Act are entities which are corporate in nature.

Mr. KNOWLES: I am looking again at that chart and the broad line is something like the "pearly gates"—it works only one way. It is not too difficult to be moved from the I.R.D.I. Act to the P.S.S.R. Act but it is difficult to be moved the other way.

Mr. DAVIDSON: On the contrary, it is difficult to be moved from the I.R.D.I. Act to the Public Service Staff relations act for the reasons that I have already mentioned. It is very easy for a corporation to be moved now, at the moment, but the effect of this bill, and of the clause which we are discussing in this bill, will be to make it impossible for a corporation to be moved from the I.R.D.I. Act sector to the public service staff relations sector unless there have been imposed on the powers of that corporation limitations on its ability to deal in all respects with its own employees independently of the Treasury Board in terms of the conditions of employment applying in that corporation.

If you set up a crown corporation at any time in the future and that crown corporation is established on the basis that gives it full rights to deal with

its own employees—to set their wages and working conditions without reference to the Treasury Board—then that corporation must remain under the Industrial Relations and Disputes Investigation Act. If you have put in the bill creating that crown corporation some provision that says it can only set wages and working conditions with the approval of the Treasury Board, then, and only then, can the governor in council resort to Section 54 to exclude that corporation from the I.R.D.I. Act. If that is done it falls automatically under the public service staff relations act. So that the "pearly gates", as you said, Mr. Knowles, are being closed.

Mr. KNOWLES: But they do not provide movement the other way at all.

Mr. DAVIDSON: As an example of where movement the other way is provided for, let us take the National Research Council. If it was decided to delete the National Research Council from Part II of Schedule A, that is to say, to remove it from the Public Service Staff Relations Act, Part II, it would have to be transferred to the jurisdiction of the I.R.D.I. Act. This is on the assumption that the NRC has full control over the conditions of employment of its employees.

Mr. BELL (*Carleton*): I have one other matter to raise in connection with this, and it really would perhaps be more appropriate when we come to clause 115 in the report to parliament, but I would like to flag it now. I would venture to suggest that such orders as the governor in council may make in relation to clauses 4 and 5 ought to be specially reported to Parliament. Provision should be made in clause 115 to do this. In other words, there should be a specific provision in clause 115 that any order made pursuant to clauses 4 and 5 shall be reported to Parliament.

Mr. KNOWLES: All orders having legislative effect have to be reported.

Mr. BELL (*Carleton*): I raise this deliberately because I am not sure that these do have legislative effect. It may well be that this is an excess of caution, but in any event I would like to see that there is in clause 115 the provision that such orders as may be made shall be reported annually to parliament in the annual report.

Mr. KNOWLES: Could you hold over clause 113.

Clause 3, 4 and 5 inclusive agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We will adjourn until Tuesday, because Dr. Davidson cannot be with us tomorrow. I would hope that the Committee will really get to work next week.

Mr. KNOWLES: What do you think we have been doing?

The JOINT CHAIRMAN (*Mr. Richard*): I am sorry; I do not mean it that way. We have not had very many meetings.

We will meet on Tuesday, Thursday and Friday. On Tuesday I hope that we will have two or three meetings, and also on Thursday. I would like to see the Committee complete its study of this bill in the next two weeks, if possible in order to carry out our responsibility of trying to get this bill out before December 1.

Thank you very much.

APPENDIX "R"

APPLICATION

(On Clause 2)

<table>
<tr><td>CIVIL SERVANTS</td><td rowspan="3">CENTRAL ADMINISTRATION</td><td rowspan="3">PUBLIC SERVICE STAFF RELATIONS ACT</td></tr>
<tr><td>EXEMPT DEPARTMENTAL EMPLOYEES</td></tr>
<tr><td>EMPLOYEES OF INDEPENDENT AGENCIES</td><td>SEPARATE EMPLOYERS</td></tr>
<tr><td colspan="2">EMPLOYEES OF COMMERCIAL CROWN CORPORATIONS</td><td rowspan="2">INDUSTRIAL RELATIONS AND DISPUTES INVESTIGATION ACT</td></tr>
<tr><td colspan="2">EMPLOYEES OF PRIVATE COMPANIES WITHIN FEDERAL JURISDICTION</td></tr>
</table>

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 19

TUESDAY, NOVEMBER 22, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), Treasury Board; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25200—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Rochon,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 22, 1966

(34)

The Special Joint committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.19 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present;

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Hymmen, Knowles, Lewis, McCleave, Orange, Richard, Walker (10).

Also present: Mr. Patterson.

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Co-ordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered Bill C-170 clause by clause and questioned the witnesses thereon.

Clause 6, carried: Clause 7, stand: Clause 8, carried as amended (see motion below); Clause 9, carried; Clause 10, carried; Clause 20, carried as amended (see motion below); Clause 21, carried; Clause 106, carried; Clause 11, carried; Clause 12, carried; Clause 13, carried; Clause 14, carried; Clause 15, carried; Clause 16, stand; Clause 17, carried as amended (see two motions below); Clause 18, stand; Clause 19, stand; Clause 22, Carried; Clause 23, stand; Clause 24, carried; Clause 25, stand.

Moved by Mr. Lewis, seconded by Mr. Walker,

Agreed,—That Sub-clause 8(3) and the marginal note pertaining thereto lines 16 to 20 inclusive page 7 be deleted.

Moved by Mr. Lewis, seconded by Mr. Walker,

Agreed,—That sub-Clause 20(1) be amended by deleting the word "may" after the word "Board" line 38 page 11 and substituting the word "shall" therefor subject to further commentary from the Secretary of the Treasury Board on the advisability of such amendment.

Moved by Mr. Knowles, seconded by Mr. Orange,

Agreed,—That sub-clause 17(2) be amended by deleting the words "*Civil Service Act*" after the word "the" line 4 page 10 and substituting therefor the appropriate title required when consideration of Bill C-181 is completed in the Committee.

Moved by Mr. Knowles, seconded by Mr. Orange,

Agreed,—That sub-clause 17(3) be amended by deleting the words "on behalf of the Board" after the word "Chairman" line 5 page 10.

The Committee agreed to print the following as appendices to today's proceedings:

Association of Postal Officials of Canada, letter dated November 15, 1966; (*See Appendix S*)

Chart depicting Commencement of Collective bargaining. (*See Appendix T*)

Discussion of Clause 26 continuing at 12.30 p.m., the meeting adjourned to 4.00 p.m. this same day.

AFTERNOON MEETING

(35)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 4.13 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presided.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Émard, Hymmen, Knowles, Lachance, Lewis, McCleave, Orange, Richard, Walker (10).

In attendance: (As for morning sitting and Mr. C. A. Edwards, President, Public Service Alliance of Canada.

The Committee agreed to print a letter from the Public Service Alliance of Canada dated November 18, 1966, as an appendix to this day's proceedings (*See Appendix U*) and questioned the representative thereon.

The Committee continued the clause by clause review of Bill C-170 as follows:

Clause 26, stand; Clause 27, stand; Clause 28, stand; Clause 29, stand; Clause 30, carried; Clause 31, carried with amendment to the marginal note (see comment below); Clause 32, stand; Clause 33, carried; Clause 34, stand; Clause 35, carried as amended (see motion below); Clause 36, stand; Clause 37, stand; Clause 38, stand.

The Committee agreed to the suggestion of the Secretary of the Treasury Board that the marginal note to Clause 31 be amended by deleting the last two words "one year" and substituting "six months" therefor.

Moved by Mr. Walker, seconded by Mr. Orange,

Agreed,—That paragraph (d) of sub-clause 35(1) lines 14 to 17 inclusive page 18 be deleted.

The meeting adjourned at 5.50 p.m. to 9.00 p.m. this day.

EVENING SITTING

(36)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met at 9.15 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Choquette (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Crossman, Émard, Hymmen, Lachance, Lewis, McCleave, Richard, Walker (10).

Also present: Mr. Mackasey.

In attendance: (As for morning sitting).

The Committee resumed consideration of Bill C-170 as follows:

Sub-clause 39(1), carried; sub-clause 39(2) stand; sub-clause 39(3), carried as amended (see motion below); Clause 40, carried; Clause 41, carried; Clause 42, carried; Clause 43, carried as amended (see motion below); Clause 44, carried as amended (see motion below); Clause 45, carried; Clause 46, carried; Clause 47, carried; Clause 48, carried; Clause 49, carried; Clause 50, carried; Clause 51, carried; Clause 52, stand; Clause 53, carried; Clause 54, carried; Clause 55 stand.

Moved by Mr. Lewis, seconded by Mr. Émard,

Agreed,—That the word "sex," be added in sub-clause 39(3) line 36 after the word "his".

Moved by Mr. Walker, seconded by Mr. Crossman,

Agreed,—That the words "it appears to" line 3, subclause 43 (1) page 23 be deleted and the words "is satisfied" be substituted therefor after the word "Board"; and that the word "may" line 6 be deleted and the word "shall" substituted therefor.

Moved by Mr. Walker, seconded by Mr. Crossman,

Agreed,—That the words "In addition to the circumstances in which, pursuant to section 41, 42 or 43, the certification of a bargaining agent may be revoked," lines 13, 14, 15 Clause 44, be deleted.

The Committee agreed to include the following proposed motions into the record for consideration by the Treasury Board representatives, on which proposed motions there was no discussion:

Moved by Mr. Émard, seconded by Mr. Lachance,

That sub-clause 32(1) be deleted and the following substituted therefor:

"(1) Where one or more employee associations have made application to the Board for certification as described in section 27, the Board shall, subject to subsection (3) of section 26, determine the relevant group of employees that constitutes a unit appropriate for collective bargaining."

That sub-clause 32(2) be amended by adding the following words after the word "unit" line 42:

"and the particular common interests of the one or more groups."

That Clause 34 be amended to read as follows:

"Where the Board

(a) has received from an employee organization an application for certification as bargaining agent for a bargaining unit in accordance with this Act,

(b) has determined the group or groups of employees that constitute a unit appropriate for collective bargaining in accordance with section 32,

(c) is satisfied that at least 10% if the employees in the bargaining unit wish their own employee organization to represent them as their bargaining agent, and

(d) is satisfied that the persons representing the one or more employee organizations in the making of the application have been duly authorized to act for the members of the associations in the regulation of relations between the employer and such members,

the Board shall, subject to this Act,

(e) certify the one or more employee organizations making application as bargaining agent for the employees in that bargaining unit as being part of the bargaining committee of that unit,

(f) determine that there is but one collective agreement and but one bargaining committee for each unit,

(g) determine that all associations representing at least 10% of the employees of any given unit, having particular common interests, are certified automatically and have the right to take part in collective bargaining."

The meeting adjourned at 10.15 p.m., to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 22, 1966

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we have a quorum.

At our last meeting we had reached clause 6 which is on page 6 of Bill No. C-170. Dr. Davidson?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, we open the discussion this morning on the second bloc of clauses dealing with basic rights and prohibitions. This covers clauses 6 to 10 inclusive of the bill, and also, looking forward, it refers to clauses 20 and 21, and finally, to clause 106. In large part these sections are designed to guarantee the right of an employee to join an employee organization, to protect the employee organization from employer interference and to preserve the authority of the employer in matters relating to the organization of the public service.

Specified actions on the part either of the employer or an employee organization, which would interfere with the exercise of these rights, are prohibited. Such provisions are common to most labour relations statutes in Canada and are comparable generally to those set forth in section 4 of the I.R.D.I. Act.

In the enforcement of these provisions the board, pursuant to later clauses, namely, clauses 20 and 21 will have authority, first of all, to investigate complaints alleging violations of the provisions of clauses 8, 9 and 10; it will also have the authority to issue cease and desist orders; it will have authority to report to Parliament in the event of non-compliance with these orders; and, finally, pursuant to clause 106 of the bill, it will have the authority to give its consent to prosecutions through the courts for failure to comply with cease and desist orders.

This is, in substance, Mr. Chairman, the content and the intent of the provisions set out in clauses 6 to 10; the later clauses which follow are designed to outline the authority of the board and the consent that is required of the board before prosecutions through the courts could take place.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed with clause 6, then?

Mr. LEWIS: Mr. Chairman, I would like to know what is meant by the term clause 2 dealt with?

The JOINT CHAIRMAN (*Mr. Richard*): The whole thing was discussed, yes, Clause 6 agreed to.

On clause 7—*Right of employer*

Mr. LEWIS: Mr. Chairman, I would like to know what is meant by the term "to determine the organization of the Public Service"? How far does that go?

Dr. DAVIDSON: For one thing, Mr. Chairman, it would cover the decision of the government to create a new department; to transfer functions as between

one department and another; to establish branches or divisions within a department to make structural changes of the kind that I have indicated by way of illustrations; it would mean, for example, the determination of whether or not a program should be administered and the organization structured accordingly on a regional basis, or a central basis; it would extend to the opening up of local offices, and matters of that kind would be contained within the expression "organization".

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 7 carry?

Mr. LEWIS: Just a moment, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Lewis?

Mr. LEWIS: Would Dr. Davidson object to adding at the end of clause 7 after the words " to assign duties to employees," words which would suggest that that assignment would not be contrary to any provision of the collective agreement?

Dr. DAVIDSON: I would like to think about that, Mr. Lewis.

Mr. LEWIS: You do get my point? When you talked about determining the organization of the public service I thought your answer would be along the lines it was. What you are saying is that you want the right to run your business, which is correct. You want to have unlimited authority to group and classify positions therein. We discussed that in Bill No. C-181. But when you come to assigning duties to employees you could easily have some provisions in a collective agreement with regard to the workload, or, if you had a craft situation, with regard to the craft, and I think that that assignment of duties to employees should be subject to any provision that there may be in a collective agreement affecting that authority.

Dr. DAVIDSON: I might just point out, in this connection, Mr. Chairman, that in the public service it has always been the practice to establish for each position and for each classification a statement of duties attaching to that position. Therefore, when reference is made to the classification of positions, it has to be understood that for each of the positions which is classified there is a written statement of duties attaching to that position; and it is considered that the employer should have the right to decide what written statement of duties should attach to any position.

Mr. LEWIS: I have no objection to that.

Dr. DAVIDSON: Then, continuing on from this, presumably in the bargaining process the employee organization—the bargaining agent—is entitled to ask for and to have before him at the time that he is bargaining on the pay to be attached to a position, a statement of the duties attaching to that position, that he will be in a position to evaluate what price tag should be put on that combination of duties which is comprised in the position that is classified by the employer as such and such a level of such and such a class.

Therefore, while the employer has the responsibility of classifying the position and prescribing the duties attaching to the position, the employee organization has the right to bargain on the value of that statement of those duties.

That having been done, Mr. Lewis, we then come to the final expression, "to assign duties to employees". It is clear that if the employer, having established a

classified position with a statement of duties attached to it, and having placed an employee in that classified position at the salary that has been negotiated, then proceeds to assign to that employee duties that do not correspond to the statement of duties that was attached to the position at the time it was classified and at the time that the collective bargaining established the pay rate, the employee concerned has the right to resort to the grievance procedure; and it is the grievance procedure which would protect the interest of the employee against the possibility that the employer might endeavour to assign to him duties that extended beyond the duties attaching to the position in which he has been placed.

Mr. LEWIS: I have no doubt about Mr. Davidson's intentions, or the intentions of others, but that is not what the act says. If the act says that you have the right to assign duties to an employee, what recourse have I got if I am an employee? Of what value is my grievance? This is not what it says. It says bluntly that you have the exclusive right—that nothing in this act shall be construed to affect your right. Well, that means that the employer has the exclusive right to assign duties to an employee.

I am suggesting to you that that is another unnecessary and unintended limitation on the collective bargaining process and that if you, therefore, qualify the assignment of duties to employees by the provisions of a collective agreement, if such provisions affect that, then I think you protect the right that you have just indicated. And the right goes a little further than that, because collective bargaining does not get into these watertight compartments. You may have a written set of duties, or the workload, or job content, or whatever you call it, relating to a particlular class of employees, and it may easily be that one way of solving the problem of salary to be attached to a particular class is by shifting some duties from one class to another, and it will assist the collective bargaining process if that is open to the parties in negotiation as well as giving the employee the right of grievance without the employer having the opportunity to say: "Now, you just do as I tell you, because that is what the act says".

Mr. DAVIDSON: Mr. Chairman, I think I could go along with any suggestion that the bill should make explicit the right of the employee to grieve against an assignment of duties that was given to him that was inconsistent with the duties stated for the position. I think that would adequately protect the point that Mr. Lewis has in mind when he argues that this is a bald statement that the employer has, in effect, the right to assign to an employee any duties of any kind without regard to—

Mr. LEWIS: I am not arguing. I think that is what the language says.

Mr. WALKER: Mr. Chairman, I do not know if this is a variance with what is wanted, but could you tie this assignment of duties in with the classification or reclassification programs? I do not know whether this covers your point, Mr. Lewis, but what about wording it "to assign duties to employees in accordance with classification or reclassification procedures or programs"? Would that meet your point, by tying it to giving you the authority still to carry out your classification and reclassification programs? If it were tied to the classification and reclassification programs under our grievance procedures which are also tied to the reclassification, would this not clear up Mr. Lewis' point? Or does it disrupt something that you had in mind?

Dr. DAVIDSON: Basically, this would meet the concern that I have expressed, that the employer should have the authority to prescribe the duties of a position.

Mr. LEWIS: I am not quarrelling with that.

Mr. WALKER: I wanted to go beyond—

Mr. LEWIS: The difference is, from my reasoning as a lawyer, that you classify positions, you do not classify employees. The employer classifies a position which is a column within which a number of employees would fall. That is one thing. I am not questioning that right of that. Some of us believe that unqualified authority in the employer is also a limitation, but that is a different subject. But the next provision does not talk about positions, it talks about people. It is assigning duties to employees, as individual employees, and it is that part which I think is objectionable. It is really contrary to the intention you have in mind.

Dr. DAVIDSON: Mr. Chairman, I would quite agree.

Mr. LEWIS: If you are ready to consider it I do not need to take any more time. You can see what you can do with it.

Dr. DAVIDSON: We will certainly be glad to look at it.

Mr. BELL (*Carleton*): I wonder if it might not actually be fixed up by just a few words, and have it read this way: "To group and classify positions therein, and, in accordance therewith, to assign duties to employees."

Mr. WALKER: You are tying it into the classification by judicious language—

Mr. BELL (*Carleton*): I think that is the point.

Dr. DAVIDSON: Something along this line, I think, would go a long way to meeting our concern and possibly Mr. Lewis' concer. There is one thing I would like to be sure of in an examination of words of that kind. I would like to be sure that this would not prevent the employer in the changing course of events—

Mr. LEWIS: Exactly; this makes it far too rigid. You see, what you have when you do that, is that you set the job content of the position on January 1 and you are stuck with it, and you cannot make differences in assignments required by changes in operations or in methods or in procedures. I am not seeking to limit you that way, because that makes it inefficient. All I am saying to you is that my suggestion, in general terms, is the better one because it does not tie you; it still leaves you the right to classify. Everybody knows that if you classify a position you have to deal with its job and the job content and be able to make changes as changes are required. What you want is a qualification which brings in the collective bargaining process and if you say: "to assign duties to employees" and subject to the provisions of any applicable collective agreement, or subject to any applicable provisions of any collective agreement—something of that sort—that takes no power from you, but brings the collective bargaining process into effect. I would like you to think of that. The other is far more limiting and far too rigid.

Mr. BELL (*Carleton*): I think the point, Mr. Lewis, has been made, both by the federation and by the Professional Institute, in relation to this matter. The federation suggested that the phrase "subject to the provisions of any collective bargaining agreement" should be inserted in this section.

Mr. LEWIS: That is probably where I got the idea, although I did not recall it.

Dr. DAVIDSON: I would just like to say that we certainly will be glad to consider Mr. Lewis' and Mr. Bell's proposals.

I would, however, point out that this clause does not go quite as far as I think Mr. Lewis interpreted it to go. This does not confer any rights or authorities on the employer. This merely safeguards any rights or authorities that the employer may have in these areas. It merely says that nothing in this act shall be construed to affect the right of the employer. If the employer has rights, this does not invade those rights.

Mr. LEWIS: With great respect, Dr. Davidson, if you said "nothing in this section", or something, which would be meaningless, what you say with great respect, have some application, but the words in the section are "nothing in this act". That means no provision of this act can affect that authority. The collective bargaining provisions, or any other provisions, cannot affect that authority; and the only way your suggestion would have any application is if you could go back prior to this act and look at the other act and find out what the authority was, and has it changed or not, which seems to me to be a pretty futile exercise. This simply says that the act as a whole does not affect your authority, which means that you have exclusive authority.

Dr. DAVIDSON: It means that you have exclusive authority if you had exclusive authority—

Mr. LEWIS: Prior to this act.

Dr. DAVIDSON: Yes; but it does not convey by this act any authority which the employer does not have prior to the coming into effect of this act. You are a lawyer and I am not, Mr. Lewis.

Mr. LEWIS: The authority which you had prior to the coming into effect of this act is not limited to statutory authority, necessarily.

Dr. DAVIDSON: That is a matter which would have to be determined, as a matter of law, I take it?

Mr. LEWIS: Yes.

Dr. DAVIDSON: But in any event, I think there is some difference between the wording of the clause and the interpretation which you attribute to the clause.

We certainly will be glad to take a look at this proposal as it affects the final words of the clause.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 7 stands.

Clause 8—*Prohibitions*

Are there any comments on this clause? Dr. Davidson, do you have any comments?

Dr. DAVIDSON: No, sir. We have designed this in a straightforward fashion to try to prevent any person employed in a managerial capacity from interfering with the formation of a new employee organization—even interfering helpfully—because of the concern that might be felt in some quarters that the employer would endeavour to interfere helpfully by creating company unions.

Subclause (2) deals essentially with the possibility of interference by someone acting on behalf of the employer, because that person might either be acting of his own accord or acting as a result of pressure from one employee organization to discriminate against another employee organization.

Mr. LEWIS: Why do you need subclause (3), Dr. Davidson?

Dr. DAVIDSON: We do not, and I was going to suggest that we delete that subclause. We should take that out.

Mr. LEWIS: That is a detail which ought not to be in the act.

Dr. DAVIDSON: I could not agree more.

Mr. LEWIS: I move that subclause (3) of clause 8 be deleted.

Mr. WALKER: I second the motion.

Clause 8, as amended, agreed to.

Clause 9—*Discrimination against employee organization*

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, do you have any remarks?

Dr. DAVIDSON: No, sir; this is fairly straightforward. It means that no person employed in a managerial capacity is entitled to discriminate against any employee organization, with the sole exception that if, at a later stage, an employee organization gains bargaining rights and the provisions of that collective agreement contain anything that would restrict the right of the employer to deal with other employee organizations who may have some claim to some membership in that group, the employer is not then subject to the accusation of discrimination if, in conformity with the provisions of that collective agreement, he deals exclusively with the bargaining agent and ignores, in the bargaining relationship, the other organizations. Subclause (2), however, goes on to say that subclause (1) shall not be interpreted in such a manner as to prevent the employer from receiving representations from, or holding discussions with, the representative of any other employee organizations even though that other employee organization may not be the bargaining agent for the group in question.

Clause agreed to.

On clause 10—*Soliciting membership during working hours*

Dr. DAVIDSON: This, I think, is a fairly standard provision in other legislation of the kind, Mr. Chairman.

Mr. LEWIS: Surely it is understood that under clause 10 an ordinary employee can talk union without being dismissed?

Dr. DAVIDSON: As it stands?

Mr. LEWIS: Any law that tried to—

Dr. DAVIDSON: This is not designed to interfere in any way with freedom of speech during working hours—

Mr. WALKER: Or coffee breaks.

Dr. DAVIDSON: —or talking out loud to yourself in the presence of others.

Clause agreed to.

On clause 20—*Complaints*

The JOINT CHAIRMAN (*Mr. Richard*): Have you any remarks, Dr. Davidson?

Dr. DAVIDSON: On clause 20 there was one suggestion which we think is based upon a misreading of this clause. It was suggested by, I believe, the Civil Service Federation that the word "may" in line one should read "shall". But in the view of the staff that has worked on this bill what is desired here is that the board shall be given authority to examine and inquire into these complaints.

Subclause (2) of clause 20 gives the board authority to issue compliance orders, and provides in clause 21 the action to be taken when orders are not complied with, and clause 106, toward the end of the bill, on page 48—

Mr. WALKER: What are we doing, clauses 20 and 21?

Mr. LEWIS: We are hearing a general description of the relationships.

Dr. DAVIDSON: Clause 106 provides for prosecution to be subject to the consent of the board.

The JOINT CHAIRMAN (*Mr. Richard*): Have you any comments?

Mr. BELL (*Carleton*): Except that, dealing with the federation, it would be preferable that this be imperative rather than permissive. That the board "shall" inquire and examine into any complaint made; and in subclause (2) that it "shall" make an order. It becomes imperative, I notice, in subclause (a).

Dr. DAVIDSON: This is a drafting point, Mr. Bell. I think I am right in saying there is frequently a good deal of discussion on whether "may" is permissive, or whether it is imperative in the sense that it is designed to endow the board with authority but to prescribe the board's duty.

Mr. BELL (*Carleton*): That is right; it might even be argued that it is imperative in its present form.

Mr. LEWIS: There is a very recent case—the 18th century—Julius and the Bishop of Oxford, that said : When "may" has a duty, or deals with what is the duty on the part of an authority, the authority has the duty to carry out what the act requires it to. I think you could have a compromise by having "shall" in (1) but leaving the "may" in (2). In other words, I think, perhaps you can satisfy the federation, without any violence to what you have in mind, by making it clearly obligatory for the board to make the inquiry, but leaving the question whether or not it makes an order to its discretion.

Mr. BELL (*Carleton*): Right.

Dr. DAVIDSON: I think we have no strong views on this Mr. Chairman.

Mr. LEWIS: I certainly would not change the second "may," too, because you cannot say that it must make an order. If its inquiry results in a conclusion that no order should be made, it should not have to make any. I think you might easily take "shall" instead of "may" in subclause (1) and leave the "may" in subclause (2).

Dr. DAVIDSON: Could we check that with the legal draftsmen and report back to the Committee on it? As far as I am concerned, Mr. Chairman, I can say that from our point of view, as a staff, we see no problem in adopting the clause with that amendment.

Mr. BELL (*Carleton*): Subject to Dr. Davidson taking exception later.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis moves that paragraph (1) of clause 20 read as follows: "The Board shall examine—" instead of "The Board may examine—".

Mr. CHATTERTON: Is it required in clause 20 that the complaint shall be in writing, for example?

Dr. DAVIDSON: This is what has bothered me a little bit about closing the door completely on this. I would wish to satisfy myself as to what constitutes "examine and inquire." If the board, for example, hears, in the course of some presentation, an incidental reference which someone later claims was really a complaint, and the board paid little or no attention to it because, circumstances of the presentation, it was really an aside, does this place upon the board the obligation to crank up this cumbersome machinery and have a royal commission of inquiry into that statement as a complaint.

Mr. LEWIS: You might be better off to say "into any written complaint."

Mr. CHATTERTON: If "may" is substituted by "shall" it might be advisable to make it a formal complaint, or a written complaint, to avoid misunderstanding.

Dr. DAVIDSON: Mr. Chairman, Mr. Roddick has drawn my attention to the fact that under clause 19(j), on the same page, there is provision that the board make regulations for the hearing of complaints under section 20. Therefore, I think this would remove any concern of mine on that point.

Mr. LEWIS: Oh, yes.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 20 carry?

Mr. WALKER: Subject to any future reference by Dr. Davidson.

Clause agreed to.

Mr. LEWIS: Dr. Davidson may change his mind.

Mr. KNOWLES: It is permissive only.

Dr. DAVIDSON: I assure the committee I will not change my mind. I am in agreement with the Committee so far as the principle is concerned. I may be obliged to report that some others, namely, the legal officers, have some views on this, but I cannot imagine that happening.

On clause 21—*Where order not complied with*

Mr. LEWIS: What good is it if you just lay it before Parliament?

Dr. DAVIDSON: I am surprised to hear that statement coming from you, Mr. Lewis.

Mr. LEWIS: Well, it is a long delay if Parliament does not happen to be in session. Is there something else in the act that relates to this?

Dr. DAVIDSON: There is the provision of clause 106, we are coming to.

Mr. LEWIS: The prosecution provision?

Dr. DAVIDSON: Yes; but I would point out that in clause 106 what is contemplated is that complaints under clauses 8, 9 and 10, with the consent of the Board, shall be dealt with under the general provision as I understand they

exist in the Criminal Code, that it is an offence to transgress the provisions of any legislation; and the effect of this is that if consent under clause 106 is given to prosecute for failure to obey an order of the board, the prosecution has to take place in that form rather than under this act itself. That is if I understand the position correctly.

Clause agreed to.

On clause 106—*Consent*

Mr. KNOWLES: These prosecutions we are talking about could be directed either way?

Dr. DAVIDSON: Yes.

Mr. KNOWLES: Against the employer as well as against an employee?

Dr. DAVIDSON: Yes, sir; against a person; and this would involve the person who failed to take whatever action he was required to take, and it could very well be the Secretary of the Treasury Board—

Mr. KNOWLES: Hear, hear.

Dr. DAVIDSON: —because in clause 20(2) you will see that these orders, when they are issued by the board in the case of that portion of the public service which comes under the Treasury Board's jurisdiction as an employer, are directed to the Secretary of the Treasury Board. Thay are directed to some other persons as well, and it would then be a determination of the person against whom the charge, that he failed to comply with the order, should be laid.

Mr. LEWIS: Clause 106 does not deal with offences spelled out in this act in the same way as do Clauses 104 and 105. As I understand it, what you are relying on in clause 106 is the general provision in the Criminal Code which makes it an offence for anybody to violate an act of Parliament, or of a legislature. You would have to go to the Criminal Code to lay the prosecution under clause 106?

Dr. DAVIDSON: Correct.

Mr. KNOWLES: If you get into trouble, Dr. Davidson, may I remind you that some of your best friends are lawyers.

Dr. DAVIDSON: Should that be a consolation to me, Mr. Knowles?

Mr. LEWIS: Do you want to get this act through, or not?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now we come to the other group of clauses you mentioned the other day, Dr. Davidson, namely, those under the public service staff relations board, clauses 11 to 25.

Dr. DAVIDSON: Could we have permission, Mr. Chairman, to rotate our team at this point and have Mr. Love respond to this group of clauses?

Mr. J. D. LOVE (*Assistant Secretary (Personnel) Treasury Board*): Mr. Chairman, the block in question deals with clauses 11 to 25, excluding the ones we have already dealt with. These clauses deal with the constitution and method of operation of the public service staff relations board. They provide for the establishment of a tripartite body to be known as the public service staff relations board. The board would consist of a chairman, a vice-chairman and a

maximum of eight members, four representative of the interests of the employees and four representative of the interests of the employers.

The primary functions of the board would relate to the determination of appropriate bargaining units and the certification of bargaining agents; the revocation of certification of bargaining agents in prescribed circumstances; and the hearing and investigation of complaints alleging violation of the provisions in the statute relating to basic rights and prohibitions. These latter clauses have already been dealt with.

Mr. WALKER: May I ask a question? The minimum board will be six and the maximum ten; is that correct?

Mr. LOVE: That is right, sir.

The functions I have already mentioned are common to most labour relations boards. The board would also have responsibility for the provision of administrative support to other independent third parties, namely, the public service arbitration tribunal, conciliators and conciliation boards and adjudicators. In discharging its responsibilities, the Board would have powers comparable to those of labour relations boards in other jurisdictions, including the power to make regulations.

Those are my opening remarks, Mr. Chairman, on the block.

Mr. BELL (*Carleton*): Why is a standard number not set rather than this business of not less than four and not more than eight? It seems to me that this gives some possibility of being able to vary the number to suit the employer. They may be able, when a problem arises, to deliberately appoint a new employee representative—I do not want to say as a "stool pigeon"—to help settle a problem in the favour of the employer.

Mr. LOVE: Mr. Chairman, I can only say that I do not think that is the intent. There are a number of precedents in other labour relations statutes for the kind of flexibility that is provided in this section. I think the purpose of the flexibility is to provide some means of varying the size of the board in relation to the workload.

In Ontario, for example, the statute provides for a chairman, a vice-chairman, one or more deputy vice-chairmen, and as many members as the lieutenant governor in council deems proper, representative in equal numbers of the two sides. I think that in Ontario, just to use that example, the size of the board has been increased so that divisions of the board might be created to deal with an increasing workload.

Mr. BELL (*Carleton*): The problem might be obviated if there were any requirement for consultation with employee organizations. This, I think, was raised by a number of the briefs before us. One I remember particularly was the Professional Institute brief which suggested that there ought to be prior consultation before the appointments were made. What view do you take of those representations?

Mr. LOVE: Mr. Chairman, I can only say that this would seem at this point in time to be a rather academic question because, as I understand it, consultations with the major employee organizations are already under way concerning the composition of the board and appointments to the board, on the assumption that

the governor in council should be in a position, as soon as possible after the coming into force of the act, to make the necessary appointments.

Mr. WALKER: Mr. Chairman, does not clause 11 (4) cover the point you raised? It says no member shall be appointed as being a representative of either of those interests without another member being appointed at the same time, representing the other interests.

Mr. BELL (*Carleton*): No, I do not think that covers the stacking.

Mr. WALKER: You were wondering about the stacking of—

Mr. BELL (*Carleton*): That does not cover my first point. My first point is concern that where, in a particular situation, the employer might decide to stack the board by appointing a weak employee representative as well as an employer and in these circumstances you could get into some genuine difficulty, it seems to me.

Mr. LOVE: I think, Mr. Chairman, that one of the problems of writing into the statute a requirement for consultation arises from the fact that, at this point in time, we have no certified bargaining agents in the public service and we have a large number of organizations that have members in the public service; there is really no formal way of determining their representative character; and if there were a requirement in the law for consultation it might be rather difficult to determine the organizations with whom consultation should take place. I think that in the situation where we have had no formal certification processes available to us, a requirement for consultation in the law would be a difficult one to cope with.

I can only say that the clear intention from the outset has been that there should be informal consultation. And, indeed, as I have mentioned, it is my understanding that the consultative process began some weeks ago and that there have been meetings with the major employee organizations concerned.

Mr. BELL (*Carleton*): Be careful on that. Some of us might take umbrage at the assumptions that are being made about parliamentary action.

Mr. LOVE: Well, I suppose that is always a possibility; but, on the other hand—

Mr. LEWIS: All right; you should be prepared. I do not think that Mr. Bell really means it. Do not worry.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 11 carry?

Mr. LEWIS: I do not understand subclause (4). Obviously, Mr. Walker does, but I do not.

Mr. WALKER: They will always be equal. In other words, as I read this, you will never have a board made up of an odd number. It will be six, eight, ten, or twelve.

Mr. LOVE: The intention certainly is to ensure that the membership of the board shall always consist of equal numbers from both sides.

Mr. LEWIS: I think that is fair.

Before we leave this I have no objection to clause 11 as it is but have you, Mr. Love, given thought to a provision, similar to the Ontario Labour

Relations Act, which would enable the board to act in panels, or is that there somewhere?

Mr. LOVE: Yes, sir, there is provision for it in the bill, clause 16 (2).

The JOINT CHAIRMAN (*Mr. Richard*): We will be coming to that.

Clause agreed to.

On clause 12—*Vice-Chairman*

Mr. LEWIS: What happens if both of them are away?

Mr. WALKER: Perhaps we had better get a couple of new ones.

Mr. KNOWLES: Before we leave clause 12, I have a very simple kind of question. Is there any provision here about voting on the board?

Mr. LOVE: Clause 16(3), Mr. Knowles.

Mr. KNOWLES: Thank you; that is what I was looking for.

Clause agreed to.

On clause 13—*Qualifications*

(*Translation*)

Mr. ÉMARD: Mr. Chairman, "A person is not eligible to hold office as a member of the Board, if," as in 13 (1) (c), "he is a member of, or holds an office or employment under an employee organization, that is a bargaining agent." Let us say that the Alliance affiliates to the Canadian Labour Congress. Could a member of the CLC be appointed to the Board in view of the fact that the second part says, "holds an office which comes under an employee organization."

(*English*)

Dr. DAVIDSON: Yes, Mr. Chairman. Perhaps Mr. Roddick could deal with that question. It has to do with whether or not a member of the Canadian Labour Congress, for example, could be a member of this body.

Mr. RODDICK: Mr. Chairman, as I understand it, the prohibition on membership here would relate only to those employee organizations that held a certification in their own name. The larger bodies, such as the C.L.C., to which they might be affiliated, would be in no way denied membership as a consequence of these clauses. That is, a person who was a member of or employee of the C.L.C. would not be debarred by these clauses.

Mr. LEWIS: The bargaining agent; but in both (b) and (c), Mr. Chairman, what you have in mind is that if you appoint someone who holds office or employment under the employer, or who is a member of a bargaining agent, or holds office, he would resign that job; but what I am concerned about is whether this means that you exclude all those people from the beginning, or whether what you are saying is that, once appointed to this job, he must quit the other job.

Mr. LOVE: It is a condition of appointment, I would think, as the bill is now drafted.

Mr. LEWIS: The controlling words are "is not eligible to hold office".

Mr. LOVE: That is right.

Mr. LEWIS: You are not saying that he is not eligible for appointment, but that he is not eligible to hold office.

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 13?

Is clause 13 carried?

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I think that the translation of clause 13, in French says: "A person cannot be appointed as a member of the Board."

There is a difference between the English and French texts insofar as the word "nommé" is concerned.

(*English*)

Dr. DAVIDSON: We will bring this to the attention of the translation authorities and see that the two are made consistent. It is not the intention to prescribe that a person who is a member of an employee organization cannot be appointed. It is the intention to prescribe that if he is appointed he must sever his connection with the employee organization concerned.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): The word "nommé" could have been removed completely, but we will leave that to the translation service.

(*English*)

Mr. KNOWLES: In the same way that he could be appointed if he were 69 years of age, but at 70 he would have to quit.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 13 is carried subject to the change in the French text.

On clause 14—*Remuneration of Chairman and Vice-Chairman*

Mr. KNOWLES: There is no collective bargaining for them, is there?

Clause agreed to.

On clause 15—*Head office*

Clause agreed to.

On clause 16—*Meetings for conduct of business*

Mr. KNOWLES: It is clear in the voting that if everybody is present, the vice-chairman has a vote. Does the chairman have a vote as well, on the first round?

Mr. LOVE: I think the intention is, sir, that either the chairman or the vice-chairman would be present at any meeting of the board, or at any meeting of a panel thereof, or division thereof, so that for purposes of any hearing, or decision, the board or the division would consist of a chairman, or the vice-chairman and equal numbers of representatives from the two sides.

Mr. KNOWLES: I am not quarrelling with any arrangement that may be envisaged, but I think that it should be clear—this is the kind of thing that we frequently run into in committees and various bodies—whether the chairman has a vote in the first instance, does he have only a casting vote, or does he have both? I mean, these rules all obtain. I would read from this that if everyone is present—the chairman, and the vice-chairman and equal numbers from the other sides—they all have votes.

Mr. LEWIS: He is first. The way this is set up, Mr. Chairman, I suggest to my colleague that his first vote may in fact be the casting vote if there is a difference between the two sides.

Mr. LOVE: The way it is set up, sir, I think the chairman is a member of the board and would therefore have a vote.

Mr. KNOWLES: All right, then, let us suppose this. It may be a ridiculous situation, but suppose the chairman and the vice-chairman vote differently.

Mr. RODDICK: Mr. Chairman, I direct the attention of Mr. Knowles to clause 16. I think it is quite clear that at any meeting of the board there can only be the chairman or the vice-chairman in the chair. At least, this would be my interpretation of the clause.

Mr. KNOWLES: With respect, I do not think that the fact that the chairman is present denies the vice-chairman the right to be there. It says "at least...the Chairman or the Vice-Chairman."

Mr. LOVE: I think there is a good point here.

Mr. KNOWLES: It is just that I think it should be clear. I can see the possibility of a tie vote and nothing in the act to say how that tie vote is to be resolved.

Mr. LOVE: Well, I think, in view of what has been said, that there is a possibility of interpretation that would be contrary to the intent, which is that at any meeting there should be either the chairman or the vice-chairman—

Mr. KNOWLES: But not both.

Mr. LOVE:—but not both. If the Committee agrees we would be happy to take this up with the draftsmen.

Mr. LEWIS: In other words, there would only be an odd number on the board.

Mr. LOVE: Yes, that is the intent; That is right.

Mr. KNOWLES: And not loaded with two, both at the table.

Mr. LOVE: That is right.

Mr. WALKER: Before we carry on, by your last remarks are you suggesting that there should never be a meeting with the chairman and vice-chairman?

Mr. KNOWLES: With respect, I am not suggesting one thing or the other. I just want to be clear what is in mind. Mr. Love says that he thinks the intention is that they shall not both be present at the same time.

Mr. LEWIS: I would hope so.

Mr. LOVE: That is right. As I understand the intent, it is that there should be an odd number at all meetings, and that would mean that both the chairman and the vice-chairman would not be in a position to vote in any particular decision.

Mr. KNOWLES: It seems to me that makes sense, but that it should be made clear in this clause. It seems to me that you should not bar the vice-chairman from being present at the meeting, particularly if he might have to take over when the Chairman leaves, but that you should provide that only one of them votes. That is what you intended?

Mr. LOVE: That is right. It is in relation to the voting I think that this thing should be dealt with.

Mr. KNOWLES: Yes.

Mr. BELL (*Carleton*): The Professional Institute raised a point in connection with this and at the time I did not quite understand what it was, but I think I do now.

They suggested that there ought to be a provision that there always be an equal number of representatives of the two sides, but I am not sure that this language says that. I thought it did, but I am not sure now, as I look at it, that it does. Under 2(b) it says "at least two other members to be designated by the Chairman," so that the chairman could designate three, and there would be two employer representatives and one employee representative and that would, in such a circumstance, it seems to me, comply with the draftsmanship of 2(b). I am quite satisfied that is not the intention, but I think it is possible to do that under the language.

Mr. LOVE: Yes, I think, Mr. Chairman, that we have to be careful that we do not put into the bill provisions that would hamstring the board for certain purposes.

As I understand it, the point that Mr. Bell is raising is handled almost universally by means of informal practices in labour relations boards across the country; that a board for purposes of a hearing may proceed even though there is some imbalance in the numbers from the two sides; but, when it comes to the point of decision, one member will stand down from the side that has the extra member. The intent certainly is that—

Mr. LEWIS: It leads to court cases, Mr. Love.

Mr. LOVE: You mean where there is an imbalance in—

Mr. LEWIS: Almost every kind that I have been involved in, and I have been involved in many where there is an imbalance at the time of the hearing you get into some difficulty. Mind you, I have sympathy with what you say because you might easily have a couple of people ill, and you simply cannot get the balance, and then you are in some practical difficulty; but I am not so sure that that difficulty is not more desirable than the other one.

Mr. LOVE: Yes. I must say that the points that have been made are ones with which we have a good deal of sympathy, and since, in any event, we are going to ask the draftsmen to examine the voting provisions, it might be wise to ask them to look at the whole section in order to see if we cannot use words that would be more in line with the intent.

Clause 17 stands.

On clause 17—*Supervision of work and staff*

Mr. LOVE: I should draw the attention of members, Mr. Chairman, to the reference in subclause (2) to the Civil Service Act. That will call for a change at the time when we have a firm title for Bill No. C-181.

Mr. BELL (*Carleton*): What is the purpose in subclause (3) of saying "The Chairman on behalf of the Board may appoint, and fix—"? Is there some significance in the manner of expression? Personally, it would seem to me that it ought to be the board that does it, but if it is not the board, just the chairman. Is

there some difference between saying "the chairman" and "the chairman on behalf of the Board"?

Mr. LEWIS: The hiring agent is the board, too, Mr. Bell.

Mr. LOVE: Well, Mr. Chairman, this goes back to a rather basic problem which our draftsmen and those of us who were working on the legislation faced, in that under normal labour relations statutes certainly the appointment of conciliators is the responsibility of the Minister of Labour. In this legislation, for reasons that are fairly obvious, it was not considered appropriate that a minister of the Crown should be involved. Therefore, the responsibility has been placed on the chairman.

I am not personally too clear on the significance of the phrase "on behalf of the Board", except that I am assuming that the Chairman would act on the basis of general rules or procedure that had perhaps been discussed in the board and established by the board.

Mr. LEWIS: Is it likely that what you had in mind was that his appointment should be subject to approval by the board, and if that was your intention why do you not say so?

Mr. LOVE: I do not think that was the intention, Mr. Chairman. I think the problem here is that a request for conciliation is a request that very frequently has to be acted upon very quickly, and this is why, I think, the responsibility for appointment is normally vested in the minister, in a single individual; and the same considerations would apply in the administration of this statute.

Mr. KNOWLES: Why do you not just say "the Chairman"? It seems to me that this phrase "on behalf of the board" makes it possible for the board to meet some day and say, "We do not like the appointment you made: You did not make that on our behalf", but he comes back and says, "I have statutory authority to make it on your behalf whether you like it or not." Would it not be better just to say "the Chairman"?

Mr. LOVE: I think that, having had a brief discussion at the table, we are inclined to agree with this point. It seems to us that the words "on behalf of the board" are in some ways inconsistent with the provisions of Clause 53 which says, in effect, that the chairman may appoint a conciliator.

Mr. KNOWLES: I move the deletion.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, seconded by Mr. Orange, moves that subclause (3) of clause 17 be amended by deleting the words "on behalf of the Board" in line 5.

Some hon. MEMBERS: Agreed.

Motion agreed to.

Mr. LEWIS: Mr. Chairman, we have concentrated on conciliator but what of the authorities to appoint other persons as well. I am not saying that that changes the validity of the amendment moved by Mr. Knowles, but what other persons have you in mind, just for the purpose of understanding this? It is not only the appointment of conciliators; it is "—other experts or persons having technical or special knowledge to assist the board in an advisory capacity"—all these rather expert staffs that the board might need.

Mr. LOVE: That is right; and really the chairman, I think, in this context might be regarded as the chief executive officer for administrative purposes.

Mr. LEWIS: I was going to say that it follows from subsection (1) that he would do it.

Mr. LOVE: That is right.

Mr. WALKER: Is there anything in the Financial Administration Act that makes it necessary to put in the words "on behalf of the board". Is there some area in there—

Mr. LOVE: None of my colleagues seems to be able to think of any reason why these words need be in.

Mr. LEWIS: The distinction you make between subclause (2) and subclause (3), if I understand the words of the clause, is that there will be certain employees of the board who will be hired through the public service employment process.

Mr. LOVE: That is right.

Mr. LEWIS: They would be secretaries, registrars, permanent research people and all the rest; but that under subclause (3) you want to give the board or the chairman the authority to appoint, as it were, ad hoc employees.

Mr. LOVE: That is right.

Mr. LEWIS: Special advisory people from time to time.

Mr. LOVE: In a consulting capacity, for particular problems.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 17 as amended carry subject to the reservation mentioned by Mr. Love in reference to subclause (2)?

Clause 17, as amended, agreed to.

Clause 18 agreed to.

On clause 19—*Authority of board to make regulations*

Mr. CHATTERTON: Is it normal that such regulations are required?

Mr. LOVE: There is a provision in subclause (2) which certainly implies that they would be required.

Mr. BELL (*Carleton*): I do not understand the expression "regulations of general application". What is the difference between "regulations of general application" and "regulations"?

Mr. LOVE: The only explanation I could give to the Committee is that it is anticipated that the board, in establishing regulations under the subheads, would be establishing regulations that were of a general character applying to all bargaining units, or all bargaining agents. It is not assumed here that it will be necessary for the board to make regulations applying in a specific and special sense to particular groups of employees, or to particular groups of bargaining agents.

Mr. CHATTERTON: Where is there any indication that these regulations have to be published in the *Canada Gazette*?

Mr. LOVE: On page 11.

Mr. KNOWLES: Having said that you can only make regulations of general application, why do you have to repeat it again in subclause (2) that regulations of general application. It is almost felt that perhaps you have some others tucked away somewhere.

Mr. LOVE: I think that is a good point.

Mr. BELL (*Carleton*): Is not the situation here that there is a regulatory power in clause 18 and any regulation made pursuant to clause 18 need not be published in the *Canada Gazette,* whereas regulations made pursuant to clause 19 shall be so published?

Mr. LOVE: I think we had better ask the legal officers for a more specific opinion on the significance of the phrase "of general application". I think the last point made is a good one, and I would suggest that we should have a clearer indication of whether or not clause 19 reflects all of the regulation-making powers of the board. It has been my assumption that this is the case.

Dr. DAVIDSON: Mr. Chairman, could I just ask Mr. Bell if he reads clause 18 as conferring authority on the board to make regulations? It refers to the making of orders "requiring compliance with the provisions of this act, with any regulation made hereunder—"

Mr. LEWIS: Or a decision.

Dr. DAVIDSON: It does not confer, as I read it, power to make regulations, but it does confer power on the board to make orders that require compliance either with the act itself, or with any regulations made within it.

Mr. BELL (*Carleton*): I interpreted the "hereunder" as referring to clause 18 and not to the act, and the expression "with any regulation made hereunder" as being referable solely to clause 18.

Dr. DAVIDSON: I interpret it in the other way, but it is clearly open to both interpretations.

Mr. CHATTERTON: And any regulation made under section 19—would not that be specific?

Mr. BELL (*Carleton*): I think the draftsman deliberately intended that, otherwise he would not have put in the phrase "regulations of general application". He would have said "may make regulations."

Mr. LOVE: We had better look into this.

Mr. WALKER: We are back to section 18, are we?

The JOINT CHAIRMAN (*Mr. Richard*): We are now on section 19, are we not?

Mr. WALKER: I want to clear up a point. Mr. Love, did you say you wanted to look at something in relation to section 18?

Mr. LOVE: Yes, I think—

Mr. WALKER: We have already carried it, and I just want to keep the record straight.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 18 carry?

Mr. KNOWLES: No; it stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 18 stands. We will continue on clause 19.

(*Translation*)

Mr. ÉMARD: Mister Chairman, I hope that if we accept sub-sections (b) and (c) of clause 19, this won't prevent me from putting forward certain suggestions and perhaps some amendments relative to certification, which are related indirectly, when we come to clause 26 and the following clauses.

(*English*)

Mr. LOVE: Mr. Chairman, I doubt that there would be anything restrictive in a decision of the Committee to carry clause 19, subparagraphs (b) and (c) in view of the fact that I am assuming there is going to have to be a process for the determination of units and the certification of agents.

Mr. LEWIS: Whatever clause 26 provides, the board would be able to make regulations on.

Mr. LOVE: That is right.

Mr. LEWIS: Mr. Chairman, I want to put a caveat on (d). I very strongly object to the later provision that matters of law or jurisdiction be referred back to the board.

Mr. LOVE: I may say that we will have some observations on that ourselves. Once again, I do not think that the substance of the section in question should hold the Committee up in dealing with the regulation-making power.

Mr. BELL (*Carleton*): I would like to register my firm objection to subparagraph (l). I take the same exception wherever this type of general language appears in any statute. I think this just opens wide the regulatory power, I know it appears in other acts but I object firmly and vigorously to it.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 19 carry? Before it carries I should acquaint the Committee with a letter which I received from the Association of Postal Officials of Canada in which they want to bring to the attention of the Committee their particular situation in relation to subsection (1) of clause 19, paragraph (b). I suppose this letter could be made part of the proceedings. If the Committee wants me to read the pertinent paragraph, I will do so now.

Mr. WALKER: Mr. Chairman, I do not mind that, but does this open it up to other letters or briefs to come in again on specific clauses as we are dealing with them? Would it be possible, in order not to derail ourselves and open up again the presentation of briefs, for some member who agrees with whatever is in that proposal to put it forward on their behalf.

The JOINT CHAIRMAN (*Mr. Richard*): Maybe the situation in this case, as I suppose Mr. Walker says, is that this group apparently—the postal officials —were formed on October 16, because, as they say:

> "Having been rejected by other associations of the Post Office Department and, in addition, with the introduction of Bill C-170, it was realized that in order to have a voice in our future, we would have no other alternative but to form our own association. At the general requests of postal officials across the country, a national body was formed on October 16, 1966, at which date 1,100 officials, representing close to 50 per cent, were members.
>
> In Part I, under section 19, subsection (i) of paragraph (B), this clause grants the commission the power to determine rules for the composition of the groups of employees able to negotiate," et cetera.

Mr. WALKER: Mr. Chairman, on a point of order, if the Committee agrees—you are now in the process of reading what I suggested was a brief—

The JOINT CHAIRMAN (*Mr. Richard*): I was reading why this brief was presented late.

Mr. WALKER: Yes, up to a certain point, but now you are getting into their suggestions. All I want to place before the Committee, is the desirability or the nondesirability of opening up, at this stage, suggestions which come in from new associations or old associations. If the Committee desires to do this, I think this is fine, but I think that decision should be made. If they decide it is not advisable for the Committee to receive briefs, then there are other ways of doing it, namely through a member of this Committee.

Mr. KNOWLES: Mr. Chairman Bourget, may I suggest that Mr. Richard is a member of this Committee and he could address you and say a few things.

The JOINT CHAIRMAN (*Mr. Richard*): I will go further. I think it was agreed before that when we reach a particular section, if representations were to be made on the particular section under discussion they could be made. There will be some more, so I think probably we will want to hear everything.

Mr. CHATTERTON: Quite often the employees do not have the understanding which they should have, and they get it later.

Mr. BELL (*Carleton*): We want the best possible bill and I think we should have any advice we can get from any quarter right up to the moment we report it back to the house.

Mr. WALKER: Mr. Chairman, let me make my position very clear. I am in agreement with this as long as the Committee understands has it is open to anybody else who wants to do it.

The JOINT CHAIRMAN (*Mr. Richard*): On a particular section.

Mr. WALKER: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): That is so; we said that before. I stopped there. Shall I keep on reading the rest of the paragraph or do you want it as part of our proceedings for today?

Mr. LEWIS: Who are these people?

The JOINT CHAIRMAN (*Mr. Richard*): The Association of Postal Officials of Canada.

Mr. LEWIS: What do they mean by officials?

The JOINT CHAIRMAN (*Mr. Richard*): I read:

> Under this section, our membership comprising supervisory personnel, postal, i.e., postal officers 1 to postal officers 7, would form part of an operational group with the postal workers, letter carriers and railway mail clerks. It is evident that the Canadian Union of Postal Workers and the Union of Letter Carriers, having the largest membership, would control the whole group and thus be in a position to control the future of a group of supervisors, who would have no voice or vote whatsoever in these proceedings. This would leave us in a position whereby supervisors would have their hands tied and would no longer be included in the management side.

I am simply reading this because I am not the advocate of any case but because it was brought to my attention as Chairman.

Mr. LEWIS: Could we explain to them that that hardly affects (b) of clause 19(1). What they are really dealing with is the definition of managerial people under clause 2, but 19(1) (b) merely gives the board the power it must have to determine an appropriate bargaining unit and the bargaining agent representing

that bargaining unit. That has nothing to do with the definition of managerial people.

The JOINT CHAIRMAN (*Mr. Richard*): Does the Committee agree that we should allow this letter to form part of the proceedings? It was addressed to the Chairman.

Some hon. MEMBERS: Agreed.

Mr. BELL (*Carleton*): On clause 19, Mr. Chairman, the Professional Institute raised a question whether there ought to be a requirement for consultation with the staff associations before the regulations are promulgated. I do not have any very firm views myself on this but I think it should have some consideration. I see that the Civil Service Association suggested that there ought to be some form of appeal in relation to the regulations. I cannot find that brief at the moment.

Mr. LOVE: Mr. Chairman, on the first point, I think we would be faced with the same problem that would face us had we placed on the Governor in Council a requirement in law to consult with employee organizations prior to making appointments. The problem is, with whom would the board be required to consult prior to making regulations? There is nothing in the provision that would prevent the board from consulting with or seeking advice from such organizations as it wished to consult, but a statutory requirement would, I think, place the board in a very difficult position in a situation in which we have no legally recognized organizations. I think the same argument that was mentioned earlier would apply in this case.

Mr. BELL (*Carleton*): I would hope that the board would have the wisdom to consult with certain obvious organizations.

Mr. LOVE: On the second point raised by Mr. Bell, that is the possibility of having an appeal from the board to another body, apart from the fact that this would have no precedent, to my knowledge, in labour relations law, it is my understanding that as a result of the merger of the C.S.A.C. and the federation into the new Public Service Alliance, the C.S.A.C. is, and I quote from the supplementary brief submitted to the Committee:

> The C.A.S.C. is now prepared to withdraw this view in favour of that of the P.S.A.C. which believes that the P.S.S.R.B. should be the final authority in the making of regulations governing its powers and duties.

So, I think we can assume that that particular representation has been withdrawn.

Mr. LEWIS: I have an objection to (k) which is one, I think, of substance. It provides that the board may make regulations respecting the establishment of terms and conditions relating to the certification of a council of employee organizations. I do not object to that but I have an almost instinctive objection to giving the board the right to establish the relationship of the constituent employee organizations to each other, to the employees therein and to the employer. Why should the board have that power? Why can the organizations forming the council not have the right to establish their own relationship?

Mr. LOVE: Mr. Chairman, I might say that we have reviewed the wording of this subsection in the light of the representations made to the Committee and we would agree that some change in the wording would make good sense. Really, the intent here, from the outset, was to try to reflect in (k) the type of

responsibility that is placed on the board in the case of an application for certification from a council. The clause in question is 28(2) (b). What we are now exploring with the draftsmen is the possibility of tying this wording into the requirement on the board to look into the legal and administrative arrangements whereby the council has been created in order to ensure that the council is, in fact, a viable organization for purposes of collective bargaining. The intent here would be to modify the wording of (k) in such a way as to tie it back into the provisions of clause 28(2) (b).

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 19 carry?

(*Translation*)

Mr. ÉMARD: Mr. Chairman—

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Under 19 (f), could you tell us what type of regulations the Board intends to apply relative to rights, privileges and duties acquired or retained by an Employee Organization where there is a merger amalgamation or transfer of jurisdiction?

(*English*)

Mr. LOVE: Mr. Chairman, I think this is a problem faced by all labour relations boards and, as I understand it, the wording used here is a fairly standard reflection of the normal powers of a board when two organizations—and this is just an illustration—that have been certified, and become parties to collective agreements, merge. Then there is the problem relating to the disposition of the rights under the law of the proceedings organizations as I understand it, (f) is a fairly standard provision that would enable the board to cope with the difficulties that result from a merger or amalgamation or a transfer of jurisdiction.

Mr. LEWIS: The language in (f) is too wide. I think I can see why Mr. Émard is concerned about it. I read it as meaning the rights, privileges and duties under this act. The way it is now worded, you would think that you would be concerned with their absence and their funds and rights which are beyond collective bargaining.

(*Translation*)

Mr. ÉMARD: That is exactly what I thought.

(*English*)

Mr. LEWIS: I think you ought to say the rights, privileges and duties and refer to this act rather than anything beyond this act.

Mr. LOVE: Really relating to a bargaining unit?

Mr. LEWIS: That is right.

Mr. LOVE: Under this act. I think this is a good suggestion. It certainly would be clearly in accord with the intent. We would be happy to consult the draftsman on that point.

Mr. LEWIS: That is both (f) and (k) which you will look into?

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 19 stand as to subsections (f) and (k)?

Shall clause 19 carry subject to subclause (f) and (k) standing?

Mr. LEWIS: It is conducive to the object.

Mr. WALKER: Did you clear up the point in clause 1, the words "general application"?

Mr. KNOWLES: They are going to look at that.

Mr. LOVE: It is still to be looked at.

The JOINT CHAIRMAN (*Mr. Richard*): Let us just stand clause 19.

Clause 19 stands.

Clause 20.

Mr. KNOWLES: We carried that clause before, Mr. Chairman.

Mr. LOVE: Yes I am sorry. Clause 21.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 21 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 22.

Clause 22—*Powers of board re certification and complaints*

Mr. BELL (*Carleton*): What is the significance of the phrase in subsection (c) "whether admissible in a court of law or not"? What is contemplated hereunder? How far does the abandonment of the rules of evidence go?

Mr. LEWIS: I hope far; I hope very far.

Mr. LOVE: I think, Mr. Chairman, this is based on the view that a board of this kind, although quasi-judicial in some ways, is not a court of law and that, where you are dealing with problems of industrial relations, it is sometimes important for the board to have power to examine matters that might not be admissible in a court of law.

Mr. LEWIS: But here you say, and the requirement that document must be proven in a certain way and all the rest of the rigmarole that the courts go in for.

Mr. BELL (*Carleton*): This is, of course, wide open, though.

Mr. LEWIS: I think it is meant to be and should be.

Mr. BELL (*Carleton*): Is there a similar clause in any other legislation?

Mr. LEWIS: In all labour relations acts, Mr. Bell, including the I.R.D.I.A.

Mr. BELL (*Carleton*): I am looking for it there. Perhaps Mr. Lewis could point it out to me.

Mr. LEWIS: If I can lay my hands on the act.

Mr. RODDICK: I think, Mr. Chairman it is section 58(6) of the I.R.D.I. Act which reads:

> The Board may receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it may deem fit and proper whether admisisble as evidence in a court of law or not.

This is the appropriate reference.

Mr. LEWIS: And it is in every other act, I assume.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 22 carry?

(*Translation*)

Mr. ÉMARD: Mr. Chairman, under Article 22, Paragraph F, "to enter upon the employer's premises for the purpose of conducting representation votes

during working hours". Is there any clause which authorizes high officials or officers of the organization to go on to the premises of the employer or the government, to hold an inquiry. In Bill C-170, do the representatives of associations, the officers, have the right to penetrate onto the premises of the government, to enter in order to settle a grievance, to make an inquiry?

(*English*)

Dr. DAVIDSON: The answer to that, Mr. Chairman, is, no. There is no provision that would authorize a representative of the association to enter the premises of the employer under the same circumstances as are here indicated.

Mr. LEWIS: Are you going to have a representation vote without representatives of the employee organization present, as scrutineers?

Mr. RODDICK: Mr. Chairman, I think in respect to Mr. Lewis' point, in so far as there are scrutineers in the taking of a representation vote, they are, in some degree, acting as agents of the board.

Mr. LEWIS: That is what I thought it meant.

Mr. RODDICK: The Board would have full authority to have them penetrate the walls of the employer.

(*Translation*)

Mr. ÉMARD: What I wanted to know was, in the case of certain grievances which have not reached the arbitration stage and in which representatives, head officers of the association, for instance, want to inquire as to the value of certain grievances, perhaps before bringing them to arbitration. In this case, in industry, the representatives of different unions have a right to enter the premises to verify whether what is contained in the grievance is in accordance with the facts to be presented or to conduct inquiries to determine whatever methods are to be used.

I saw nowhere in this bill where representatives of the Association—I am not speaking of representatives of the department, but representatives of the head-office who are specialized in grievance procedure—will these representatives have a right to enter the premises of the government?

(*English*)

Mr. LOVE: Mr. Chairman, I can only say that that problem is certainly not dealt with in the clause under consideration at the moment, and it may be that it would be appropriate to leave that question until we arrive at the clauses of the bill that relate to grievance procedures. I think the intent of this clause is simply to set forth the powers of the board. The appropriate time, I think, to deal with the other question is when we are considering the grievance procedure clauses.

Mr. CHATTERTON: The last sentence in paragraph (c) reads:

> The Board may refuse to accept any evidence that is not presented in the form and as of the time prescribed.

Does that mean within the time prescribed by the Board?

Mr. LOVE: I think that is right, sir.

Mr. LEWIS: In clause 19 they are given the power to prescribe the time within which evidence of membership or objections to a bargaining agent may be placed before it, and I suppose this is what we are dealing with here.

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 22 carry?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We will proceed with clause 23.

On clause 23—*Questions of law or jurisdiction to be referred to Board*

Mr. BELL (*Carleton*): Mr. Chairman, there were a lot of objections to this clause principally, I think, from the Canadian Labour Congress.

Mr. LEWIS: Are you dealing with clause 23?

Mr. BELL (*Carleton*): Yes, clause 23. I think the Canadian Labour Congress advocated its total deletion.

Mr. LEWIS: But I raised it on second reading, if I remember correctly, as well. I think you are borrowing a great deal of unnecessary delay and trouble by divesting the arbitration tribunal of the right to deal with the matter. That is the basic reason, I think, for the objection.

Mr. LOVE: Mr. Chairman, the objections which have been stated to clause 23 have been carefully considered, and it is now the view that at an appropriate time, a change in clause 23 should, be proposed that would really reverse the effect of the clause.

Mr. LEWIS: You really have to take the labour section in conjunction with this. I forget what the clause is, but there is one that says if a question of law or jurisdiction arises in the course of an arbitration or an adjudication that power is left to the Board.

Mr. LOVE: That is right, but just to continue with clause 23, it would now be our view that the effect of the clause should be reversed, and that it should provide that the proceeding should continue, unless the tribunal or adjudicator or the board decides otherwise. In other words, a case before an adjudicator would proceed even though a question of law or jurisdiction had been raised, unless the adjudicator felt that it was of a character that really required resolution before the proceedings could continue effectively.

Mr. LEWIS: Mr. Chairman, with great respect, I would like to urge that you go a step further. I think the adjudicator or the board of arbitration should have the power to deal with the question of law or jurisdiction as well as any other matter, and that what you are seeking—if I guess correctly the implication of this clause—is some uniformity in the jurisdiction of bargaining agents and all other matters that may affect jurisdiction or the interpretation of the act. I think you can get that by providing for an appeal on a point of law or jurisdiction from the adjudicator or board of arbitration to this board, but I do not think you should give the power to anybody to stop the process of adjudication or arbitration—even the arbitrator himself—and go somewhere else for a judgment. Let him make up his mind. It seems to me that any legal process is a great deal more efficient if you let the court, whatever it may be—whether it be inferior or superior—deal with these questions, particularly in labour relations.

Then, if either the employer or employee organization feels that the decision on the point of law or jurisdiction is unwise, it can take it on as an appeal on law or jurisdiction to the board.

Mr. LOVE: I think, Mr. Chairman, that we would be somewhat concerned about the effect of providing an adjudicator with the authority to deal with

questions of law or jurisdiction. We are assuming that, at least in the early years of the bargaining relationship, there is likely to be a good deal of adjudication, and we would be concerned about the inconsistencies that might arise if the authority were to be placed in the hands of the adjudicator. We would also be, I think, somewhat concerned about the concept of an appeal from the award of an adjudicator, because the intent in this bill is to shore up the authority of the adjudicator and to create the clear impression that, in normal circumstances, a decision of the adjudicator is final and binding on the parties.

I recognize that it could be handled by means of an appeal mechanism, but I think we would be somewhat concerned about the possible effects of an appeal mechanism on the quality of the adjudication process.

Mr. LEWIS: You may be right, Mr. Love, but instead of dealing with abstractions, let us try to think of one or two instances where your question of law or jurisdiction arises. I would guess that a very likely field of controversy would be whether or not a certain matter is arbitrable or adjudicatable; whether or not that particular point raised in a grievance is excluded from the collective bargaining process. That is one field where you might have it. In fact, I cannot see another one where the law or jurisdiction would come in. There might be others. I do not know whether you have thought of any.

It has been found in labour relations that the question whether a matter is arbitrable ought in the first instance to be left to the arbitrator. You will find as you go through the history of labour relations acts, that in some of the acts at a later stage than when the act was first enacted, the power to decide whether or not a matter is arbitrable is given to the arbitration board; here you do not, and this is what I think is wrong.

Mr. HYMMEN: Mr. Chairman, we have transposed the words "shall" and "may" in previous clauses. I believe the professional institute mentioned or recommended that if the clause were made permissive rather than mandatory it might allow the adjudicator to solve the problem if he was able to do so. The professional institute recommends the word "may" instead of "shall".

Mr. LOVE: It would then read, "may refer the question".

Mr. RODDICK: Mr. Chairman, I would like to pursue Mr. Lewis's thought just a little further, not for argumentative purposes, but for the purpose of trying to fully understand the implication of the situation that we are developing. Mr. Lewis would contemplate a situation in which the parties before an arbitration tribunal, or an adjudicator, had flatly disagreed in respect of the question whether the matter, that was brought before the tribunal and the adjudicator, was in fact a proper matter within the jurisdiction of that arbitration tribunal or adjudicator. He then suggests that, notwithstanding these objections, the adjudicator should over-ride them and, if he wishes to do so, proceed to a full examination and a determination of the matter. I could not help but think that this might affect those processes—one of the parties being doubtful whether the process should go forward at all. Then, when we come to the final determination, the parties who objected, would, I think—under Mr. Lewis's example—still have in fact recourse to somebody, the board, or the courts, in respect of this matter of law. Am I proceeding correctly with your example.

Mr. LEWIS: Yes, I gave you one example. The other example that I should have thought of, which is even more relevant, I think is the adjudication. There

are two forms of arbitration, under the statute. Correct me if I am wrong. One is the arbitration of the negotiating issues, when you choose arbitration instead of the other road. The other is, what is called in the act, adjudication, which is normally called arbitration, which would be adjudication of a dispute over the meaning and application of the collective agreement. What I am concerned about, and I feel a little strongly about it, is that constantly there is argument whether the words of the collective agreement make a particular grievance arbitrable or adjudicative. I think that the adjudicator ought to be interpreting the agreement. He ought to have the authority to decide whether he has jurisdiction under the agreement.

Mr. RODDICK: Mr. Chairman, as I understand it in relation to the proposal put forward by Mr. Love, he would in fact have the prime responsibility to make such an interpretation. If he decided that the thing should go forward, it would go forward. The only recourse that the objecting party would have would be to go to the board at that point and try to get them to stop the proceedings. But if in fact the norms of practice are, as Mr. Lewis suggests, I would think that the board would be very reluctant to interfere at that point, unless the case was a fairly demonstrable one. If that is what Mr. Love intended.

Mr. LEWIS: I apologize for not understanding him. If the change you have in mind is to leave with the adjudicator or the arbitration board, the initial authority to decide whether or not a matter is arbitrable or adjudicative; and then give either of the parties the authority to stay the process while he takes this matter to the board, that may be different.

Dr. DAVIDSON: There is one exception, I think, if I follow Mr. Love correctly, and that is if the adjudicator himself, having heard the arguments as to jurisdiction or as to law, considers that he is not in a position to decide that issue himself, then he may refer the question to the Public Service Staff Relations Board and adjourn the case.

Mr. LEWIS: That would halt the process. Let us see the words that have come down.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 23 stands.

Clause 24 agreed to.

On clause 25—*Review or amendment of orders*

Mr. BELL (*Carleton*): This is more or less standard. Should there not be notice to affected parties?

Mr. RODDICK: Mr. Chairman, I would like to ask Mr. Bell whether he implied that the notice would oblige the board to provide for a hearing of some kind or another, before it in fact moved to rescind or reverse decision that had been taken.

Mr. BELL (*Carleton*): That is just what I was wondering. There should be prior notice to the parties affected, before an order would be rescinded or varied.

Mr. LEWIS: I think I would agree. What would be wrong with having a hearing with one of the parties afterward?

Mr. LOVE: Mr. Chairman, in clauses of this kind, I am aware of no precedent for this, but on the face of it, it would appear to be a reasonable proposition. We

would be happy to take a look at it. Just at first blush, I can see no strenuous objection to a proposal of that kind.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 25 stands.

We now come to Part II, collective bargaining and collective agreements.

On clause 26—*Specification of occupational categories and date of eligibility for collective bargaining*

Mr. LEWIS: What group or section—

Dr. DAVIDSON: That is by itself.

Mr. Chairman, in view of the importance of clause 26, we thought that we should devote a particular amount of attention to it and deal with it by itself even though there are implications for other sections of the bill arising out of the consideration of this section.

At the outset, I would like to say that we have a substantial rewriting of this section to propose to the members of the Committee. Therefore, it would not be too profitable, I think, in the circumstances, to direct our attention initially to the clause as it stands now. I would like, however, to put on the record a statement as to the considerations which have entered into our review of this clause, and the conclusions that we have come to as to changes that should be made. May I proceed, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Dr. DAVIDSON: Members of the Committee are, I am sure, aware of the provisions of this clause, as it now stands, which require that during this period of some 28 months—which the bill identifies as the initial certification period —bargaining units are to be consistent with occupational groups. The general intent of the section was, I believe, made quite clear during the period that Mr. Heeney was giving his evidence before the Committee.

Clause 26 was designed to provide, in the form in which it is now contained in the bill, for an orderly transition from the existing pay review cycle to the schedule of bargaining that will emerge as a result of decisions taken by the parties in collective bargaining, after the transitional period has passed. It was also designed to ensure that the parties to bargaining, during this transitional period, would be able to make use of information made available through the facilities of the Pay Research Bureau relating to rates of pay in the private sector and in other public service jurisdictions.

Another clause of the bill, clause 57, which relates to clause 26, was intended to establish a common termination date for all collective agreements applying to employees in a given category, so that regardless of the dates on which organizations were certified, or the dates on which they entered into their first collective agreement, both the employers and the bargaining agents representing employees in various groups in the category, would have an opportunity to co-ordinate their bargaining positions as they affected conditions of service common to employees throughout that particular category.

Because the classification revision program was far from completion at the time that Bill No. C-170 was drafted, it was considered necessary, at that point in time, to provide the Governor in Council with authority to specify and define the occupational groups that would provide the basis for bargaining units. That

is the provision that is contained in clause 26 as it is presently before the Committee.

At the time when Bill No. C-170 was drafted, it was considered necessary to provide the Governor in Council with authority to specify and define the occupational groups that would provide the basis for bargaining units. Although it was the clear intent from the outset that the groups to be specified and defined by the Governor in Council would correspond to those developed by the Bureau of Classification Revision under the aegis of the independent Civil Service Commission, there was considerable uncertainty as to the date on which the developmental work by the bureau relating to the groups in each category, could be completed. For this reason, there seemed, at the time we were engaged in drafting, to be no alternative to the inclusion of provisions in the bill that would result in a staggering or scheduling of the dates on which certification would become available for different categories. This would leave a considerable amount of discretion, as to dates, in the hands of the Governor in Council.

Mr. Chairman, I am referring to a period several months ago when this bill was originally drafted. With the passage of time, circumstances have changed and we are now satisfied that, by the time the legislation takes effect—and we are assuming that to be not later than January 1, 1967—the Bureau of Classification Revision will have completed its work on the definition of the occupational categories and groups. This fact, together with a careful examination of the criticisms submitted by different employee organizations, and the observations made by members of the Committee itself, has led us to conclude that certain changes in section 26 are both possible and desirable.

We have now come to the conclusion, in fact, that a complete revision of clause 26 is called for, and we would propose to the Committee that the clause be reconstituted in such a way as to accomplish the following objectives:

First to remove from the Governor in Council the authority to specify and define occupational categories and groups. That authority is presently given to the Governor in Council either by clause 26 as it presently stands, or by the definition of the occupational category as set out in clause 2(r) of the definition. We propose to remove from the Governor in Council the authority to specify and define both the occupational categories and the occupational groups. We propose to allocate to the Public Service Staff Relations Board the responsibility for identifying the additional categories, if any, other than those listed in the definition clause 2(r). We would propose to allocate to the Public Service Commission the initial responsibility for specifying and defining the occupational groups, in view of the fact that this responsibility has been carried up to the present time by the Bureau of Classification Revision.

Second, we would propose to remove from the Governor in Council the authority that is set out in the present bill to fix the date on which employee organizations would be permitted to apply for certification as bargaining agents in respect of employees in each category. We propose to assign the responsibility for this function to the Public Service Staff Relations Board, and to require the board to fix the dates in such a way that employees in all categories would have access to the certification process within 60 days of the coming into force of the act. This will give to the Public Service Staff Relations Board a modest amount of leeway within that 60 days for scheduling of priorities for the purpose of

dealing with certification of the various bargaining units. This is necessary because of the inevitable priority that has to be given to the certification first of all of bargaining agents in the operational category. Within 60 days the new proposal would provide that the Public Service Staff Relations Board must schedule dates in such a way that access to the certification process for all categories is available within 60 days of the coming into force of the act.

Third, we propose to remove from the Governor in Council the authority to fix dates governing the schedule of bargaining, and to set forth in a schedule to the bill itself, with respect to each category, the dates after which notice to bargain may be given and collective agreements may be entered into and on which the first agreements are to terminate.

We believe that these changes should be reassuring to both employee organizations and the members of the Committee because they would have the effect of removing all discretionary authority relating to the introduction of collective bargaining from the Governor in Council, who has, understandably in certain contexts, been identified with the position of the government as employer.

We believe also that the proposal to make the certification process available almost immediately to organizations representing employees in all categories should deal effectively with ont of the principal criticisms of this clause. Finally, we believe that the proposal to insert a schedule of dates in the bill, while retaining the means of achieving an orderly transition to the bargaining relationship, should remove an element of uncertainty that has been a cause of concern to organizations of employees.

At this point I would like to direct the attention of Committee members to the visual presentation on the easel in the corner of this room. This chart sets forth the dates, derived in a general way from the existing pay review cycle, that we think should be considered for incorporation in the proposed schedule to the bill. I have a further statement to make, Mr. Chairman, on a related matter that is connected to clause 26, but it does not concern this portion of the problem. Therefore, I would suggest that I pause at this point, ask Mr. Love to elaborate on the details set out in this chart, and return to the further statement at a later stage.

Mr. LOVE: Mr. Chairman, I think the best way of reading the chart is to read from top to bottom the currently scheduled pay review dates for the different categories, which derive from the cyclical pay review process that has been in effect since 1960. These dates have been set forth in the first line.

It is proposed that, in the case of all categories, eligibility for certification be available within 60 days of the act coming into force.

Dr. DAVIDSON: Not less than 60 days.

Mr. LOVE: That is right.

Mr. LEWIS: No; not more than 60 days. It could be less.

Mr. LOVE: Not more than 60 days; that is right. The proposal would give to the Public Service Staff Relations Board some discretion in assigning priorities within that period, but it would be possible for all employee organizations seeking certification, to come forward with their applications within a period not greater than 60 days.

Mr. CHATTERTON: What if they should not be ready to apply within the 60 days?

Mr. LOVE: This would present no problem because eligibility for certification would then continue beyond the 60 days for all organizations. So that any organization would come forward at any stage after the date specified by the Public Service Staff Relations Board within that 60 day period, or at any date thereafter.

Mr. LEWIS: So long as there is not a collective agreement before.

Mr. LOVE: That is right. I might just skip the next lines briefly and refer to the eligibility to enter into collective agreement. This is set, in the case of the operational category, at April 1, 1967; in the case of the scientific, professional, and technical categories, at January 1, 1968; and in the case of the administrative support and administrative and the foreign service categories, at April 1, 1968. These dates are related to the scheduled pay review dates and are designed to provide a reasonable period after those dates during which the parties could gain access to the data produced by the Pay Research Bureau.

Mr. LEWIS: What is meant by the words "eligibility to enter into collective agreement"? Do you really mean the date on which a collective agreement can first come into effect?

Mr. LOVE: That is right, it would be legally possible.

Mr. LEWIS: They could enter into it two months earlier, presumably, but the effective date would be the date you set out.

Mr. LOVE: No, these will be the first dates on which it would be legally possible to enter into a collective agreement.

Mr. WALKER: When can they start, can they not start before that date?

Mr. LOVE: Oh, yes; line three, which I skipped, indicates that it would be possible for notice to bargain to be given on behalf of any certified bargaining agent as of the dates indicated.

Now, I would like to make one point here with respect to the dates relating to the entry into a collective agreement. These dates would not necessarily be the earliest dates on which provisions in the agreement, particularly those relating to rates of pay, might take effect. Indeed, Mr. Benson has already indicated in a letter to the major employee organizations, that the government would be prepared to consider full retroactivity to the scheduled pay review dates, in so far as certain provisions of the agreements relating to rates of pay were concerned.

Although an organization could not legally enter into an agreement in the operational category until April 1, 1967, it would be possible for provisions relating to rates of pay to be written into those agreements with retroactivity back to October 1, 1966. This is the assumption on which the schedule is in fact based. The principal reason, however, for the dates relating to entry into a collective agreement is to provide during this transitional period for the parties to have a reasonable opportunity to gain access to the information of the Pay Research Bureau.

Mr. LEWIS: Have you read the bottom line, or have you reached it yet?

Mr. LOVE: The last line indicates the proposed dates, on which the first collective agreements would have to terminate.

Mr. LEWIS: Read in the dates.

Mr. LOVE: Oh, I am sorry. For the operational category the date is September 30, 1968; for the scientific, professional and technical categories, June 30, 1969; and for the administrative support and administrative and foreign service categories, September 30, 1969. This proposed provision is designed to protect the existing two year cycle during the first round of bargaining. The purpose of these sections is to provide both the employee organizations and the employer with a reasonable chance to adjust to the new relationship, without upsetting features of the existing system of pay determination that have generally been regarded, on both sides, as desirable.

Mr. LEWIS: In other words, the collective agreements would all terminate two years after the date in the first line.

Mr. LOVE: That is right.

Dr. DAVIDSON: I would like to add that the next round is an open question as to the length of agreement. This would be bargainable.

Mr. LEWIS: The words "notice to bargain" has one date opposite it; is that wise? What it means to me is that I must give notice on February 1, 1967.

Mr. LOVE: Well, these are the earliest dates, in the proposed schedule, on which notice to bargain could be given.

Mr. LEWIS: I see. I think it is going to be attached to bill that perhaps the words "notice to bargain" ought to be changed.

Mr. LOVE: I am sorry. The problem with a visual presentation is that the people who draft them like to have something simple so that they can be easily read. I do not think that it should be assumed that these words reflect in any really accurate way the wording of the proposed change or the wording of the proposed schedule.

Dr. DAVIDSON: Mr. Lewis, you can be assured that it will not be nearly this clear.

Mr. WALKER: I am delighted to know that Mr. Lewis cannot see the board; last time I could not spell correctly.

Mr. CHATTERTON: Is this to be included in the bill?

Mr. LOVE: It is proposed that they be included in the schedules of the bill. There has been a good deal of employee dissatisfaction expressed because in the bill, as it now stands, the specification of these dates would be left in the hands of the Governor in Council. Although this schedule expresses the intent from the beginning, it is hoped that it will have the effect of clearing up a great deal of the uncertainty that has been a cause of concern.

Mr. CHATTERTON: Is the "eligibility for certification" meant to be that of the bargaining agent?

Mr. LOVE: That is right, sir.

Mr. CHATTERTON: And how about the certification of the bargaining units?

Mr. LOVE: The same thing, sir. These are the earliest dates on which an employee organization could come forward to the board with an application for certification as bargaining agent in respect of a particular bargaining unit.

Mr. CHATTERTON: There is no way in which the bargaining unit can be changed then, at this stage; the certification of the unit that is the bargaining unit. Each category is a bargaining unit.

Mr. LOVE: That is right.

Mr. CHATTERTON: And that is not negotiable?

Mr. LOVE: That is right, sir, during the initial certification period; although some of the remarks that Dr. Davidson has still to make, with respect to clause 26, would have some effect on this.

Mr. LEWIS: Well, it is not each category anyway that will be a bargaining unit; you can have a group within a category.

Mr. LOVE: It is an occupational group, yes, within a category.

Mr. CHATTERTON: That will be explained in a moment, the possible variation of the bargaining units or groups.

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee to keep going or to adjourn until this afternoon?

Mr. LEWIS: Adjourn.

The JOINT CHAIRMAN (*Mr. Richard*): Adjourn until after the orders of the day?

Mr. KNOWLES: Mr. Chairman I notice that you have planned three sessions for today. May I throw out the suggestion that it is almost certain there will be a recorded vote in the House of Commons at 8.15 this evening.

The JOINT CHAIRMAN (*Mr. Richard*): I had that in mind and I would say that if there is a vote—

Mr. WALKER: Mr. Chairman, a notice went out that we would continue at four o'clock rather than after orders of the day. Those members who are not here, if we happen to get here early, will not know they are to come early. Why not set it for four o'clock—providing the orders of the day are over.

The JOINT CHAIRMAN (*Mr. Richard*): Four o'clock, agreed?

Some hon. Members: Agreed.

AFTERNOON SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order.

Dr. DAVIDSON: Mr. Chairman, you will recall that this morning I indicated I would have a supplementary statement to make with respect to a related matter on clause 26 of the bill. This has to do, actually, with a point that was raised in the letter from the Association of Postal Officers this morning, namely, the problem that arises when a group of supervisory employees at a low level in the administrative hierarchy is contained within the same proposed bargaining unit as the employees whom they supervise, and when the employees supervised are in a substantial majority, and there are mutually good reasons why they do not wish to be associated, one with the other, in comprising a bargaining unit. My statement that follows has to do with this situation.

There is one other matter to which I would like to refer, having to do with the provisions of clause 26. As the members of the committee know, the bill in its

present form provides that during the initial certification period, within the limits which I outlined this morning, the Public Service Staff Relations Board would be required to determine bargaining units for the so-called central administration, that is, the employees who come within the jurisdiction of the Treasury Board, on the basis of the structure of occupational categories and groups. Indeed, the board would be required to establish, for each occupational group, not more than one bargaining unit. It is that last point that I want to touch upon. It is now clear that in certain occupational groups there may well be great reluctance on the part of employees at the lower levels, to be included in the same bargaining unit with employees in higher levels who supervise their work. There may be a similar reluctance on the part of some employees in the higher grades to be coupled with employees in the lower grades. An immediate and pressing example of the situation now exists in the Post Office Department. Under the proposed occupational grouping, some 2,000 postal officers would be included in the same occupational group with more than 20,000 postal clerks and letter-carriers. The two postal unions have already established constitutional barriers against the membership of postal officers in their unions. The effect of this has been to expel some 2,000 supervisory employees in the Post Office Department from these unions.

The postal officers, for their part, have responded by establishing their own organization, and as the letter of this morning indicates, are seeking bargaining rights as a separate group. This example, together with at least the possibility of similar situations arising in a limited number of other occupational groups has led us to the conclusion that the Public Service Staff Relations Board should be given greater flexibility than that which is now provided by clause 26 in the determination of bargaining units during the initial certification period.

It is therefore proposed for the consideration of the committee, that clause 26 should contain a provision which would authorize the Public Service Staff Relations Board to determine a bargaining unit comprised and consisting of one of the three following: Either all of the employees in a given occupational group, or all the employees in an occupational group other than those whose duties include the supervision of employees. Or, all employees in an occupational group whose duties include the supervision of employees in the group. In other words, an occupational group can either be recognized as a complete bargaining unit, including both supervisory and non-supervisory personnel to the extent that that seems to be acceptable, or, if there is such a difference in the point of view and attitude of the supervisory and the non-supervisory personnel within the occupational group as to make it desirable to do so, either or both of the two separate components could be recognized as a separate bargaining unit.

In concluding these opening remarks directed at clause 26, I should add that if the suggested changes that we have put forward this morning and this afternoon should prove to be acceptable, there will be certain consequential amendments necessary. These consequential amendments include the definitions in clause 2 of the bill that we have deferred for later consideration, namely, the definition of initial certification, the definition of occupational category, and the definition of occupational groups.

Mr. LEWIS: These are two questions that I would like to ask. I notice that you were limiting your suggested changes to the initial certification period. Why?

Dr. DAVIDSON: Because, thereafter Mr. Lewis, the board is free to certify bargaining units without regard to the initial occupational groups, if it considers it desirable to do so. It has complete freedom to group and re-group bargaining units provided it does not move across the lines of the occupational category, and therefore this proviso is required only in this initial certification period.

Mr. LEWIS: I understand your suggestion is that the only split the law would permit would be between non-supervisory and supervisory, no other.

Dr. DAVIDSON: That is what is proposed by this amendment.

Mr. BELL (*Carleton*): Mr. Chairman, I think the new proposals that Dr. Davidson has advanced are a very considerable and significant improvement upon clause 26. I think I—apart from saying that—would like to reserve comment until we see the actual draftsmanship of the new clause. I venture to suggest that perhaps, having had the statement—and Dr. Davidson has been kind enough to give us copies of what he said this morning—that perhaps we should proceed to other clauses, and take the opportunity of analyzing this in detail when we get the actual draft amendment in front of us.

Mr. LEWIS: Is that not available now?

Dr. DAVIDSON: I am afraid we have not got a draft amendment. We would have a working proposal later this afternoon, Mr. Lewis, but this would not be in a form that has been examined by the Justice Department or put in final shape by them.

Mr. LEWIS: When could we have that?

Dr. DAVIDSON: Within a half hour.

The JOINT CHAIRMAN (*Mr. Richard*): Would it be desirable that committee members should have a copy of this work document before the next meeting?

Dr. DAVIDSON: I beg your pardon, I correct myself, Mr. Chairman. I find that we have copies here which I think would be at least sufficient for the purposes of the Committee if you wish to take a preliminary look at them. But this is, I would add, the working draft which we have prepared for our own guidance as staff members and we have not yet put this through the Department of Justice.

Mr. WALKER: Mr. Chairman, it is a little difficult to envisage the scope of what Dr. Davidson has been talking about. Does that at all get into this question raised by the customs and excise component in connection with departmental bargaining under delegated authority?

Dr. DAVIDSON: I have not seen the reference, which Mr. Walker makes, to the customs and excise component.

Mr. WALKER: The Clerk just laid before me, and I suppose other members of the Committee, a copy of a letter from the association of postal officials as well as a submission from the Civil Service Federation of Canada dealing with a resolution recently passed at a customs and excise meeting.

Mr. LEWIS: That is a resolution passed by the alliance at its founding convention on the submission—

Mr. WALKER: Yes, it was submitted to the alliance.

Mr. LEWIS: It is now policy of the alliance.

Mr. WALKER: I am just wondering if the problem that arises from it is subject matter of clause 26.

Dr. DAVIDSON: I have not seen, Mr. Chairman, what was in this piece of paper.

The JOINT CHAIRMAN (*Mr. Richard*): Since reference has been made to this document I suppose it should be—

Mr. BELL (*Carleton*): Have it printed as an appendix.

Dr. DAVIDSON: My impression, I must say, is that the proposal that we have made would not cover this situation.

Mr. WALKER: After consideration has been given to this resolution, is clause 26 the place for it to be considered?

Mr. LEWIS: Paragraph (c) of the letter is. Paragraph (c) of the resolution affects clause 26.

Mr. RODDICK: Mr. Chairman, if I could make an observation, I think that the issue that is raised in this letter, which I have seen, appears to me to relate to the exclusive responsibility of a bargaining agent. That is a rather complex concept which I do not think is rooted in any one section of the bill, but it is rooted rather precisely in one or two which are not 26 but are later on—I do not recollect the specific clause—but that relating to an effective certification.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee to have this working paper so we may acquaint ourselves with the material and at the next meeting when we have a draft of the proposed section it may be easier for the members to discuss it.

Mr. BELL (*Carleton*): I am quite happy to welcome and receive it but I think it is the first time I ever had in Committee working papers. I hope it will not be considered a precedent because I expect to be sitting on the other side of the table some time soon.

Mr. WALKER: Do not let that bother you.

Dr. DAVIDSON: Mr. Chairman, I would certainly prefer to circulate a draft amendment that was in reasonably final form and approved by the Department of Justice officials before we turn our attention to the detailed text of the wording; otherwise we might be wasting the Committee's time in discussing wording that the Department of Justice would rule out anyway.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed then with—Mr. Émard, did you have a question on clause 26?

Mr. ÉMARD: Well, I had some general observations relating to clause 26.

(*Translation*)

I would like to say, first of all, that I share the opinion expressed by Mr. Bell as to the amendments which have been suggested by Dr. Davidson, but before considering clause 26, I have noted a few restrictions in going through the Bill, restrictions which I consider to be most important, and which will limit the scope of collective bargaining. I think that the Government, directly or indirectly, will allow its employees to bargain with it, but under the following conditions. These are the ones which I noted and which I think we should take into consideration.

First of all, on the date that it will determine. The Government, directly or indirectly, will determine the date. Secondly, the employees will be divided into six categories. Thirdly, the categories will then be divided into 73 groups. Fourthly, the same trade union will have to represent all the employees of this group throughout Canada. Fifthly, in order to be certified, the organization will have to represent the majority of the members and inform the Board in advance whether it chooses arbitration or strike.

6. The employer reserves for himself, the exclusive right to:

(a) Group and classify the positions;

(b) Designate the employees who are excluded;

(c) Appoint all members of the Public Service Staff Relations Board;

(d) Appoint the Chairman of the arbitration tribunal, the other members being appointed by the Board;

(e) Appointment of a conciliator, each party then appointing a representative;

(f) Appoint the head arbitrator, and each party then, of course, appointing representatives.

In addition, the arbitration tribunal cannot decide on the following subjects: appointment, advancement, appreciation, transfers, lay-offs, dismissal, and all other conditions which have not been negotiated. And here, I want to call your attention to this. We will have the opportunity of discussing this later on: "and all other conditions which have not been negotiated", which means to say, that what is not included in collective bargaining, automatically then, exclusively belongs to the Government. Now, when the employees have fulfilled all these conditions, then they can start to bargain. Some of these restrictions are necessary, but I believe that it would be well to remind ourselves of this when we are speaking of the rights of employees.

The JOINT CHAIRMAN (*Mr. Richard*): These are your comments, Mr. Émard?

Mr. ÉMARD: Yes.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments of a general nature at this time?

Mr. LEWIS: Some of the points raised by Mr. Émard will undoubtedly come up under other clauses. This is the only reeason I have not raised some of the points he mentioned.

Dr. DAVIDSON: I do not want to enter into a long, detailed discussion with Mr. Émard, but I would, with respect, suggest that there is a substantial difference between those prerogatives that under the bill are left in the hands of the Governor in Council and those that are left in the hands of the Public Service Staff Relations Board. Unless one assumes that the Public Service Staff Relations Board is simply the tool of the government, it does seem to me it is an important distinction to keep in mind. There is a difference between the things that the Public Service Staff Relations Board has the authority to deal with and the things which, because there is really no other authority to deal with them, are left under this bill with the Governor in Council.

(Translation)

Mr. ÉMARD: I am in complete agreement, Dr. Davidson, but what I did want to point out is that it is not in the hands of the employees, so indirectly then it is on the other side. But I agree with what you say.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 26 stand.

Clause 26 stands.

On clause 27—*Application by employee organization*

Mr. LEWIS: If we are going to consider this new resolution of the alliance, would it not be advisable to have it explained because even though the letter over Mr. Edwards' signature draws attention only to what is (b) in that resolution; the resolution contains more than that. In other words, the letter draws attention to the concern with regard to the departmental bargaining but the resolution itself goes further. I am not so concerned with (a) which is a submission already made to the Committee in previous submissions, but I would like to understand what they mean by (c) in practical, concrete terms, as well as (b), unless the officers know what is involved.

Mr. LOVE: Mr. Chairman, I cannot speak for the alliance, so I am not sure exactly what was in their minds when they drafted this particular resolution, but I do know that at the preparatory committee stage of the development of this package, if I may call it that, there was a good deal of talk about the possibility of two levels of bargaining with two levels of certification; one involving a certification which would carry with it the right to bargain with the government of Canada as employer and the other a level of certification which would carry with it the right to bargain with departmental authorities. The only thing I can say on that is that, after a great deal of consideration, it was rejected by the preparatory committee, because the more we looked at it the more we could see all kinds of very difficult jurisdictional problems. It raised the prospect, for example, of an organization that might be certified at the government level and be granted exclusive bargaining rights in respect of employees in a particular occupational unit and, then, at the second level of certification another organization might be certified to represent employees in the same occupational group in a particular department. The prospect of having two organizations, each purporting to speak for the same group of employees at the departmental level, represented a problem which we did not think could be overcome.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me. We have with us Mr. Edwards, and if the members of the Committee would rather have him explain the position which the customs and excise component submitted as a resolution to the Public Service Alliance meeting; maybe he could tell us what is meant. Is it agreed?

Mr. CLAUDE EDWARDS (*President, Public Service Alliance of Canada*): This is in regard to the resolution I take it, Mr. Chairman?

(b) Bargaining at the departmental level on any subject on which the final authority is delegated to a department or departments;

(c) The granting of certification for purposes of departmental bargaining to the organization having a majority of 50 per cent plus 1 of the employees of a department.

The position, of course, of the federation and the Public Service Alliance is organized on the basis of departmental structures and there may well be certain items that can be bargained at the departmental level. With delegation of great deal of authority to deputy heads of departments there should be provision made for a structured organization within a department to have some part in the determination of conditions that can be the responsibility, and the sole responsibility, of the deputy head of the department. This is, of course, what the customs and excise component of the Public Service Alliance is putting forward. This is a position which has been put forward in the past by the Civil Service Federation and was contained in our brief in regard to departmental organizations having the right to determine or to be part of the determining process on a bargaining relationship at the departmental level in matters which can be determined at the departmental level.

Mr. LEWIS: Suppose you have a group and the Public Service Alliance is recognized as the bargaining agent for the group, and the group goes across departments: does this mean that if members of that group in a given department, or 50 per cent plus one of them, want a separate bargaining unit that they should be able to obtain it?

Mr. EDWARDS: No, that was not the idea of a separate bargaining unit. It is more the idea of being able to bargain on matters that are within the prerogative of the deputy head. It is very similar to what you would find in industrial bargaining where you might have an agreement which is throughout the whole industry-wide but you might have plant rules negotiated at the plant level.

Mr. LEWIS: That was what was in my mind. Mr. Chairman, if I may, are you not confusing two things? You say (c) asks for the kind of change that would enable the staff relations board to grant certification to some organization representing the department only.

Mr. EDWARDS: But only for the purposes in regard to things that could be handled at the departmental level. Let us say that the starting hours of work might be different in one department or another. You might have a—

Mr. LEWIS: I appreciate that. But, if I may say so with respect, you have two things and that is why I wanted someone to explain the thing to me. As I read it I noted two things mixed up. You have your bargaining unit which might consist of a group across the country and you have the Public Service Alliance which, let us assume, is the bargaining agent. Now, surely it is up to you to compose your bargaining committee in such a way that all the departments are represented at the bargaining table. It is up to you, then, as the bargaining agent to present to the employer requests stemming from the membership in a given department and they could easily be included in the one collective bargaining agreement. I do not see why—and I am not putting this in an argumentative sense—I just do not understand why it was thought necessary that there should be separate certification covering presumably only an area of the bargaining. In other words, if you bargain for the entire unit across Canada, Public Service Alliance bargains for all matters except hours in the customs and excise component, and then somebody else is certified for the purpose of bargaining as to hours in that department. That I do not understand.

Mr. EDWARDS: I think this was the attempt behind the resolution. I am not denying that there may not be confusing relationships resulting from this. But

certainly what they were concerned with was that there were certain matters that could be bargained at a departmental level, such as the starting hours of work and finishing hours of work within a period of time. It is quite possible that you will have a number of bargaining units represented nation-wide with representations within departments but the departmental organizations felt that the majority representation in a department, for instance, should determine what the hours of work should be for the majority of people in the department.

Mr. WALKER: May I ask Mr. Edwards a question? Do these proposals reflect possibly a lack of confidence that the larger bargaining units really are aware of and would have enough knowledge of the fact at that departmental level to bargain in the interest of this—

Mr. EDWARDS: This might well be the concern that lies behind this.

Mr. LEWIS: Mr. Edwards, surely that is the organization's job. I hope you will forgive me for giving an example which has occurred to me. Let us take the Ontario Hydro employees' union. You have in it a fairly large unit, there are about 10,000 or more. You have the installers, the repairers, the maintainers and then you have the groups of people in the office from very skilled draftsmen to unskilled office boys. The way that organization does its work is that each classification, which would be equivalent to a department, has a committee which forms part of the over-all bargaining committee. Then, when you get to issues which concern the installers, the committee representing the installers will do the talking and will know what they are talking about. In the case of the draftsmen, the people representing the draftsmen will do the talking. That is an internal arrangement to make sure that your bargaining committee in any bargaining unit fully represents the various interests in that unit. That does not require separate certification for some organization.

Mr. EDWARDS: I might say that we are structuring the alliance in exactly that way.

(*Translation*)

Mr. ÉMARD: I am in complete agreement with what Mr. Lewis has just said. I think that it is a problem for the Alliance and I do not know if I can take the liberty of suggesting something. I feel however that the Alliance could perhaps easily get around this situation if, in their structure, there were various locals for various different types of work and different positions. There is nothing to prevent the Alliance with one classification, dividing itself into various locals, and these various locals would then be able to bargain under the same certification with the different departments for special working conditions.

(*English*)

Mr. EDWARDS: I do not deny there may well be other means of meeting the problem arising in this particular letter, but I think this is the concern of an organization that has been working in a relationship within a department for a long number of years, where they have been used to trying to establish at least the work rules for the people in the department in direct consultation with their deputy minister. They were concerned with being able to meet the requirements of a bargaining system in some similar fashion, of being able to handle not the problems of service-wide importance which they realize have to be bargained on a service-wide basis, but, they were concerned with meeting the problems within a department which would normally be within the prerogative of the depart-

mental head in some system of bargaining in reference to what could be bargained at a departmental level.

(*Translation*)

Mr. ÉMARD: In the system of collective bargaining of which you speak, you cannot have two different certifications for the same group. I hope your employees agree?

(*English*)

Mr. EDWARDS: I think that many of our people do agree with this. There are some others, of course, who do not. It is a position of part of our organization with particular concern for departmental relationship. They do fully understand the position on the national issues but do not agree with the position on the issues that can be dealt with at the local level.

Mr. WALKER: I have one other question, if I may. Does this problem confine itself to the very narrow field of delegated authority?

Mr. EDWARDS: That is right.

Mr. WALKER: The whole thing.

The JOINT CHAIRMAN (*Mr. Richard*): I think Mr. Edwards has explained the reason for his letter and the resolution. We will take that into consideration. Shall we proceed now to the next group, clauses 27 to 48. Order.

On clause 27—*Application by employee organization*

Mr. BELL (*Carleton*): Are there any general statements that Mr. Davidson is going to make?

Dr. DAVIDSON: The provisions relating to the certification of bargaining agents which are the subject matter of clauses 27 to 48 are, with one or two important exceptions, similar to those found in many labour relations statutes. Before conferring certification, the board is required in each case to determine the appropriate unit and to satisfy itself that the application for certification has majority support among the employees in that unit. If these requirements are met, and if the organization has specified the dispute settlement process—I am referring to the bill as it now stands, but we have something to say on this a little later—the board is obliged to certify the employee as a bargaining agent.

There is one additional requirement that must be met in the case of a council of employee organizations. The board must be satisfied, in the words of the bill, that appropriate legal and administrative arrangements have been made between the organizations forming the council to allow it to discharge its responsibilities as a bargaining agent. A requirement similar to this, I am informed, has recently been added to the Ontario act, and while there may have been some criticism before the Committee on the part of a number of staff associations with respect to the wording as contained in our bill, I think the purpose we have in mind may be reflected adequately if we also take a look at the wording contained in the Ontario legislation.

The Public Service Staff Relations Board in discharging its certification responsibilities will have full freedom to determine bargaining units on the expiration of the initial certification period, subject only to a requirement that bargaining units must not cross category lines. This was the point I referred to in my earlier exchange with Mr. Lewis.

During the initial certification period, however, except for the separate employers, the capacity of the board to determine units will be restricted, in so

far as the wording of the bill is concerned, to employees comprised within occupational groups. As the bill now reads, an employee organization is required to specify the dispute settlement before certificate can be conferred. The bargaining unit would be bound by the process selected for a three-year period. The bargaining agents would be permitted to apply to the board to change the process and as the present bill now stands, provided the board is satisfied that the proposed change has majority support, the board is required to record that change.

There are a number of alternative proposals that have been made and that we would be prepared to put to the Committee for consideration in connection with those provisions.

Finally, these sections provide the board with authority to revoke the certification of bargaining rights in certain specified circumstances. These relate to situations where upon application the board satisfies itself that the bargaining agent no longer represents a majority of employees in the bargaining unit. Other situations where certification may be revoked relate to such things as fraud, abandonment of bargaining rights, and so on.

This, Mr. Chairman, I think, gives a summary of the provisions as they now appear in the printed bill before the Committee. As I have already indicated, there are one or two points at which, having given consideration to the views as expressed before the Committee, the staff will have some suggestions to make which we hope will be regarded as improvements. These will be made as we come to the relevant clauses of the bill itself.

Mr. KNOWLES: Clause 36 is one of the clauses that you may have some changes to make in. What other sections are there?

Dr. DAVIDSON: There will be a change proposed in clause 35, having to do with subparagraph (d) on the top of page 18. There will be changes suggested in clauses 37 and 38, having to do with the period of time for which the choice of one or other bargaining procedure must be frozen and when it can be changed. I am looking also for the clause, which in its present form requires the option of arbitration or conciliation board to be selected before certification.

Mr. KNOWLES: That is clause 36.

Dr. DAVIDSON: We have a change to suggest there which in brief provides that the option is to be taken after certification but within 30 days after certification and before notice to bargain can commence.

Mr. LEWIS: I am going to get that, too, without a battle.

Dr. DAVIDSON: I am merely putting the information before the Committee so that it will at least know what the changes are that we have suggested.

Mr. KNOWLES: You told us about a working paper that you might work over some more tonight.

Dr. DAVIDSON: Not in connection with this block of sections, Mr. Knowles.

(*Translation*)

Mr. ÉMARD: If I understood correctly, Dr. Davidson, what you are proposing is that the organization which represents the membership would not have to make its option before certification, whether they want the strike option or the

arbitration option, but they would have 30 days in which to do so after being certified, that is it?

Dr. DAVIDSON: Yes.

Mr. ÉMARD: I think this is much better yet.

Mr. LEWIS: Before negotiations?

Mr. ÉMARD: Surely, why not?

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, shall we proceed by clause. We have not come to that great difficulty yet.

Mr. MCCLEAVE: Why not "constitute" instead of "constitutes" in the third line? That, if I may use the expression, is hellishly bad English.

Dr. DAVIDSON: Could we refer this to the—

Mr. BELL (*Carleton*): Awkward draftsmenship.

Dr. DAVIDSON: —legal draftsmen.

Mr. BELL (*Carleton*): It is hard to read that "it considers constitutes".

Mr. LEWIS: You could say that it considers—

Mr. WALKER: You do not want to get mixed up.

Mr. LEWIS:—as a unit of employees appropriate for collective bargaining, or an appropriate unit of employees for collective bargaining.

Mr. KNOWLES: Strike the word out altogether. That it considers a unit.

Dr. DAVIDSON: I will be glad to report to the draftsmen, Mr. Chairman, that the word should be considered.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 27 stands for further draftsmenship.

Clause 27 stands.

(*Translation*)

Mr. LACHANCE: I am sorry, Mr. Chairman, if I arrived late. Could I ask Dr. Davidson if it is the Department's intention to suggest an amendment to consider the natural bargaining units?

(*English*)

Dr. DAVIDSON: We have in this morning's discussion, Mr. Lachance, proposed some very substantial changes to clause 26, a complete rewriting of clause 26, and among other things we have proposed that while the concept of the occupational group as the basis for the establishment of bargaining units through the initial certification period should be maintained, the authority should be taken out of the hands of the Governor in Council to specify and define these occupational groups and transferred to the Public Service Commission and to the Public Service Staff Relations Board. The Public Service Staff Relations Board should have the discretion to divide an occupational group on the basis of supervisory and non-supervisory employees, but that that is as far as it should have the authority to go in departing from the concept of the occupational group as the bargaining unit during the initial certification period.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Lachance.

Mr. LACHANCE: You probably noted certain statements which were made in the press and so on relative to natural bargaining units. Do the explanations that

you have just given come within the framework of what we could now commonly call a natural bargaining unit, or does it not at all in relation with this other matter?

Dr. DAVIDSON: There has been a variety of proposals advanced, Mr. Chairman, as to the degree of discretion that should be given to the public service staff relations board with respect to the establishment of bargaining units. We had the proposal referred to in the letter, for departmental bargaining units. We have had a proposal that was advanced with respect to regionally or locally based bargaining units and, the proposal that was also advanced with respect to the division of bargaining units on the basis of supervisory or non-supervisory responsibilities. I can only say at this stage that the only one of these that we have felt we could recommend to the Committee was the one that involved the authority being given to the Public Service Staff Relations Board to divide an occupational group into supervisory and non-supervisory for purposes of establishing the bargaining units. The most obvious and simple answer to this is the calendar of dates that appears on the easel in the corner of the room. It is now the 22nd of November; notice to bargain has to be given by the applicants for bargaining rights in the operational category by the 1st day of February, 1967, and it is for this reason that we feel there has to be a very large element of authority left in the hands of the board to predetermine the bargaining units on the basis of these occupational groups in this initial certification period.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lachance, we had this discussion this morning.

(*Translation*)

Mr. LACHANCE: Mr. Chairman, I would like to know whether this enters into conflict with which we generally call a natural bargaining group or unit?

Mr. ÉMARD: I have certain arguments to present in this regard but I am waiting for Section 37. It is contained in Section 37 if I remember correctly.

Mr. LACHANCE: I understand of course that you did speak about it this morning, but we are speaking of amendments that have been brought in by the Department.

The JOINT CHAIRMAN (*Mr. Richard*): We are on Clause 27, Mr. Lachance. We will be coming to clause 34 a little later on.

Mr. LEWIS: The answer to Mr. Lachance is that the amendment of which Dr. Davidson spoke does not touch the point he now raises.

Mr. LACHANCE: That is what I want to know. I want to know if these amendments are in relation to so-called natural—

Mr. LEWIS: You mean all the relatives in one bargaining unit?

Mr. LACHANCE: Yes, that is exactly what I want to know. I would like to know if these amendments are in relation to what some people call unité naturelle de négotiation. I would like to know if there will be some amendments in connection with that.

Mr. LEWIS: This is confusing it with the term natural justice.

Mr. LACHANCE: It may be confusing but I would like to know if there would be any.

Dr. DAVIDSON: I am sufficiently unfamiliar with the expression unité naturelle that I can say to Mr. Lachance that there will be no amendments that I am aware of.

Mr. LACHANCE: That is what I wanted to know.

Mr. WALKER: Mr. Chairman, on clause 27, would this have to go back to the drafter if you simply said "an employee organization seeking to be certified as a bargaining unit for a group of employees that it deems to constitute a unit of employees". Surely that is simple enough. Would that have to go back.

Dr. DAVIDSON: That in its opinion.

Mr. WALKER: That in its opinion, that is all. Is it not simple enough that we can amend it.

Mr. LEWIS: I do not care about the wording, Mr. Chairman. I suppose if any words are changed we ought to see them. Personally, I think the law officers ought to change them.

Mr. BELL (*Carleton*): That it considers forms.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 27 stands.

On clause 28—*Application by council of organizations.*

Dr. DAVIDSON: This has to do with the council of employee organizations.

The JOINT CHAIRMAN (*Mr. Richard*): Shall the clause carry?

Mr. LEWIS: Just a moment, I can understand (a) although, with great respect, I think it is unnecessary; it is tautologous. Presumably you do not certify anybody who does not meet the requirements for certification. I do not see that these words are necessary but I have no objection to them. I do object to the very broad wording of (d). I have not seen the amendment to the Ontario labour relations act Dr. Davidson referred to.

Dr. DAVIDSON: Could I, gentlemen, read the relevant section of the Ontario legislation because I think, at least, it helps to clarify what is in our minds.

Mr. LEWIS: I think I can guess what you have in mind.

Dr. DAVIDSON: It says:

> Before the board certifies such a council—
>
> Referring to a council of employee organization.
>
> —as a bargaining agent for the employees of an employer in a bargaining unit the board shall satisfy itself that each of the trade unions that is a constituent union of the council has vested appropriate authority in the council to enable it to discharge the responsibilities of a bargaining agent.

Mr. LEWIS: I buy that. I had not seen it, but may I point out that what you have is not limited to that point. You talk about appropriate legal and administrative arrangements. Administrative arrangements go beyond vesting authority. You give the board the authority to decide whether a particular structure of the bargaining unit which the council sets up is the kind of administrative arrangement that it is satisfied is adequate. I do not think that is the board's business. I think it is the union's business. I think if you have the simple proposition which you have just read from the Ontario act that makes very good sense. What you want to be sure of is that somebody purporting to represent a number of unions, in fact represents them.

Dr. DAVIDSON: A bit more than that if I may say so, Mr. Lewis; you also want to be satisfied that the council of employee organizations does have the same capacity to carry out the obligations that it enters into as the bargaining agent as the separate unions themselves would have if they were recognized as the bargaining unit directly.

Mr. LEWIS: This is exactly why I am trying to point out to you my reason for feeling uneasy about this provision, because I can visualize unions forming a council for the purpose of bargaining and then providing in the collective agreement that the servicing of that portion of the agreement that affects the employees of one of the components of the council be left to that component. To give you an example, suppose you had the Queen's Printer, you had pressmen, typographers, lithographers and bookbinders, I think. These four unions form a council—I am just using this as an example—for the purpose of bargaining, so that they bargain as a group. There is no reason why that council should by law be required to be the servicing agent of that agreement. If they decide that each one of the four unions will service its members in the various stages and that is written into the agreement, why not?

Mr. BELL (*Carleton*): That is just what this section purports to do.

Mr. LEWIS: No, it does not. It takes away from them that kind of right.

Mr. BELL (*Carleton*): No, I think it says that appropriate legal and administrative arrangements have been made between the organizations for the carrying out of the obligations. It does not say by whom the obligations are to be carried out. They may very well be carried out by the component employee organizations.

Mr. LEWIS: I can see that but that may easily change after certification. This is just one of the rigidities in the legislation that I urge you do not require. The council may agree on one form of collaboration during the life of an agreement. At the time of certification they may find, as a result of experience, that another form is better. What do they do? Do they apply anew for certification? Why this rigidity? I think if you have the simple provision that the Ontario act has, simply saying that the board has to be satisfied that the individual unions have vested authority in the council to bargain on their behalf, surely, that is all we, as legislators, are concerned with, that the council has the authority to bargain on behalf of and speak for these unions at the bargaining table. What they do afterwards with regard to administrative arrangements for servicing the agreement, for dealing with grievances, for a host of matters that arise under an agreement, why not leave that to them?

Dr. DAVIDSON: Mr. Chairman, it does seem to me that in the negotiation of a collective agreement both the employer and the bargaining agent for the employee are taking on responsibilities which it is expected they will be not only obliged to discharge but in a position to discharge. If the employer is dealing with a bargaining agent that represents directly the employees, it is assumed that when the bargaining agent representing the employee organization enters into an agreement that he will take the responsibility and that he has the authority to ensure that the membership of his organization abides by the terms of the agreement that he has negotiated. Therefore, there is a direct line of responsibility that can be established between the representative of the bargaining unit at the bargaining table and the membership of the union itself.

When two employee organizations unite for reasons of convenience or for other reasons and say, we will form a council for the purpose of having one representative sit for both of our respective groups at the bargaining table, it does seem to me that it is important not only that the representative sitting at the bargaining table should be able to show that he has the credentials to negotiate at the table with respect to both groups of employees, but it is surely also expected that he should be able to establish that he, or the council he represents, has the same degree of authority in his hands to bind the employee organizations on whose behalf he speaks as the officers of those two employee organizations would themselves have if they were there.

Mr. LEWIS: This is what we ought not to demand. I am not going to keep on arguing this, but this is precisely what you ought not to demand, with great respect, and what you do not need. If you have evidence that the individual unions have authorized and have vested in the council the authority to negotiate on their behalf, then you arrive at a collective agreement. Somewhere in this proposed bill you have a clause—I cannot remember which one, if you do not I fully agree you should have—which says the collective agreement is binding on the employer and the organization and the employees. Is there not such a clause? Yes. Then once the collective agreement is arrived at each member of the council and each employee who is a member of one of the unions of the council is bound by the collective agreement.

Now, the administrative arrangements which they may make for the purpose of servicing the agreement is, with great respect, not our business. It is much beter—I do not want to use the trite term about being more democratic because I am not using it in any abstract sense—in realistic terms to leave it to them to make those arrangements.

Dr. DAVIDSON: Could I just perhaps bring forward, so we will know what is in this bill at this point, Mr. Chairman, the reference to clause 58 which says:

> A collective agreement, is, subject to and for the purposes of this Act, binding on the employer and the bargaining agent—

Which would be the council in this case.

Mr. LEWIS: Yes.

Dr. DAVIDSON:

> —that is a party thereto and on the employees in the bargaining unit in respect of which the bargaining agent has been certified . . .

Mr. LEWIS: I thought there was such a clause.

Dr. DAVIDSON: What this does not say is that it is binding on the two employee organizations that join together for purposes of forming the council of employee organizations.

Mr. LEWIS: I have no hesitation in agreeing—I am speaking just for myself—that you change 58 to say that the collective bargaining agreement is binding on the bargaining agent and in the case of a council it is binding on each member of the council. I am not wording it now. I think that is what it should do; otherwise there is no sense in having collective agreement. What I object to is that some government body is going to have the say as to which kind of administrative arrangements those people make among themselves for servicing the agreement. I do not think that is our business.

Dr. DAVIDSON: Mr. Chairman, I think we are getting close to the core of the problem here, and I would certainly be prepared to say that we would consider a change in 28 (2)(b), that would bring the wording closer to the wording I read from the Ontario legislation which has to do with the assurance that appropriate authority is vested in the council to enable it to discharge the responsibilities of the bargaining agent. Then, provide for an appropriate change in clause 58 that would tie in the responsibility of the employee organizations which form the council for bargaining purposes.

Mr. LEWIS: As far as I am concerned I think that would meet my objections to the wording.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we stand clause 28 for further suggestions from Dr. Davidson?

Clause 28 stands.

On clause 29—*No application before employees eligible for collective bargaining.*

Dr. DAVIDSON: There will be a change in clause 29, Mr. Chairman, that is consequent upon the changes we are proposing to clause 26, and in effect it will simply provide that no employee organization may apply to the board for certification as a bargaining agent or bargaining unit prior to the date specified by the board under clause 26. These are the dates we propose to set in the schedule.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 29 stand?

Clause 29 stands.

On clause 30—*When agreement concluded for term of not more than two years.*

Dr. DAVIDSON: I think there is no problem in Section 30, Mr. Chairman, that I know of.

Clause agreed to.

On clause 31—*No certification where previous application refused within one year.*

Dr. DAVIDSON: The only problem with clause 31 that I would like to refer to in the marginal note. The last two words of the marginal note should read: "six months" to conform with the text of the clause.

Mr. WALKER: Does that have to go back to the drafters?

Mr. BELL *(Carleton)*: I am not sure I understand this. Why by reason only of a technical error?

Dr. DAVIDSON: There are two situations, Mr. Bell. One is that the board may have refused certification and then find that it had refused certification by an error of its own or some error of a technical nature where if it had known the correct facts it would have decided otherwise. In this case it is not considered that it would be appropriate to require that there be a delay of six months in the board's reconsideration of the certification application. It can make the correction and change immediately. If on the other hand an organization applies for certification and the board, having the correct facts before it, determines, for example, that the applicant organization does not have a majority of the

members of this group, it refuses that application and there must then be a delay of six months before the application can be resubmitted.

An hon. MEMBER: In other words, you are anticipating that to err is human?

Mr. BELL *(Carleton)*: Where there has been a genuine error of principle on the part of the board into what category does it fall?

Dr. DAVIDSON: An error of principle? In another clause, Mr. Bell, the board can reverse any order that it makes.

Mr. LEWIS: Or vary or reverse. That is in an earlier clause. The only difficulty about this that I can see, and I am not sure it is important to raise but I will mention it to you, you could have organization A apply on January 1, and its application dismissed because it does not have a majority of the people or because the bargaining unit it wanted was not appropriate. So it gets delayed for six months. Then, organization B may come in February 1. In that situation would organization A have a right to intervene, as it is called, on the application by organization B, if by that time it has corrected its position?

Dr. DAVIDSON: In the second instance, the intervention of organization A would not, of itself, be an application. It could not make application at that point.

Mr. LEWIS: With great respect, Dr. Davidson, it does not talk about an application. It talks about the board "shall not certify". What that means is that if A has applied on January 1, then it is not eligible for certification until July 1.

Dr. DAVIDSON: That is right.

Mr. LEWIS: Well, suppose during those six months another organization makes application for certification of the same bargaining unit, does that mean that A is completely washed out because by July 1 the other organization may be certified. Do you follow me?

Dr. DAVIDSON: Yes. Certainly there is nothing in the wording of this clause that denies the board the right to certify any other employee organization in the six months period and if organization B can substantiate its entitlement to be recognized as the certified bargaining agent for the group concerned the board is not only free but is obliged under the act to certify that organization. The point I was trying to make is that organization A would be entitled not to make reapplication but to intervene and register the reasons why it objected, if it did, to the certification of organization B at the point when organization B made application. Here we are dealing with a situation *inter alia* where proof that one or other organization represents 50 per cent of the membership is required.

Mr. LEWIS: I think probably experience will show that some change may be needed. I am not raising this lightly. I think you will find that people belong to more than one organization in many instances. Those who belong to A may also join B and A will never get another chance if B gets certified. Its intervention will not affect the membership of B. I am not sure that is a wise provision but it is perhaps a detail that you have to deal with after experience.

The JOINT CHAIRMAN *(Mr. Richard)*: Shall clause 31 carry?

Mr. WALKER: With a marginal correction.

Mr. LEWIS: The margin is not a part of the act.

Clause agreed to.

On clause 32—*Determination of unit appropriate for collective bargaining.*

Dr. DAVIDSON: Clause 32, Mr. Chairman, is the clause that deals with the important question of how the board proceeds to certification after the initial certification period has expired. This is the clause which gives to the board the authority to determine in its own way the appropriate bargaining units, the principal remaining limitation being that contained in subclause (3) which says in effect that a bargaining unit cannot be composed of employees who come from more than one or other of the five occupational categories. We have—

Mr. LEWIS: Is it five or six?

Dr. DAVIDSON: There are five that are listed in the bill.

Mr. LEWIS: And others that may—

Dr. DAVIDSON: And there are others that may be established. We are proposing, on that point, that the authority to establish the others should not rest with the Governor in Council but with the Public Service Staff Relations Board.

There will be a change in clause 32(1). The reference to subsection (3) of section 26 would have to be modified in light of the new text of section 26 when it appears and it will in fact be subsection (4). There is also a change that we propose to make to the last half of subclause (3) by the deletion of all the words after the word "relate" in line 3.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments? Shall clause 32 carry?

Mr. WALKER: We have not got the amendments.

Mr. LEWIS: Let it stand.

Dr. DAVIDSON: I can advise the Commitee that the two changes we are proposing are that the reference to subsection 3 in line 3 of section 32(1) be changed to read "subsection 4" and that in subsection (3) as it presently appears the words after the word "relate" on the third line of page 17 be struck out.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 32 stands.

Mr. WALKER: If it is only paragraphing can we carry it as amended then?

Mr. LEWIS: That is assuming that subsection 4 of the unseen section 26 will be the subsection, is it not? I think you might as well stand it, Mr. Chairman.

Clause 32 stands.

Clause 33 carried.

On clause 34—*Certification of employee organization as bargaining unit.*

(*Translation*)

Mr. ÉMARD: Clause 34, if I understood correctly, says that when a group of employee represents the majority that group will be recognized throughout Canada, is that it? I am not so much in agreement with the principle of national representation. I understand the Government's point of view. I understand, for instance, that the Government cannot take the liberty of bargaining with several unions representing employees in the same group, that is to say, separately. The Government cannot negotiate separately with several unions representing employees of one and the same group. I also understand that it would not be practical to sign several separate collective agreements with the same group of

employees. It would be normal to have only one bargaining committee per group, only one collective agreement covering all employees in one group.

This is not to say however that employees cannot be represented by more than one organization within a group. We will have to impose certain limits as to the number of organizations to represent employees in a particular group. Personally, I believe that if the organization succeeds in grouping an important segment throughout the country, it should be certified as a bargaining agent. There are a great many considerations to be taken into account. We spoke of natural units but I could also speak of community of interest. First of all, though we have to consider the size of the country. We have to consider the difference in language and culture or the different concerns of people as individuals, and also, I think, we must have consideration for those who do not accept present representation. In addition to the fact that Confederation was built through a system of individual units, it is against the spirit of Confederation to have national units. You might perhaps tell me that at the present time, we do have national units, but we have to consider that the national bargaining units at the present time were accepted by the employees. I believe that Bill C-170 should not impose on public servants in each group only one association, but rather allow them a certain choice, a certain option, which could be exercised by allowing all organizations which have succeeded in having over 10 per cent of employees in one group to participate in negotiations. That is not to say that there will be ten, but it means that there would be the most you could have would be 10. I think that this is done elsewhere, in several places. In France, for instance, and I am taking this example though not necessarily to say that we should copy everything they do—you have different organizations, you even have Catholics, Communists, and Socialists, who are in the same bargaining committee to discuss their employer. I cannot see why we would not have the opportunity here, the employees would have an opportunity of grouping according to their community of interest in a rather large group. If the group does not represent 10 per cent then it could not be certified.

Bargaining is not all, you also have to have the result of the bargaining accepted by the membership and this is very important too. If you want to succeed, the members have to be represented by people who are close to them, who have some idea to explain to them, who can—perhaps it is not the expression I should use but all the same—who can sell the results of collective bargaining to the membership, subsequently. Besides this, when the collective agreement has been signed, it has to be policed. In other words, you have to supervise its application. This would be very difficult with units going from one end of the country to the other. The organization of a union is different from the organization of industry. Organization starts at the bottom in trade unions Government should respect the principles of the labour movement, and one of the basic principles is that employees should be organized according to their comunity of interest beginning at the bottom, at the base. Bill C-170 is at the present time proposing a movement which is completely contrary to that principle. If we adopt legislation to group employees without taking their community of interests into account, the natural reaction will I think be a bad one.

And, if on the other hand, we allow the employees to group according to their interests, they will automatically seek to re-group. That is a natural

reaction. If we force them to group their natural reaction will be to move apart, whereas if on the other hand, we allow the employees to group according to their own interests, they will automatically seek to re-group. What I want here is not a grouping by provinces, although Quebec has particular problems in so far as language, culture, and reactions are concerned, as is well known. But there are other problems too, particular problems, and I think that if we have one association throughout Canada, the organization will probably have to suffer from these problems. For instance, take the problems or conditions in British Columbia. They certainly are not the same conditions in Alberta. If you wanted to group the provinces, the two of them together, say British Columbia with Alberta, I think you would have trouble, and this would be repeated for other provinces.

All the same I am personally convinced that if we put a minimum of 10 per cent for representation of employees, this would give the employees a chance to group according to their own community of interest, and to group too within single bargaining committee. The Government could then have one single collective bargaining per group, and have a committee which might be composed of various unions.

Mr. LACHANCE: Mr. Chairman, I consider that Mr. Émard has expressed some very interesting opinions, and I share most of them. When he spoke of natural bargaining units, this does not conflict, to my mind, with the matter of community of interest. It is rather a cause and effect relationship. It is precisely the community of interest of workers which will be the cause and the effect of recognition of this community of interest would necessarily bring on what I call, or what other people call too—perhaps it is the wrong designation, but at least it is what we call it—the natural bargaining units.

It is precisely this community of interest on the part of the members which requires a special arrangement. I understand that, you are not insisting on this idea of a natural bargaining unit. You are stressing rather bargaining units which are composed of different groups of workers represented by different organizations, if I understood correctly.

(*English*)

Mr. LEWIS: We do not have that problem.

The present bill permits you to have a number of unions joined together into a council for bargaining purposes. I think what Mr. Émard is talking about, if I may translate it in terms of the language of the bill—and it is not only clause 34, Mr. Émard; it is clause 32 as well—is that the Staff Relations Board have—I am not translating what he said, but putting it in the language of the bill—authority, when deciding on the appropriateness of a collective bargaining unit, to take into account not only the duties and classification of the employees in the proposed bargaining unit as now provided in clause 32, but to take into account also their community of interest.

When you get to clause 34, what you are talking about would amount to giving the Board the authority to determine not only that a group of employees in terms of the occupational group, but that some other unit may be appropriate, a part of a group, or parts of more than one group. This is really what it amounts to, leaving the other 10 per cent alone. So that what Mr. Émard is suggesting is

that the Board have authority to cut across occupational groups either within a group or with more than one group—not occupational categories but occupational groups. Is that not right?

Mr. ÉMARD: That is right.

Mr. LEWIS: There is no doubt that splitting up an occupational group is what is involved. If you take, say, the members of a group resident in Ontario who think—and I am deliberately using Ontario—that they have a community of interest different from the rest of the group across Canada, you give them the right to be represented by another bargaining agent. Is that right?

Mr. ÉMARD: If they so choose.

Mr. LACHANCE: But in the same category.

Mr. LEWIS: Oh. yes. But the categories are not very difficult because there are only six or seven of them.

Mr. ÉMARD: It is not the categories; it is the 68 or 73—what is it?

Mr. LEWIS: There are seventy-three occupational groups that the Board would have the authority to split any one of them up on the basis of some community of interest because—let us be frank—they think that their language connection or their particular attitude toward a thing makes them more appropriate as a bargaining unit.

Mr. WALKER: This is the extreme. If it is 10 per cent you would multiply 73 by 10, and you could have 730 if the principle is followed.

Mr. BELL (*Carleton*): A better example than Ontario would be British Columbia, which is a very high wage area, and where they would naturally think there was some affinity, and where they would expect to get considerably higher wage or salary conditions than they would get in a low-wage area in Newfoundland.

Mr. ÉMARD: They would all be in the same group for negotiations; they would not be bargaining separately. Every group would have to get together and be on the same bargaining unit, and bargain only one collective agreement which would apply to all.

Dr. DAVIDSON: Mr. Chairman, if I understand Mr. Émard correctly in this last point, what he is really saying is that just as it is possible for two employee organizations to join together voluntarily to form a council of employee organizations which will bargain on behalf of those two employee organizations that have joined together, so in the case where there is an identifiable separate 10 per cent of an occupational group that has a community of interest that is separate from that of the 90 per cent it will, as I understand it, be obligatory for the Public Service Staff Relations Board to establish what is, in effect, a council of employee organizations for that occupational group. One of the associations will represent 90 per cent of the membership and the other the 10 per cent that have a separate community of interest, and this council will then bargain on behalf of the two groups.

Mr. ÉMARD: That is exactly it.

Mr. LACHANCE: Is this possible?

Dr. DAVIDSON: Mr. Chairman, I think every member of the Committee will realize that this is a matter of the highest political importance, and a matter on which a person in my position should not presume to express an opinion on behalf of the government without first having been briefed as to what he should say.

There are just two or three points that I would like to make by way of clarification, without venturing to express an opinion. One is that after the initial certification period there is, as I read clause 32, no restriction on the authority of the board to do this if it can be convinced that it should do so. I think I have interpreted correctly Mr. Émard's suggestion as calling for councils of employee organizations determined by the Public Service Staff Relations Board rather than by the voluntary consent of the two groups within the occupational group. Having said that, I have to add that what we have tried to do in preparing this bill is to bring the public service of Canada to a point where it can be said that the collective bargaining arrangements that are being made available to it are reasonably comparable with the collective bargaining arrangements that exist outside the government service for employees coming under federal jurisdiction and the Industrial Relations and Disputes Investigation Act.

We are having, I must say with deference to the Committee, a hard enough time even as things now stand bringing ourselves into the middle of the 20th century with this legislation; and I venture to suggest that what Mr. Émard is suggesting is something that will carry us in advance of the point which has been reached in collective bargaining legislation under the Industrial Relations and Disputes Investigation Act or in other segments of the non-governmental labour force, so far as I am aware. I feel that it would be better for us to try to gain some experience with the familiar patterns and conventions in the collective bargaining field before we venture into *terra incognita*, which some day may be the new patterns that will be emerging in labour legislation generally.

Mr. LEWIS: You prefer terra firma.

Mr. WALKER: The more *firma* the less *terra*.

Dr. DAVIDSON: I think those who have more experience that we should be the venturesome pioneers in this delicate area.

Mr. LEWIS: Mr. Émard was throwing this out as a suggestion. Perhaps, you need not go as far as Mr. Émard suggested, but you might give consideration—and this I suggest on general principles, not only on the point that I know Mr. Émard has in mind—to putting in clause 32 (2) the idea that it should take into account the community of interest, leaving it to the Staff Relations Board to decide what that means—we cannot avoid that—and then consider giving the Staff Relations Board—I am not making an amendment, I am just saying that this is an alternative way of doing it instead of the 10 per cent—the discretion to determine a bargaining unit of less than an ocupational group if, in its wisdom, the community of interests of a given segment of employees in an occupational group justifies it. I am just suggesting that as a possible alternative which will go some way toward what Mr. Émard is after, and an organization representing any number, whether it be 10 per cent, 5 per cent or 25 per cent, having a community of interests, can go to the board and argue that community of interests, and if the board agrees with them, it could have the authority to certify it. I am not saying that this is a good or a bad thing, but this is one way of approaching the problem raised.

Mr. LACHANCE: Is it possible that those in the department—

The JOINT CHAIRMAN (*Mr. Richard*): I think you will agree, Mr. Lachance, generally speaking, that this is a matter of policy and Dr. Davidson cannot make any decision here.

Mr. LACHANCE: I know that Dr. Davidson cannot make the decision himself, but would it be possible to make available to the Committee some amendment which would be put in the right form. If a member of the Committee moved an amendment, it may not be in the proper terms and it may not give the proper reference. The officers of the department know the bill so well that they could submit some amendment in the form that Mr. Lewis mentioned.

(*Translation*)

The JOINT CHAIRMAN (*Senator Bourget*): Why then do you not submit an amendment, both of you? You could prepare one together and then submit to Dr. Davidson and his aides so that they can then see whether it could be included in sections 32 and 34. I think that this would be the best thing, otherwise we can discuss this a long time—

(*English*)

Mr. LEWIS: It is desirable to know, after Dr. Davidson gives it thought and consults higher authority, whether they are of opinion that any change should be made in the setup they now propose.

Mr. LACHANCE: I think that would be the best procedure.

Mr. LEWIS: Why do we not have word from Dr. Davidson sometime later, when he has had time to consult those whom he must consult, on an issue as important as this, before we attempt any amendments.

(*Translation*)

Mr. ÉMARD: My intention, Mr. Chairman, was to ask for permission to bring in an amendment for the next meeting.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): I think it is your privilege to present any type of amendment you have in mind at our next meeting.

Shall we stand section 34 or are there any other comments?

Mr. LEWIS: I would like to know how you are going to satisfy yourself about subparagraph (d). What is intended?

Dr. DAVIDSON: Mr. Chairman, I do have some changes of wording to make at the end of subparagraph (d) of section 34. Strike out the words after "organizations"; that is to say, strike out the words "in the regulation of relations between the employer and such members", and substitute the words "in the making of such application." I think the point here is merely that the board should be satisfied that the persons representing the employee organization in the making of an application have been duly authorized to act for the members of the organization in the making of that application.

Mr. LEWIS: But how—and I am not questioning it.

Dr. DAVIDSON: By checking on the credentials of the persons whose names appear on the application forms. It should be possible for them by affidavit, or by

a copy of the resolution of the employee organization concerned, or the executive committee to establish that they have the authority in the name of the employee organization to make the application. That is as far as the requirement of establishing their credentials should have to go.

Clause 34 stands.

The JOINT CHAIRMAN (*Mr. Richard*): Do you wish to continue. It is now 5.45.

Mr. WALKER: I would just as soon stay here for the next 15 minutes. Let us go on.

The JOINT CHAIRMAN (*Mr. Richard*):

On clause 35—*Powers of board in relation to certification.*

Dr. DAVIDSON: I have already mentioned that we are proposing to delete subparagraph (d) of clause 35 on page 18.

Mr. WALKER: Is that your only amendment to clause 35?

Dr. DAVIDSON: Yes sir.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments on clause 35?

Mr. LEWIS: I suppose it has to be formally moved that subparagraph (d) be deleted.

Mr. WALKER: I move that subparagraph (d) of subclause (1) of clause 35 be deleted.

Amendment agreed to.

Clause 35, as amended agreed to.

On clause 36—*Specification of process for resolution of disputes as condition of certification.*

Dr. DAVIDSON: Mr. Chairman, clause 36 is the one where we propose to change the requirement that an applicant for certification as a bargaining agent must specify which of the two routes he proposes to take before certification is granted, to a new provision which will require them to make this option within 30 days after certification is granted.

Mr. LEWIS: Mr. Chairman, I seriously suggest we might adjourn, because I imagine the discussion, argument or debate on this proposal will take longer than 10 minutes.

The JOINT CHAIRMAN (*Mr. Richard*): Are you serious?

Mr. LEWIS: I am, because the attempt to force these organizations to make up their minds as to which road they are to follow before they begin negotiating, I cannot buy. I do not think any interest will be served by it. I think they ought to have the right after they have negotiated, not before they even start.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 36.

Clause 36 stands.

On clause 37—*Certification to record process for resolution of disputes.*

Dr. DAVIDSON: Clause 37 hangs so closely, I think, to clause 36 that it will have to await the outcome of the discussion.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 37.

Clause 37 stands.

On clause 38—*Application for alteration of process.*

Mr. LEWIS: This is also related to clause 36.

Dr. DAVIDSON: These are all related.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 38.

Clause 38 stands.

The JOINT CHAIRMAN (*Mr. Richard*): The committee will adjourn.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order, please. When we adjourned we were about to proceed with clause 39.

On clause 39—*Where participation by employer in formation of employee organization.*

Dr. DAVIDSON: I think Mr. Chairman, so far as Clause 39 was concerned, subclause (1) and subclause (3) may not cause the Committee any difficulty. Subclause (2) however, relates to the problem of contributions paid for activities by a political party. This is tied up directly to the provision in the Public Service Employment Bill dealing with the similar subject matter, and I believe that that has been stood for the final consideration of the Committee.

The JOINT CHAIRMAN (*Mr. Richard*): Is there anything else in Clause 39?

Mr. LEWIS: I believe if my colleague Mr. Knowles, were here he would move the insertion of the word "sex" before "race". But seriously, we have made that amendment in Bill No. C-181. Should we not be consistent?

Dr. DAVIDSON: We were prepared to raise this point ourselves, Mr. Chairman. If it is a fact that the Committee has made this change in Bill No. C-181 there is no reason why it should not be made here. That is something that all members can agree upon.

Mr. Chairman, can I venture to suggest that we clear subclauses (1) and (3) if possible so that when we come back to clause 39 we only have to come back to subclause (2).

Mr. BELL (*Carleton*): With the inclusion in subclause (3).

Mr. LEWIS: I move that clause 39 subclause (3) be amended by inserting the word "sex" before the word "race".

Amendment agreed to.

Clause 39 subclauses (1) and (3), as amended, agreed to.

Subclause (2) stands.

Clause 40 agreed to.

On clause 41—*Application for declaration that employee organization no longer represents employees.*

Dr. DAVIDSON: This is the first section dealing with provisions on revocation. It provides that a person claiming to represent a majority of the employees in a bargaining unit, may apply to the Board for a declaration that the certified employee organization no longer represents a majority of the employees therein. On that initiative being taken by a person who claims to represent a majority of the employees, and is challenging the right of the employee organization to represent the majority, the Board will proceed in accordance with the provisions of subsections 2, 3 and 4. The provisions of subsection (2) are identical with the

provisions of section 30 of the bill that we have already approved, that provide for the point in time at which these challenges to the mandate of the bargaining agents can be made. Subclause (3) provides that the Board may take a referendum, and that the procedures are the same as have been approved in subclause (2) of clause 35. Finally, in subclause (4), the Board has the authority, if it is satisfied that a majority of the employees in the bargaining unit no longer wish to be represented by the employee organization in question to revoke the certificate.

Clause 41 agreed to.

Clause 42 agreed to.

On clause 43—*Certification obtained by fraud.*

Dr. DAVIDSON: This is the clause that relates to the revocation of the certificate of an employee organization where it appears to the Board that fraud is involved. We ourselves have in mind suggesting to the Committee for consideration the substitution of the words "where at any time the Board is satisfied", rather than "where it appears to the Board". This seems to us to be a better way to express it. Then it would read on the fourth line where the Board is satisfied, "the Board shall revoke" rather than "may revoke".

The JOINT CHAIRMAN (*Mr. Richard*): Will you read it then in full.

Dr. DAVIDSON: Yes. Subclause (1) would read:

> "Where at any time the Board is satisfied that an employee organization has obtained certification as bargaining agent for a bargaining unit by fraud, the Board shall revoke the certification of such employee organization."

Amendment agreed to.

Dr. DAVIDSON: 43(2) is unchanged.

Clause 43 as amended, agreed to.

Clause 44—*Revocation of certification of council.*

Dr. DAVIDSON: In clause 44 sir, we would suggest the deletion of the first two and a half lines, down to the word "revoked". For the remainder of the text could remain as it stands.

Mr. BELL (*Carleton*): Why?

Dr. DAVIDSON: Could I ask Mr. Bell which of my two propositions his question relates to.

Mr. BELL (*Carleton*): Proposal to delete.

Dr. DAVIDSON: As being unnecessary, because clauses 41, 42 and 43 refer to employee organizations and the circumstances under which the certificate of employee organizations can be revoked. Employee organizations are defined as including a council of employee organizations. Therefore, at best these two and a half lines are superfluous. The rest of the section refers only to revocation that applies to an employee organization which is a council.

Mr. CHATTERTON: Why does it refer to a council only, then?

Mr. LEWIS: In the case of a regular employee organization, I as an employee may seek its decertification, if the council is altered in one of the constituent organizations.

Mr. CHATTERTON: Correct.

Mr. Walker: I move that the first two and a half lines of clause 44 up to and including the word "revoked" be deleted.

Amendment agreed to.

Clause 44, as amended, agreed to.

On clause 45—*Effect of revocation where collective agreement or arbitral award in force.*

Dr. DAVIDSON: Clause 45 deals with the effect of revocation on existing collective agreements. It provides that where, at the time the certification of a bargaining agent is revoked, a collective agreement is in effect or an arbitral award, and where there is no other employee organization replacing the decertified bargaining agent, the revocation of the certificate will have the effect of nullifying or at least terminating the agreement or award.

Mr. LEWIS: I just want to ask you whether this is entirely wise. I see what you are after but there are certain rights and so on flowing from the agreement to the employees. Is that covered?

Dr. DAVIDSON: This, I think, Mr. Lewis, you will find is covered in clause 47 but this clause is based on the proposition that to have a collective agreement of continuing validity, you must have two parties in existence to maintain the agreement.

Mr. LEWIS: I understand that.

Dr. DAVIDSON: Then clause 47, which we will come to in a moment, does provide that the board may determine what residual rights, you might say, flowing from the cancelled collective agreement shall be maintained in respect of individual employees. Perhaps, we can look at that.

Clause 45 agreed to.

On clause 46—*Determination of rights of bargaining agent by Board.*

Dr. DAVIDSON: Clause 46 is a companion measure, Mr. Chairman. Where the certification of a bargaining agent is revoked by the board pursuant to any one of the previous causes for revocation except for fraud, then any question as to any right or duty of the bargaining agent past or present, is to be resolved by the board. In the case of a certification that is voided because of fraud, you will see under clause 43 (2) above that there is no question of determining whether it is the past or the new bargaining agent who is responsible; the certification and the agreement are voided by the fact of its having been entered into by fraud.

In all of these cases—to go on, if I may, to clause 47—whether the certification of the bargaining agent is voided for reasons other than fraud or for reasons of fraud, it is left to the board to determine what rights and privileges the individual employee may retain notwithstanding the fact that the agreement, by which those rights and privileges were obtained, may have been voided.

Clause 46 agreed to.

On clause 47—*Direction as to manner in which rights acquired by employee are to be recognized.*

Mr. LEWIS: Clause 47 goes a little further and, I think, correctly. They do not merely decide what rights but also the manner in which the rights may be exercised.

Dr. DAVIDSON: Yes. Might I just add, on that point, Mr. Chairman, that of course back of all this lies the fact that as collective agreements are introduced, in a great many cases it will be necessary for the Treasury Board, under the terms of the Financial Administration Act, to make orders authorizing pay schedules to be revised and other conditions of employment to be given authority under the provisions of the Financial Administration Act. So, even if the collective agreement is voided, a great many of the conditions of employment that are enshrined in the collective agreement will, in the meantime, have been made a subject of Treasury Board orders and those orders will not be voided merely because the collective agreement itself was voided.

Mr. LEWIS: One other thing they thought of is this. I noticed the words "direct the manner in which any right may be recognized and given effect to" is the grievance procedure, and presumably the board might decide to have a committee elected by the employees carry on with the grievance procedure even though the bargaining agent is out.

Dr. DAVIDSON: As the interim agency to process the grievances on behalf of the employees.

Mr. LEWIS: I imagine that this would give them the authority to make some temporary arrangement like that.

Clause 47 agreed to.

On clause 48—*Mergers, amalgamations and transfers of jurisdiction.*

Dr. DAVIDSON: This merely provides that where there is a merger or amalgamation of two employee organizations and any question arises concerning the rights, privileges and duties of one under the act or under a collective agreement, then on referral to the board by an employee organization that is affected by this amalgamation, the board may examine the question and may determine the issue that is referred to it.

Clause 48 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, a new group of clauses follows, beginning at clause 49 and going to clause 58, under Negotiation of Collective Agreements.

On clause 49—*Notice to bargain collectively.*

Mr. LOVE: Mr. Chairman, the bill provides for compulsory collective bargaining in defined circumstances. Where a bargaining agent has been certified and notice to bargain has been given, the parties are required to bargain collectively in good faith and make every reasonable effort to conclude a collective agreement. The employer is prohibited from altering any term or condition of employment in force at the time a notice to bargain is given until a collective agreement has been entered into or the dispute settlement processes provided in the bill have been completed. These provisions are comparable to those established under the I.R.D.I. Act. There are no limitations on the matters that may be discussed at the bargaining table. There are certain limitations, however, on the subject matter of collective agreements. These relate to matters which would require legislative action for their implementation or require the amendment of regulations established pursuant to a statute dealing with terms and conditions of employment—that is, the Public Service Employment Act, the Public Service

Superannuation Act, the Government Employees Compensation Act and the Government Vessels Discipline Act.

The chairman of the board, on application by one of the parties, has authority to appoint a conciliator to assist the parties in reaching agreement where difficulties are being experienced in negotiations. Collective agreements are binding on the employer, the bargaining agent and employees in the bargaining unit.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments?

Mr. LEWIS: I have doubts about some of the limitations on what may go into an agreement. Instead of making a speech, I thing when we get to the clause, we might discuss it.

Clause 49 agreed to.

Clause 50 agreed to.

Clause 51 agreed to.

On Clause 52—*When negotiating relationship terminated.*

Mr. LEWIS: I do not understand the need for it. Would someone enlighten me?

Mr. LOVE: Mr. Chairman, "negotiating relationship" is a phrase which is used, I think, in other provisions in the bill dealing with dispute settlement. Largely because of the provisions for arbitration, it was considered important to have a clear understanding in the bill as to when the parties are in a negotiating stance and when they cease to be in a negotiating stance, and the effect of this provision is simply to say that they are in a negotiating relationship until such time as a collective agreement has been entered into or a request for arbitration has been made in accordance with the provisions of the act.

Mr. LEWIS: That is what it says but could you direct me to other sections in the act which make this necessary? Unless, Mr. Chairman, there are some really valid reasons, I do not like the idea of suggesting that the negotiating relationship ever terminates.

Mr. RODDICK: Mr. Chairman, if I could comment on Mr. Lewis' question—the requirement for the negotiating relationship to start at a particular time, and to be seen to have terminated at the point where one of the parties seeks arbitration, is a very important provision in relation to the control of access to the arbitration tribunal.

Mr. LEWIS: Why?

Mr. RODDICK: The assumption is that the negotiating relationship is completed when either of the parties gives us trying to get a collective agreement and seeks arbitration. At that point, the intent is that the parties have lost their control over the matters and put that control in the hands of a third party.

Mr. LEWIS: I cannot understand why you are seeking this kind of rigidity. Suppose you go to the arbitration tribunal and the arbitrator, as often happens before an arbitrator or a court or any other body which has the authority to make a binding decision, listens to them and takes them in a room and says: "Look, you guys, why do I have to do this? Can we not use a bit of common sense?" What is wrong with that? And instead of having to bring down a binding decision, he is able, at that stage of the game, to suggest to them that they can

arrive at something. Either side can refuse to do it; it is not as if you give him the authority to do it but once you have this section in, then really you take from him the authority to do it; you tell the arbitrator the negotiating relationship is now ended, "You just go out there and make an adjudication, no matter what." Now, why do you need that?

Mr. LOVE: Mr. Chairman, this is one of the provisions which is in here really on the basis of the recommendations of the preparatory committee, as I recall it.

Mr. LEWIS: It does not make it any better.

Mr. LOVE: No, but that really was not my point. I think the preparatory committee was preoccupied, at least to some degree, with the problem of trying to put pressure on the parties to negotiate in good faith and to avoid the arbitration mechanism except in circumstances where it was the only solution. The feeling was that if the parties could rather lightly request arbitration in the full knowledge that they could continue to negotiate, they would be more likely to use the request for arbitration in a tactical sense. I think the purpose of this section is to try to ensure that the parties do in fact try, by every means possible, to work out their own problems without requesting arbitration.

Mr. LEWIS: You do not legislate this. Can you show me some other reason which has not yet been given? This is not a matter of principle except the principle that I do not think that a law relating to labour relations should ever recognize in words that the negotiating relationship is ever at an end. You arrive at an agreement, one week later. You have some experience, you sit down and negotiate a change in the mutual agreement. Why not? Why do you want to put this wall around there? You do not need it. If they go to arbitration, the act provides that the arbitrator makes a decision which is binding and if neither side or one of the sides refuse to do anything else but listen to the arbitrator and tell him their story and have him make an adjudication, that is fine. But why do you want to bind him? Why do you need this rigid wall around the thing? I urgently ask you to look at it. I think it is totally unnecessary. Give the arbitrator some leaway. What harm can it do?

Mr. BELL (*Carleton*): I must say that I have been persuaded greatly by what Mr. Lewis has said. I would hope that the section might stand and unless there have been reasons which have not been advanced, that it might be deleted.

The JOINT CHAIRMANS (*Mr. Richard*): Shall clause 52 stand?

Mr. WALKER: Are you suggesting that this relationship should not end even when the arbitrator is seized of this and is in the process of making his decision; that this should continue even when both parties have taken hands off and even when the arbitrator may have gone back and said "Is it cleared up", and they said, "No; you settle it for us." You are thinking that relationship should still carry on?

Mr. LEWIS: I think the philosophy of collective bargaining is that the relationship is an enending one; in fact, I have often said to unions that they ought to remember before they take strike votes or anything else that they are in a position where they cannot divorce. There is no divorce in the labour management relationship; you might have a different spouse, you know, another bargaining agent, but the relationship ever goes on. I think the philosophy is that a

particular set of negotiations come to an end but the negotiating relationship never does.

Mr. MACKASEY: Clause 52, of course, may give one party or the other second thoughts before appealing to arbitration. They could think, well, if we sleep on it tonight and decide to go back to negotiation tomorrow, we will already have burned our bridges according to clause 52, so before we appeal to arbitration, we had better have a second look at negotiations.

Mr. LEWIS: That is implied without clause 52. It is there. If you decide to go to arbitration, the arbitrator is given certain authority under this act. The authority is that he makes a decision.

Mr. MACKASEY: What you are saying is if the parties should abdicate him, too. They want to retain their right to negotiate and at the same time they want the help of an arbitrator. Now, as I see clause 52, it simply says to the two parties, "All right, the moment you ask for an arbitrator you cease officially to be in a process known as negotiation. So think twice before you go to it because tomorrow, on second thought, you might think perhaps you have another chance to negotiate."

Mr. LEWIS: I do not think it accomplishes this, Mr. Mackasey. I think that what it does accomplish is to say to the arbitrator that he has no leaway because so far as the parties are concerned, they know well enough that when they decide to go to arbitration, if they have chosen arbitration, and they negotiate and someone says, well, we cannot get anywhere, let us go to arbitration, that, in fact, means arbitration. It does not mean anything else. But if you do not have clause 52, you leave the thing more flexible for the arbitrator. If you have clause 52, you do not.

Mr. MACKASEY: He can tell both parties to go back to negotiating.

Mr. LEWIS: No. You might decide to ask for a mediator. I have seen that dozens of times. They come before him; they are so close together and he says; "I do not want to make a decision; I do not understand this problem well enough; you people are better qualified."

Mr. MACKASEY: That is a good point.

Mr. LOVE: I think, Mr. Chairman, that people who have worked on this legislation certainly would share the basic philosophy that Mr. Lewis put forward and I think, if the reference to the negotiating relationship is the cause of the difficulty, this could be examined. Certainly, we have assumed that the relationship between the employer and the certified bargaining agent is a continuing, non-ending thing. The sole purpose of clause 52 was that which has been stated. There is not too much experience to go on in Canadian labour law because there are few precedents for a law that provides for a permanent tribunal to arbitrate on matters of interest. A lot of people who have been against an arbitration mechanism of this kind have argued that, as long as you have arbitration at the end of the road, it will be difficult to get the parties to bargain collectively in good faith. As I said, the people who have worked on this have been somewhat preoccupied with the problem of trying to keep the parties away from arbitration until they have exhausted all of the possibilities of bilateral negotiation. The sole purpose, really, of this section is to prevent either of the parties from seeking arbitration lightly. We would like to think that they

had really come to the end of the road in terms of the possibilities of reaching agreement in bilateral talks.

Mr. LEWIS: I do not seem to be able to persuade you. My point is this. Let me use general terms without appearing to sermonize it. You can reach the end of the road at 10 o'clock tonight and decide to go to arbitration. Then you come together with the arbitrator, and what I want is that the arbitrator should not be placed in a position where he cannot, then, revise the negotiating relationship, if you like, which is what is desired. I do not think you need this clause to achieve what you want—certainly not for (a), for example. Why should the negotiating relationship end when you have signed a collective agreement? Neither side need to agree to reopen but if both sides do agree to reopen, why should the law not let them? Why should the law use language which says you cannot reopen, you found after a month of disagreement that something is not working and the employer says to the bargaining agent: "Let us look at this again. We think we made a mistake." The bargaining agent says: "All right." Then, by mutual agreement they revise the agreement they signed. What is wrong with that?

Mr. LOVE: There is nothing wrong with that, sir. I think there is provision for this in the bill, if I am not wrong.

Mr. KNOWLES: Yes, there is.

Mr. MACKASEY: But in subclause (a) it theoretically makes it illegal to try to negotiate.

Mr. LEWIS: You have a conflict between two clauses. I will move the deletion of clause 52 unless you would like to stand it to look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we let it stand?

An hon. MEMBER: Yes, let it stand.

Mr. LEWIS: There may be other reasons we have not thought about.

Clause 52 stands.

On clause 53—*Request for conciliation.*

Mr. LOVE: This is a provision which makes it possible for the parties to seek the assistance of a conciliator before the negotiating relationship, to use the language of the previous clause, has broken down or terminated.

Clause 53 agreed to.

On clause 54—*Report of conciliation.*

Mr. LEWIS: May I ask a general question of Dr. Davidson and his associates? Have they given any consideration to having some other officer of the board—the registrar or someone—to be concerned with the appointment of conciliators, arbitrators and so on. I am very much concerned with the tremendous authority that is given to one person in this bill. He is the Chairman of the Staff Relations Board; he has authority to appoint a conciliator; he has the authority to appoint an adjudicator; he has the authority to set out the items in conciliation and the items in dispute before the adjudicator and a whole host of others. My instinct rebels a little at placing into the hands of one person—and it is one person, it is not a body; it is just the chairman—authority in all these fields. I know why you have it; it has to be someone other than a minister. I wondered if you might not give some consideration to appointing an officer of the board—I call them registrars in my own mind, but you can call them anything you like—to whom

the duties in relation to conciliation, arbitration and adjudication are given, with the chairman of the board having the remaining duties rather than having all of them in one person.

Dr. DAVIDSON: I confess, Mr. Chairman, that we have not given consideration to this but I think we could undertake to give consideration to it. I must say I was impressed with the discussion which took place this morning and to find, somewhat to my own surprise, that there were times when the vice-chairman was going to be sort of an onlooker at the proceedings without having the same full degree of membership in the board that the other members of the board and the chairman would have. It may be that consideration could be given to some division of labour that would take, at least in certain respects, some of the total burden of responsibility off the shoulders of the chairman. I am not suggesting in that that it should be the responsibility for naming the conciliator which should be taken off the chairman's shoulders, but there are, as Mr. Lewis has said, a host of duties assigned to the chairman and without knowing at this point which of those duties it might be possible to look at, I would say that we are quite prepared to undertake a review of the chairman's duties to see if there are any that, in our opinion, could properly be delegated to someone else.

Mr. LEWIS: Otherwise, he just will not carry out those duties. It will be some underling who will do many of the things for which he will be responsible. I think if this was to work well the person appointing the conciliator or the adjudicator should have time to give the particular situation some thought.

Dr. DAVIDSON: Could I just say one more word on this, Mr. Chairman? We have been concerned, both before and after the discussions that took place in the house, with the comments that have been made by members as to the dual role that the chairman of the board and the board itself is being asked to assume. We have not been able to find any alternative, frankly, but this has given us concern and we would like to find some way by which it could be made apparent that the load of responsibility was appropriate to the position of chairman. For that reason, I am glad to reiterate that we will take a look at this to see what, if any, possibilities there are. It seems to me, the board and the chairman, in the circumstances which we envisage for this legislation, have certain burdens that will be very onerous immediately following the passage of this legislation and that is the burden of certifying and getting the thing started. After this, there will be other kinds of responsibilities and questions which will be referred to the board as the bargaining process begins to unfold. I think it is unlikely that there will be a peak load of both of these kinds of referrals to the board at the same point in time and, therefore, I would certainly hope and I would expect that over the long pull there would be an evening out of the workload for the board even though the nature of the workload itself may change.

Mr. MACKASEY: Is the chairman bound to make this appointment, or is it at his discretion? It is this old "shall" and "may" business again.

Dr. DAVIDSON: The chairman is not bound to appoint a conciliator.

Mr. LEWIS: He may decide not to appoint one. There is a provision for what happens if he decides not to appoint either a conciliator or a conciliation board.

Mr. LOVE: The chairman would presumably do this only where he had come to the conclusion that it would serve no useful purpose. I think in that case, the

parties are then free to make use of the other mechanisms which are provided for in the dispute settlement process. Conciliation in this act is not a compulsory feature of the process as it is in many other labour relations statutes.

Clause 54 agreed to.

On clause 55—*Authority of Minister to enter into collective agreement.*

Mr. LOVE: Mr. Chairman, I should mention that we would like to suggest a change in clause 55(1). The subsection as we would like to amend it would read: "The treasury board or any person authorized on its behalf, may enter into a collective agreement." Since this subsection was drafted, we have come to the conclusion that, for administrative reasons, bearing in mind the relatively large number of bargaining units and agreements that will be involved, the treasury board might very well wish to authorize either the secretary of the board or some other officer of the board—perhaps an officer who had responsibility for negotiation in a particular unit—to actually enter into the agreement on behalf of the board.

Mr. LEWIS: Will it still require the approval of the Governor in Council?

Mr. LOVE: No, it would not. That is another change because under Bill C-182, the authority to change conditions of employment would reside in the board itself and the phrase "and with the approval of the Governor in Council" would simply generate a good deal of unnecessary paper work if it were to be retained.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. BELL (*Carleton*): How would this read then?

The JOINT CHAIRMAN (*Mr. Richard*): The treasury board or any person authorized on its behalf may enter.

Mr. MACKASEY: Authorized by whom?

Dr. DAVIDSON: If this is going to be, Mr. Chairman, a delegation by the board of authority to enter into a commitment on behalf of the board, I think it should be the board that makes the decision to delegate. I must add that we are somewhat reluctant to see the delegation of authority exercised on delegation by anyone but a minister acting on behalf of the board.

Mr. MACKASEY: The only reason I brought it up is that, although it is clear to us, if it is not mentioned who by, then someone later is going to argue whether it is by the minister or by the board.

Mr. LOVE: The minister is not mentioned any more in the clause.

Mr. LEWIS: It is the treasury board who has the authority?

Mr. LOVE: Yes, that is right.

Mr. BELL (*Carleton*): And any person authorized on his behalf. It could be any clerk. I, personally, would like to hear more argument on this subject of "any person authorized on its behalf", whether the treasury board should delegate to just anyone, we know not whom, the right to enter into a collective bargaining agreement which binds the government of Canada on pay rates and which, in effect, takes out of the control of the Parliament of Canada a great part of its budgetary arrangements. Should this go to someone who may be away down the line in the clerical staff of the treasury board?

Mr. WALKER: How low can you get?

Mr. LEWIS: Are we confusing two things, Mr. Chairman? Are we confusing the act of actually negotiating on and agreeing to the terms of a collective agreement with the procedural act of signing the collective agreement? When you say: "may enter into", are you talking about anything else than the affixing of something on behalf of the treasury board to a document which your negotiating committee has agreed to and which the treasury board has approved, because presumably you have to go to it for approval. When it has done so, then someone on its behalf may affix a signature, a seal or something. Are we confusing those two things?

Dr. DAVIDSON: The negotiation process—the sitting down across the table—is obviously going to be done, I assume, by the team of officials who are directed by the ministers to enter into and carry through the negotiating process as such. The agreement, I would think, would have be approved by the treasury board.

Mr. LEWIS: That is what is worrying Mr. Bell.

Mr. BELL (*Carleton*): No, it does not, on the proposal—somebody authorized by the treasury board to enter into an agreement. The agreement does not have to come.

Dr. DAVIDSON: I think you may have missed my comments, Mr. Bell, in which I said that insofar as I was concerned, I would be reluctant in normal circumstances to see the treasury board delegate this responsibility to anybody but a minister.

Mr. LEWIS: But what responsibilities, Dr. Davidson?

Mr. BELL (*Carleton*): The language that is proposed would make it possible to delegate this authority to anyone.

Dr. DAVIDSON: I would like to reserve judgment on the language that is, in fact, being proposed.

Mr. LEWIS: May I suggest to you, too, that if you divide it in two you will overcome the difficulty. If you give the treasury board the authority to enter into the agreement and then someone appointed by the treasury board the authority to say so on paper, then, so far as I am concerned, I do not care who it is—it could be a clerk of the treasury board. If there is a minute, I do not care who signs the blessed thing.

Mr. BELL (*Carleton*): I do not care who puts the red seal on it. This is of no significance, really, so long as the negotiation and the approval has been in proper hands.

Mr. LEWIS: The treasury board.

Mr. DAVIDSON: You are concerned about the giving of the authority to enter into an agreement, and think that should be held at ministerial level?

Mr. BELL (*Carleton*): That is right.

Dr. DAVIDSON: At the treasury board level.

Mr. BELL (*Carleton*): That I believe, certainly.

Dr. DAVIDSON: I agree. We will undertake to produce a form of words for the consideration of the Committee which will take care of that.

Clause 55 stands.

On clause 56—*Time within which agreement to be implemented.*

Mr. LEWIS: It is 10 o'clock, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Time passes very quickly.

Mr. LEWIS: We have passed quite a number of clauses.

Mr. WALKER: We were here at 10 o'clock this morning, too. Mr. Chairman, before we adjourn—I do not know whether he wants to do it—Mr. Émard has some comments—whether they are in the form of a or not, I do not know—on an earlier clause about which we were speaking. I think it might be useful to Dr. Davidson and his officials, who are considering the clause, if they had the benefit of the wording which Mr. Émard has. I would suggest, if I might, through you, that he not move the motion but table the motion so it is available for the officials to see what he has in mind on it.

The JOINT CHAIRMAN (*Mr. Richard*): Well, of course, if Mr. Émard wants to speak, he may do so.

(*Translation*)

Mr. ÉMARD: What I had to present, Mr. Chairman, was rather simple, but my friend Lachance here is translating it into legal terminology.

Mr. LACHANCE: Mr. Chairman, in the light of the discussions which took place in this committee, I believe that the officials of the department will perhaps be able to put some sort of order into it. To try and sum up a little bit the thought which Mr. Émard expressed and which I supposed, I had thought, Mr. Chairman, that clauses 32 and 34 particularly should be amended. I could read it, Mr. Chairman, and then table this document so that it will be available to the officials of the department.

The JOINT CHAIRMAN (*Mr. Richard*): This would be most useful, Mr. Lachance.

Mr. LACHANCE: Unfortunately, time did not permit me to give it all the attention which would be required, and the experience of legal officers of the department would be most useful. It reads as follows: Moved by Mr. Émard and seconded by myself. Clause 32, that sub-clause (1) be replaced by the following paragraph:

1. When one or more employee organizations have asked the Board for certification as described in Section 27, the Board shall, subject to sub-section 3 of Section 26, determine the group of employees that constitutes a unit appropriate for collective bargaining. Sub-section 2 be amended to add at the end: "and the community of interest of the group or groups".

Clause 34 would be amended to read: "Where the Board has (a) received from an employee organization an application for certification as a bargaining agent for a bargaining unit, in accordance with this Act. (b) determined what is a group or group of employees which constitute a unit apppropriate for collective bargaining, in accordance with Section 32. (c) been satisfied that at least 10 per cent of the employees of a bargaining unit wish to be represented by their own bargaining agent. (d) been satisfied that the persons representing the organization or organizations included in the application have been duly authorized to act on behalf of the members of the association, insofar as regulating relationships between the employer and the members are concerned, the Board shall, subject to this Act:

(1) certify the employee organization or organizations making the application as bargaining agent, for the employees of this bargaining unit, as part of the negotiating committee of this unit.
(2) decide that there will only be one collective agreement and one bargaining committee for each unit.
(3) decide that any association which represents at least 10 per cent of the employees of a given unit having common or community of interests shall be automatically certified and have a right to participate in collective bargaining".

There is no doubt, Mr. Chairman, that there would be some sections that should be amended in relation with both these clauses, but at least this is the sense, I think, of the amendments which Mr. Émard wanted to propose and I want to second.

The JOINT CHAIRMAN (*Mr. Richard*): But you are not moving an official motion tonight? You are just presenting this for consideration of the committee, because it has not been drafted properly. We shall ask the Clerk to make copies of this for distribution to members of the Committee, so that at the next meeting, we can consider your suggestion. Perhaps, in the meantime, you might also draft your amendments in a more complete form.

(*English*)

Is it agreed?

Mr. BELL (*Carleton*): Mr. Chairman, lest silence create any illusion that there is agreement in this Committee with this proposal, I would like to say at once that I disagree with it completely and I think that the new effect of this would be to tear the Public Service of Canada into fragments. There would be total disaster for the Public Service, and I want to say it right away.

The JOINT CHAIRMAN (*Mr. Richard*): I think we will have the opportunity at a future meeting to discuss the intent of the propositions made by Mr. Lachance and Mr. Émard and also to hear the objections from other members.

Mr. LEWIS: I am not trying to put any burden on Dr. Davidson but I hope that what we discussed earlier will be done, that Dr. Davidson will seek whatever advice he requires, and if he is in a position to do so, he will give us the result of such advice. I say, if he is in a position to do so, he will give us the result of that advice.

The JOINT CHAIRMAN (*Mr. Richard*): We will meet then on Thursday morning at 10.30.

The meeting is adjourned.

APPENDIX S

ASSOCIATION OF POSTAL OFFICIALS OF CANADA

P.O. Box 772, Terminal "A"
TORONTO 1, Ontario
by N. A. Smart,
National President,
Association of Postal Officials of Canada

November 15th, 1966.

Mr. J. Richard, M.P.,
Chairman,
Joint Parliamentary Committee,
Bill C-170
Room 406,
West Building,
Parliament Buildings,
Ottawa, Ontario.

Dear Sir:

The following is a submission on Bill C-170, and Act, respecting employer and employee relations in the Public Service of Canada, to the Joint Committee of the Public Services of Canada.

We wish to extend to the Government our sincere thanks for the decision to put in force a collective bargaining system in the Public Service of Canada. We are, in fact, quite happy that at last Civil Servants will enjoy the same rights as those extended to other employees of private industries across the country.

We quite understand that it is late for our organization to come forward and submit a brief with respect to a particular point of this Bill, which in its present form would constitute the denial of the rights of a large group of Civil Servants.

Having been rejected by other Associations of the Post Office Department and, in addition, with the introduction of Bill C-170, it was realized that in order to have a voice in our future, we would have no other alternative but to form our own Association. At the general requests of Postal Officials across the country, a national body was formed on October 16th, 1966, at which date 1100 officials, representing close to 50 per cent, were members.

In Part 1, under Section 19, subsection (1) of paragraph (B), this clause grants the Commission the power to determine rules for the composition of the groups of employees able to negotiate. Under this Bill, "Unions" contained in a specific group, to be certified must control 50 per cent plus one of the members, and this entitled it to negotiate for the whole group. Under this section, our membership comprising supervisory personnel, i.e. Postal Officers 1 to Postal Officers 7, would form part of an operational group with the Postal Workers,

Letter Carriers and Railway Mail Clerks. It is evident that the Canadian Union of Postal Workers and the Union of Letter Carriers, having the largest membership, would control the whole group and thus be in a position to control the future of a group of Supervisors, who would have no voice or vote whatsoever in these proceedings. This would leave us in a position whereby supervisors would have their hands tied and would no longer be included in the management side.

In the event that this clause is adopted as written, there would be only one recourse for the Association of Postal Officials of Canada, which means they would be forced to come to an agreement with the Canadian Union of Postal Workers and the Union of Letter Carriers to form a federation in which the Postal Officials would be able to have a voice at the Collective Bargaining Table.

In this event, Postal Officials would have to follow the dictates of the more powerful Unions and they would have to accept their policy. Therefore, in the event of a strike, Postal Officials would have to accept the decisions brought forth by these employees' Unions, therefore belying the status of management to Postal Officials. This would no doubt impede the task of a Postal Official and certainly is contrary to the feeling of the Department.

While organizing, we were approached by the Postmasters of Semi-Staff Offices, Grades 1 to 6, who wished to join our organization, not being statisfied with their situation in the proposed legislation, we understand, all Revenue Postmasters 1 to 23, and Semi-Staff Postmasters 1 to 6, will be included under one group of the operational category. This is a most unsatisfactory position for Semi-Staff Postmaster 1 to 6. At the present time, there is no parallel between the two occupations and the only thing they have in common is their name.

A Revenue Postmaster is appointed by the Postmaster General and is paid out of revenue. He is *not* a Civil Servant and occupies his position at the goodwill of the Minister. He is usually the owner of a general store, or is a local merchant in a small community and holds office mainly as a public service and to complement the services rendered to the public by his store.

A Semi-Staff Postmaster is a Civil Servant appointed by the Civil Service Commission, and subject to the same rules and orders as Postal Officers (Officials). He is eligible to be promoted to a Postal Officer position and the reverse is true for Postal Officers. They are eligible for promotion to the position of Postmaster of a Semi-Staff Post Office. In being included with the Revenue Postmasters, these officials will be in a position where the conditions of their employment will be dictated, (directed), by a group of Postmasters who are completely out of their range and ambitions. Most Revenue Postmasters occupy their position as a part-time service and earn from $100 to $900 a year, with few having revenue over this amount.

In summing up, with all due respect to the members of the committee, it is our considered opinion that it would not be in the best interests of all concerned to have Postal Officials and Postal Workers in the same bargaining unit. We also believe Postal Officials, including Postmasters Grade 9 to 15, and Postmasters of Semi-Staff Post Offices, Grades 1 to 6, can best be represented at the bargaining table by their own representatives, who are fully cognizant with all the responsibilities entailed in their positions they perform for the Post Office Department.

Furthermore, with your permission, we reiterate that with the expansion and development of the Post Office Department, we are increasingly aware that working conditions are developing a pattern similar to outside industry, and it is imperative to suggest that Postal Officials be given the opportunity to operate as one cohesive bargaining unit, exclusive of all other groups.

Respectfully submitted for your consideration.

APPENDIX "T"

(on Clause 26)

COMMENCEMENT OF COLLECTIVE BARGAINING

DATES OF	OPERATIONAL	SCIENTIFIC PROFESSIONAL TECHNICAL	ADMIN. SUPPORT & ADMIN. & FOREIGN SERVICE
SCHEDULED PAY REVIEW	October 1, 1966	July 1, 1967	October 1, 1967
ELIGIBILITY FOR CERTIFICATION	Within 60 Days of Act Coming into Force		
NOTICE TO BARGAIN	February 1, 1967	November 1, 1967	February 1, 1968
ELIGIBILITY TO ENTER INTO COLLECTIVE AGREEMENT	April 1, 1967	January 1, 1968	April 1, 1968
TERMINATION OF COLLECTIVE AGREEMENT	September 30, 1968	June 30, 1969	September 30, 1969

APPENDIX "U"

THE CIVIL SERVICE FEDERATION OF CANADA
88 Argyle Avenue, Ottawa 4, Canada

November 18, 1966.

Mr. Jean-T. Richard, M.P.,
Joint Chairman on Employer-Employee
Relations in the Public Service of Canada,
Parliament Buildings,
Ottawa, Ontario.

Dear Mr. Richard:

At the recently concluded Founding Convention of the Public Service Alliance, the delegates approved a resolution submitted by the Customs Excise Union, with reference to provision for collective bargaining at the departmental level in matters that could be considered as being within the prerogative of the Deputy Head of the Department.

I realize that your Committee has completed its examination of witnesses and there will not be a further opportunity for any oral presentation to your Committee. I would, however, appreciate it if you would advise your Committee members of the extreme concern of our departmental organizations that they will be able to participate in the determination of working conditions at the departmental level.

The fact that this resolution was brought forward at a Founding Convention which was not established to deal with resolutions on policy, will indicate to you, I am sure, the serious concern that we have with reference to this matter.

I trust that you will advise your committee members of this submission and we would urge that a favourable consideration to this resolution be given.

Yours sincerely

C. A. Edwards,
Président.

RESOLUTION

Submitted by—Customs & Excise Component—P.S.A.C.

Departmental Bargaining

WHEREAS the Constitution of the Public Service Alliance of Canada requires that each Component shall:

> "negotiate classification problems and working conditions of its members solely of concern to them within the department or departments concerned" (Section 8, subsection 5(c))

and

WHEREAS the Public Service Employment Act will permit delegation of certain authority to departments,

and

WHEREAS delegation of classification to the departments has already been implemented,

and

WHEREAS Bill C170 would exclude specific subjects from the bargaining process; would not provide for bargaining at the departmental level and would preclude bargaining by a Component unless the P.S.A.C. held the majority necessary for certification in the bargaining unit or units in which the Component's membership were placed.

THEREFORE BE IT RESOLVED that the P.S.A.C. make a further presentation to the Parliamentary Committee dealing with Bill C170 strongly urging amendment to that Bill to Provide:

(a) Bargaining on all subjects affecting conditions of employment of Government employees,

(b) Bargaining at the departmental level on any subject on which the final authority is delegated to a department or departments;

(c) The granting of certification for purposes of departmental bargaining to the organization having a majority of 50 per cent + 1 of the employees of a department.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 20

THURSDAY, NOVEMBER 24, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board;* Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25202—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:
Hon. Senator Maurice Bourget, Mr. Jean-T. Richard
and

Representing the Senate		*Representing the House of Commons*
Senators		
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	[1]Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Rochon,
Mr. Hastings,	Mr. Fairweather,	Mr. Sherman,
Mr. MacKenzie,	Mr. Hymmen,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Isabelle,	Mr. Tardif,
	Mr. Knowles,	Mrs. Wadds,
Mrs. Quart—12.		Mr. Walker—24.

(Quorum 10)

[1] Replaced Mr. Leboe on November 24, 1966.

Edouard Thomas,
Clerk of the Committee.

CORRIGENDA:

Issue No. 6, June 28 and 30, 1966:

For "Third" Report to the Senate on frontispiece and page 193 read "Second".

For "Fourth" Report to the Senate on page 194 read "Third".

ORDER OF REFERENCE

THURSDAY, November 24, 1966.

Ordered,—That the name of Mr. Patterson be substituted for that of Mr. Leboe on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

25202—1½

MINUTES OF PROCEEDINGS

THURSDAY, November 24, 1966.
(37)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.46 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Émard, Hymmen, Knowles, Lachance, Lewis, Madill, McCleave, Orange, Richard, Tardif, Walker (12).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered Bill C-170 as follows: Clause 56, carried on division; Clause 57, stand; Clause 58, stand; Clause 59, carried; Sub-clause 60(1), carried; Sub-clause 60(2), stand; Sub-clauses 60(3) to (8) inclusive, carried; Clause 61, carried; Clause 62, carried; Paragraph 63(1) (a), stand; Paragraph 63(1) (b) and Sub-clause 63(2), carried; Clause 64, stand; Clause 65, carried, Clause 66, carried; Clause 67, carried; Clause 68, carried as amended (see motion below); Clause 69, carried; Clause 70, carried as amended (see motion below); Sub-clause 71(1), carried; Sub-clause 71(2), stand; Sub-clause 71(3), carried; Clause 72, stand; Clause 73, stand; Clause, 74, carried; Clause 75, stand; Clause 76, carried; Clause 77, carried; Sub-clause 78(1), carried; Sub-clause 78(2), stand; Sub-clause 79(1), carried; Sub-clause 79(2), stand; Sub-clause 79(3), carried; Sub-clause 79(4), carried; Sub-clause 79(5), stand; Clause 80, carried; Clause 81, carried; Clause 82, carried.

Mr. Émard raised a question of privilege concerning a newspaper article.

Moved by Mr. Lewis, seconded by Mr. Knowles,

Agreed,—That the words "and have regard to" line 20 Clause 68 page 32 be deleted.

Moved by Mr. Lewis, seconded by Mr. Knowles,

Agreed,—That the words after the word "made" lines 30 to 32 inclusive Sub-clause 70(4) page 33 be deleted.

At 12.50 p.m., the meeting was adjourned to 9.30 a.m. Friday, November 25th.

Édouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 24, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): The meeting will come to order.

On Bill No. C-170 we had reached clause 56. Dr. Davidson.

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): May I ask, Mr. Chairman, that Mr. Love continue with this and with the first part of the next block?

On clause 56—*Time within which agreement to be implemented.*

Mr. LOVE (*Assistant Secretary (Personnel) Treasury Board*): Mr. Chairman, as I understand it, we had completed the review of clause 55, and are to begin this morning with clause 56, which is a provision indicating the period within which action must be taken to implement the provisions of a collective agreement. It says, in effect, that, if the parties have not specified the period in the agreement, then implementation must be within 90 days from the date of execution of the agreement, or within such longer period as may, on application by either party to the agreement, may appear reasonable to the Board.

The second subclause of clause 56 places a limitation on the subject-matter of collective agreements designed to ensure that no collective agreement really lies outside the scope of authority of the employer as represented by the Treasury Board, or a separate employer.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments on clause 56?

Mr. LEWIS: When do you visualize that an agreement would not say within what period it was to be implemented? I am not objecting, I just want to understand what is the intent.

Mr. LOVE: I think this really arose in the beginning, Mr. Chairman, as a result of some concern on the part of employee organizations about the possible effects of what might be described as bureaucratic delay in a large-scale organization. We are not talking here about the term of the agreement or about the—

Mr. LEWIS: You are building in retroactivity in a sense, are you?

Mr. LOVE: If in the agreement there is a change in the conditions of service governing payment for overtime, for example, the employer must then take certain actions to carry out the obligations that he has entered into, and the actions must be taken within such period as may be specified in the agreement or, failing specification within 90 days—unless the employer could go to the board and say "We have some terrible problems of communication"—let us suppose, in the Arctic, or overseas, and it is going to take a somewhat longer period to get these new provisions into effect.

Mr. BELL (*Carleton*): Is subclause (2) really necessary? Surely this is in effect in any event, and is there any evil in the employer undertaking to make recommendations to Parliament? They cannot, of course, bind Parliament, but they could undertake to ask Treasury Board or the separate employer to make a recommendation to Parliament for enactment of legislation.

Mr. LOVE: Mr. Chairman, there may be a fine point of constitutional law involved in this one, and I am not much of an expert on that. The problem is that the employer is either the Treasury Board, in the case of the central administration, or a separate employer, such as the National Research Council, and, in constitutional law, neither of these bodies is in a position to propose changes in statute law to Parliament. A distinction for this purpose I think has to be made between the Treasury Board and the Government-as-government.

An hon. MEMBER: The governor in council.

Mr. LOVE: That is right.

Mr. LEWIS: I suppose that what could happen is that the Treasury Board and the employee organization might agree that some amendment would be desirable and perhaps send that recommendation on, but it cannot form a part of the obligations undertaken under the collective agreement.

Mr. LOVE: That is right.

Mr. LEWIS: That is really what you are saying.

Mr. LOVE: Because the employer is really not in a position to carry out that kind of an obligation.

Mr. BELL (*Carleton*): But does not the very exception that you put in subclause (a) defeat the argument you have made. It is not the Treasury Board that goes to Parliament; it is the governor in council. In fact, under the British North America Act it is His Excellency the Governor General who makes the recommendation to parliament. You have put in an exception, and I think you defeat your argument by putting in the exception.

There is no basic difference between recommending to parliament an appropriation bill and recommending an amendment to the public service act.

Mr. LOVE: Well Mr. Chairman, I would have to say that, on the basis of my limited knowledge, this would appear to be a good point, that there is probably no difference in these two actions in constitutional terms; but our legal advisers have indicated to us that the Treasury Board, as the signatory to an agreement, is in no position to bind the Government, to propose a change in statute law. I think this is the basic problem we face here.

Senator MACKENZIE: Does this make any particular difference except that it may be redundant?

Dr. DAVIDSON: Could I but mention one additional point, Mr. Chairman? The provisions of statute law, except in so far as the money requirements are concerned—the ones that one thinks of, certainly—are service-wide types of legislation. I must say that I would find a good deal of difficulty in seeing how the separate employer could meaningfully enter into a collective agreement under the terms of which they would undertake to seek a particular amendment, let us say, to the Public Service Superannuation Act, or to any other service-wide statutory legislation, and have that undertaking give rise to any meaning-

ful result, unless it happened to represent what all of the other units in the collective bargaining machinery also felt was desirable from their point of view. You could arrive at a situation where, for example, the National Research Council as a separate employer, or even the Treasury Board in its various negotiations with a number of separate bargaining units, would be asked to enter into a commitment that it would make different kinds of amendments which were mutually incompatible within the same piece of legislation.

Although one could take refuge behind the argument that all that this meant was that the Treasury Board would use its good offices to seek this amendment, I think it would lead to a great deal of disillusionment if the collective agreements began to include pledges to seek amendments to legislation that could not, in fact, be lived up to by the employers' representatives who signed the agreement.

Quite apart from the constitutional question, which I do submit is one that parliamentarians should consider, it does seem to me that there are very practical difficulties that would arise from the Treasury Board having to bargain about statutory matters with some 60 separate bargaining units, and from separate employers bargaining with an additional number of bargaining units. The difficulty would arise from any regime of collective bargaining that would make it possible to enshrine in separate collective agreements commitments to seek changes in legislation that might be mutually inconsistent with the other one. This, to my mind, is a compelling argument for including in the law some provision along the lines set out in the draft Bill.

Mr. BELL (*Carleton*): Why would you assume that the Treasury Board, as the employer, would enter into agreements which were mutually inconsistent?

Mr. LEWIS: Let me put it differently. Your explanation makes the clause a little less desirable, it seems to me, Dr. Davidson. I am grateful to you for making it. Then let me put the question that Mr. Bell put to you a little differently. What you have presented was a very good argument for not agreeing to a certain demand, but not a very good argument for putting in the act a clause which limits the area of negotiation. You can present that and say, for this reason I cannot accept your demand.

Dr. DAVIDSON: And then this goes to arbitration.

Mr. LEWIS: And the arbitrator, if your reason is valid, will agree with you; but it is hardly a reason for putting in a clause which limits the area of negotiation.

Dr. DAVIDSON: If the arbitrator renders a decision which, in legislative terms, is inconsistent with a decision respecting the same piece of legislation that is rendered by another arbitrator, where does this leave the employer, who has an obligation to seek amendments from Parliament?

Mr. LEWIS: Surely the arbitrator cannot render a decision which says that you must do so and so when in fact the law does not provide for it. The only kind of decision he can render is that you should try to change the law.

Dr. DAVIDSON: But that is binding on the employer? Is that right?

Mr. LEWIS: To try.

Dr. DAVIDSON: To try to amend the law in the sense that that arbitrator has specified; is that right?

Mr. LEWIS: That is right; and then you have two conflicting arbitral awards.

Dr. DAVIDSON: For both of which the employer is bound to seek the approval of Parliament.

Mr. LEWIS: Well, obviously, he cannot. I do not see the difficulty. He just cannot do two conflicting things. You have gone through the negotiations and when you come back you tell them you could not do it.

Dr. DAVIDSON: Well, Mr. Chairman, that, I must say, is a strange way of expecting the employer to honour the terms of an arbitration agreement.

Mr. LEWIS: That is done every day.

Dr. DAVIDSON: This is an excellent illustration to my mind, of the point that I am concerned about.

Mr. KNOWLES: But, Dr. Davidson, are you not in danger of being in that position with respect to the exception that is contained in this clause? By the exception, you say that the employer is bound to try to get through parliament an appropriation bill to cover moneys required for an agreement.

Dr. DAVIDSON: That is right.

Mr. KNOWLES: All right; supposing you have two conflicting arbitral awards in terms of money only. According to this legislation, Treasury Board is obligated to try to get both of them through.

Dr. DAVIDSON: That is correct; but the subject matter here of the arbitral award is not enshrined in legislation which parliament is being asked to change. It is quite possible that you could have one bargaining unit asking for one overtime rate for its employees and a second bargaining unit asking for a different overtime rate for its employees. It is conceivable—and I would hope that we would not find ourselves in this position—that the Treasury Board as employer, or the separate employer and the Treasury Board in two separate situations, might find themselves obliged to agree to these separate monetary rates of compensation for overtime; and the Treasury Board, under those circumstances, if the collective bargaining agreements so provided, would be under an obligation to seek from parliament the appropriations that would be necessary to honour those financial commitments. But this is, in my judgment, quite a different thing from entering into inconsistent commitments with respect to legislation that is on the statute books, that would require the Treasury Board either to repudiate both of its commitments or to ask Parliament to do two mutually inconsistent things in the way of changes of the legislation that Parliament has already approved.

Mr. LEWIS: You sound as if it never happened.

Dr. DAVIDSON: I have still much greater faith than you have, Mr. Lewis.

Clause 56 agreed to.

An hon. MEMBER: On division.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 57.

On clause 57—*When agreement effective.*

Mr. LOVE: Mr. Chairman, subclauses (3) and (4) of this clause would have to be deleted under the terms of the proposal made with respect to clause 26. They really provide for the term of agreement entered into during the initial

certification period, and these are now to be dealt with under the proposal relating to clause 26 in a schedule to the bill; so that on subclauses (3) and (4) the Committee would presumably want to reserve its position, at least until it has dealt with the proposal relating to clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments to make on subclauses (1), (2) and (5) at the present time?

Mr. LOVE: It is possible, also, that a minor change in (2) would be required, relating to the period of initial certification.

Mr. BELL (*Carleton*): Well, (2) is subject to subsection (3) and (5) is a *non obstante* clause.

Clause 57 stands.

On clause 58—*Binding effect of agreement.*

The JOINT CHAIRMAN (*Mr. Richard*): There is a change there too, is there not?

Mr. LOVE: Yes, that is right, Mr. Chairman. This one, I think, should be left open because there was a suggestion that the Committee might consider a change that would make the collective agreement binding, not only on the bargaining agent but, in the case of a council that is the bargaining agent, on the constituent organizations of the council.

Clause 58 stands.

The JOINT CHAIRMAN (*Mr. Richard*): We now come to clauses 59 to 89 and 101 to 105.

On clause 59—*Provisions of Act applicable depending on process for resolution of dispute.*

Mr. LOVE: Mr. Chairman, I would like to make the following opening statement relating to this block of clauses relating to the dispute settlement processes.

These sections describe the dispute settlement processes provided in the bill, that is, a process based on binding arbitration, or one based on resort to a conciliation board and the right to strike in defined circumstances.

Where the parties are unable to reach agreement on any term or condition of employment that may be embodied in a collective agreement either the bargaining agent or the employer may invoke the dispute settlement process applicable to the bargaining unit concerned.

If binding arbitration is the process then the matters in question will be referred by the chairman of the board to the arbitration tribunal. If the conciliation board process is applicable then the chairman will refer the disputed matters to a conciliation board.

The arbitration tribunal envisaged by the bill is modelled on the U.K. Civil Service Arbitration Tribunal. It is to consist of a chairman and two panels of other members, each panel to consist of at least three persons appointed as being representative of the interests of the employers or employees. In respect of a particular dispute the tribunal is to consist of a chairman and two other members, one drawn from each of the two panels.

Provisions relating to conciliation boards follow the pattern of the I.R.D.I. Act. Each board is to be composed of nominees selected by the parties and a chairman selected jointly by them. Its task is to endeavour to bring about agreement and, failing that, to report findings and recommendations.

Conciliation board recommendations are not binding on the parties. The right to strike applies only to employees in bargaining units governed by the conciliation board process and only to those employees in the bargaining unit who have not been designated as employees performing duties necessary to the safety and security of the public.

A strike may only occur where there is no agreement in force and the requirements of the conciliation board process have been met. A strike is prohibited in all other circumstances.

The safety and security of the public would be safeguarded by provisions specifying that no board may be established and, therefore, no legal strike may occur, until the parties have agreed upon, or the Public Service Staff Relations Board has determined, the employees or classes of employees performing duties necessary to the safety and security of the public.

Clause 59 agreed to.

On clause 60—*Public Service Arbitration Tribunal established.*

Mr. WALKER: I have one small point, Mr. Chairman, on subclause (2). Somebody may "be removed by the Governor in Council on the unanimous recommendation of the Board". When you use the word "unanimous" are you speaking about the full complement of the Board?

Mr. LOVE: Yes, sir; I would think so.

Mr. WALKER: Or the quorum of the board?

Mr. LOVE: Well, I think it would have to be the unanimous recommendation of the full board in this case, the way it is worded.

An hon. MEMBER: That would include the vote, would it not, of the man who is fired?

Dr. DAVIDSON: No; this is the Staff Relations Board.

Mr. LOVE: That is right.

Mr. WALKER: I am thinking of the case where one of the chairmen of the arbitration tribunals may, for cause, be removed by the unanimous decision of the board. It is this word "unanimous" that bothers me. I think that if the man had to be removed it might take two years to get a unanimous recommendation of the Board, because there are other provisions here in connection with the composition of the Board such as that when people are sick somebody else can carry on, and all the rest of it; we have made provision for absent members of boards so that business will carry on, but in this particular instance, you have to have apparently 100 per cent of the membership, no matter whether they are—

Mr. LEWIS: I suppose it is the only way to safeguard the interests on the board—

Mr. LOVE: That is right.

Mr. LEWIS: —to make sure that both interests, or all the interests, on the board are agreed. That is the reason for the unanimity, I suppose.

Mr. LOVE: Yes; I think the intention here is that the chairman of the arbitration tribunal—because of the character of his position, which is likely to be a tough one—should have a very considerable security of tenure during his period of appointment, and that it should not be easy to remove him.

Mr. RODDICK: Mr. Chairman, it seems to me that there is two possible interpretations of what is said here, and I think these need to be identified. If there is a question about what is intended and the working it should be further explored.

As I would read it and this is only a personal view this relates to a decision made by the board, and where the board has the capacity to sit and make a decision and that decision is unanimous then that would be the circumstance referred to here. If it were desired that every member of the board should agree before this removal were made, it would be my impression that this would have to be phrased somewhat differently.

Mr. LOVE: That is right.

Mr. KNOWLES: That the board in order to sit and pass has to have its chairman or vice-chairman present and an equal number of spokesmen for the other two interests.

Mr. LOVE: That is right.

Mr. KNOWLES: And in that circumstance, as Mr. Roddick has just said it is on arriving at a unanimous decision at that point that it speaks?

Mr. LOVE: That is right.

Mr. WALKER: But it does not talk about a unanimous decision. It seems to me that it is a rather informal arrangement. It talks about a unanimous recommendation. I am not trying to play with words here. I just see the necessity, at the outset, to be very clear on this, so that if such circumstances arise there is no question about the interpretation of the provision for the removal of such a person.

Mr. LOVE: I think my colleagues at the witness table have concluded that we would be wise to look at this to make sure that we are talking either about the board as a whole or about a division of the board, because there is provision for the board to break down into divisions for particular purposes. We would like to check with the legal draftsmen to get the clear intent of the clause.

Dr. Davidson says that we would also like at this point to get some reaction from the Committee on what its view would be, whether the requirements should relate to the board as a whole, or whether it would be satisfactory to limit it to a division of the board. A division of the board consists of the chairman or vice-chairman and an equal number of the members of the board from each side.

Mr. KNOWLES: Mr. Chairman, if I could just identify what appears to me to be one other alternative, it might include all ordinary members of the board and the chairman or vice-chairman. I was a little concerned about the role of the chairman and vice chairman and, therefore, to respond to Mr. Love's question, you would have to ask yourself whether you want both the chairman and the vice chairman to be included on this matter.

Mr. BELL (*Carleton*): To me there is sufficient safeguard if it is a unanimous decision of the board which I take to be the chairman or the vice chairman and an equal number of representatives of the two parties. They make a unanimous recommendation, and then there is the additional safeguard of the governor in council. My own view is that that is sufficient.

Mr. KNOWLES: My only comment is that you should make it precise. If we argue about it here what would the poor board do? I made the point just a moment ago, but I will make it again, that we have many rules in the House of Commons where the phrase "unanimous consent" appears, and we do not have to wait until all 265 members are there.

Mr. BELL (*Carleton*): We had unanimous consent on division the other night.

Mr. KNOWLES: That was ingenuity on the part of your party, Mr. Bell.

Mr. BELL (*Carleton*): I agree.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 60?

Mr. BELL (*Carleton*): There is another matter I would like to raise. We had a considerable number of representations in the briefs to the effect that where you have a tripartite tribunal, such as you have here, the right of the selection of the employer-employee representatives should be vested in the parties, rather than in the governor in council as in the section.

I assume that perhaps the reason no effect is given to those representations is the fact that it would be very difficult to get the very numerous employee representations together and to agree upon a designation or recommendation of a representative.

Mr. LEWIS: Not the governor in council, but the board.

Mr. BELL (*Carleton*): I am sorry, yes; the board.

Mr. LEWIS: The governor in council appoints a chairman; the board appoints the others.

Mr. BELL (*Carleton*): Yes, I am sorry.

Mr. LOVE: I think that is right. Your suggestion, Mr. Bell, is, I think, the basic reason for this. It is assumed that the board, as constituted, is representative of the interest of both sides and should be in a position to make an impartial decision on matters of this kind.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand subclause (2) of clause 60. The other subclauses are agreed to.

Subclauses 1, 3, 4, 5, 6, 7, and 8 of clause 60 agreed to.

Subclause 2 of clause 60 stands.

On clause 61—*Qualifications for membership.*

Mr. BELL (*Carleton*): I had some objections to this clause, but I confess I do not remember what they are at this moment.

Mr. LEWIS: I think there was an objection to the original clause 13; in other words, the question of whether an employee can become a member, etc.

Mr. LOVE: Mr. Chairman, my record indicates that clause 13 was agreed to, although I am not sure about that. There was something to be checked in the French text.

Clauses 61 and 62 agreed to.

On clause 63—*Request for arbitration*

Mr. LOVE: Mr. Chairman, I would like to draw attention to the fact that, in view of the discussion in Committee relating to clause 52—and members may recall that this clause refers to the termination of the negotiating relationship—it is entirely likely that suggestions will be made for changes in the clause, or for changes affecting the clause. If the suggestions are accepted, they will probably call for a consequential change in clause 63 (1) (a), which also refers to the negotiating relationship being terminated.

I think I will have reason to make a similar comment with respect to a number of clauses in this block, because a number of clauses do refer back to the wording in clause 52.

The JOINT CHAIRMAN (*Mr. Richard*): Would you indicate which ones, as you go along?

Mr. LOVE: Yes.

Mr. BELL (*Carleton*): The Professional Institute raised the question of the relevance of the words "good faith" in line 34 on page 30.

Who is to determine whether the parties have been bargaining collectively in good faith, and what happens if there has not been bargaining collectively in good faith?

Mr. LOVE: Mr. Chairman, about the relevance of these words I would have to say that it is almost an article of faith, among people who are responsible for labour legislation, to refer to this phrase in a wide variety of circumstances. It is important, I think, that this legislation should reflect this practice.

Mr. KNOWLES: That is there so that each side can claim that the other did not do it.

Senator CAMERON: Mr. Chairman, I think Mr. Bell's point was very well taken. I do not know very much about labour relations negotiations, but I have an underline on those two words, too. Who does determine?

Mr. LOVE: Mr. Chairman, if anyone had any responsibility in this respect, it would be the chairman of the board, because it is the chairman of the board to whom a request for arbitration is submitted. If it were his view that the conditions as stated in the law had not been complied with, then I assume that he would be under no obligation to forward the request for arbitration to the tribunal.

Mr. BELL (*Carleton*): Then what happens?

Mr. LEWIS: They would tell them to go back and bargain some more, in good faith.

Mr. RODDICK: Mr. Chairman, I think the answer to Mr. Bell's question is that the chairman is placed under an obligation to forward these. If it is alleged that he has not complied with this obligation, that allegation would be made to the board as a board and then the board would, in effect, have to make a judgment,

in the first instance at least, whether or not the chairman had complied with his obligations under the act; and the whole problem of the interpretation of the law and whose responsibility it is would then, I think, be on the table.

Mr. BELL (*Carleton*): I think the words are just window-dressing.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 63 carry, subject to subclause (1) (a)?

Mr. LEWIS: I am trying to understand the difference between (a) and (b). Is this what you are really saying, that if no agreement is reached, and the whole package is in dispute, as it were, (a) applies, and at any time prior to reaching an agreement they can ask for arbitration. But if they reach an agreement on most issues and some issues are still left in dispute, and they want to go to arbitration only on those left in dispute, then they must do so within 7 days of the date on which agreement is reached?

Mr. LOVE: That is correct, sir.

Mr. LEWIS: Before an agreement is reached at any time, they can ask for arbitration?

Mr. LOVE: Yes.

Mr. LEWIS: If an agreement is reached within 7 days on the outstanding issues?

Dr. DAVIDSON: The bill contemplates that a request for arbitration be made in respect of all terms and conditions of employment that have been on the table, so to speak, or the parties could enter into an agreement with respect to most of them and refer only a small number to the tribunal.

Mr. LEWIS: That is the difference between (a) and (b). Therefore (a) could simply have said—and I am not trying to word it—"at any time before an agreement is reached". That is what it really refers to.

Dr. DAVIDSON: If the parties reach a deadlock and an agreement has not been reached.

Mr. LEWIS: If an agreement has not been reached then one of them can say "I want arbitration".

(*Translation*)

Mr. ÉMARD: Mr. Chairman, could I have authorization to speak on a question of personal privilege?

The JOINT CHAIRMAN (*Mr. Richard*): After we have gone through Clause 63. No, I am not finished.

(*English*)

Subclauses (1) (b) and (2) of clause 63 agreed to.

Subclause (1)(a) of Clause 63 stands.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Émard.

Mr. ÉMARD: Mr. Chairman, I was extremely surprised to see an English-language newspaper attribute motives to me that I never had, relative to the amendment that I presented at Tuesday's sitting of the Public Service Com-

mittee and I wonder whether this opinion, as expressed in the Press, is shared by members of this Committee. Therefore, to avoid any misunderstanding, I should like to make a clarification.

I want to say that I am neither a nationalist nor a separatist. At the present time, I am an antiseparatist, at least so far I have been.

There are a great many French-Canadians who have lived side by side with English-Canadians from one end of the country to another. Of course, I understand that some English-Canadians do not like French-Canadians and vice versa, but that is a minority. I do not think we should be accused of nationalism, if we expose certain problems.

In the amendment that I presented, they wanted to see an intervention to propagate trade unionism on the basis of language and nationality, whereas I believe on the contrary, that I was extremely prudent in the wording to avoid this aspect. However, we cannot deny that organization on a national basis does create certain problems, and it is not by avoiding speaking of them, that we will be able to solve them. I think that we should establish a dialogue and try to find solutions to the problems which face us. In the past we often avoided discussing a thorny problem, because we feared displeasing someone but instead of solving problems, they were aggravated. I do not claim that the amendment I presented offers the best solutions. But allow me to point out, however, that even if each of us recognizes the existence of this particular problem, no one has proposed any solution to it. I would like to see that English-speaking Canadians stop thinking that when a French-Canadian raises a problem which is his own particular problem, he is automatically a separatist and wants to break up Confederation.

I am proud to say that I have no racial prejudices. For ten consecutive years, I was the President of an Association with 10,000 employees throughout Canada, and members in the Provinces of Quebec and Ontario. The majority of the members I represented were English-speaking, and I must say that personally, I feel completely at ease in Vancouver as well as in Montreal.

The problems which confront us, however, are of a labour or trade union aspect as well as economic and cultural, and I am convinced that if each of us wants to take the trouble to adopt a frank and honest attitude, we will find a just and fair solution to all. That is all I wanted to say.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, do you have the newspaper article in question, and could you identify it?

Mr. ÉMARD: It was an article which appeared in the Ottawa *Journal*, yesterday, I think.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments from other members?

(*English*)

Mr. LEWIS: Mr. Émard objects to the fact that they did not say he was not a nationalist yet.

Mr. ÉMARD: No, I am still anti-separatist, and it will take a lot to change my mind.

Some hon. MEMBERS: Hear, hear.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Walker?

Mr. WALKER: Mr. Chairman, I would like to say that certainly I would not want any inference to come from Mr. Émard's question of privilege to the effect that this Committee—in my own case I have not read the article—in any way goes along with the suggestion that apparently was contained in the article. Mr. Émard's very considerable talents have been of great assistance to the Committee. All politicians are subject to this sort of thing from time to time, and we sympathize completely with whatever of his feelings were ruffled by this article.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, I think when I said the few words, "A bon entendeur, salut." that is a proper expression. There is not a good translation for that.

On clause 64—*Request for arbitration by other party.*

Mr. LOVE: Mr. Chairman, once again there is reference in subclause (1) to the phrase relating to the termination of the negotiating relationship and, since a change in the substantive clause relating to this is now being considered I would suggest that the Committee might stand this.

Clause 64 stands.

Clause 65 agreed to.

On clause 66—*Selection of members to hear and determine matter in dispute*

Mr. LOVE: Mr. Chairman, perhaps at this point I should indicate the nature of the change that is being considered. This relates to clause 52.

We now think it might be possible to delete, in effect, clause 52. This would probably involve, as far as we know now, the addition of a new clause following clause 65.

I might say here that the basic concept on which these provisions of the bill is based is that, once a dispute has moved into the arbitral area, we must provide in the bill that at the time an arbitral award is rendered all of the matters that are subject to arbitration which have been in discussion between the parties, should be dealt with for the period of the agreement or the arbitral award.

This means, in effect, that if a collective agreement has not been reached at the time an application for arbitration goes forward, there are two possibilities. One is that the parties might, after the application for arbitration has gone forward, still reach an agreement on the outstanding issues. The second is that the arbitration tribunal might make an award, at which time the collective agreement plus the arbitral award, or the arbitral award if that is all there was, would be in effect for the period of the agreement or the award.

The proposed new clause following clause 65 would be designed simply to make it clear that the parties would still be free to enter into an agreement after an application for arbitration had been made.

Dr. Davidson wants me to be even clearer. The parties would still be free to enter into an agreement after the application for arbitration had been made but before the arbitral award had been rendered. The main point here is that, once the arbitral award was rendered, the process would be ended for that particular negotiation.

Mr. LEWIS: That is subject to a provision somewhere that the parties can mutually make changes except for the term of the agreement.

Mr. LOVE: This is right.

The JOINT CHAIRMAN (*Mr. Richard*): That makes good sense. Clause 66 will stand, then.

Mr. LOVE: Mr. Chairman, clause 66 is all right, I think. Between clauses 65 and 66 there will be a proposed new clause.

Mr. LEWIS: Clause 65 will still apply? You will be changing the numbers. Let us just keep in mind that there will be re-numbering.

Mr. BELL (*Carleton*): There may be a fair amount of re-numbering.

Clause 66 agreed to.

On clause 67—*Matters constituting terms of reference.*

Mr. LOVE: Mr. Chairman, at this point in time both the parties to the dispute have had an opportunity to submit to the chairman their proposals for the terms of reference of the arbitration tribunal. This clause would simply provide for these matters to be put before the arbitration tribunal.

Mr. LEWIS: I think I follow this, Mr. Chairman, but to summarize it for my own sake, in clause 63 the party asking for arbitration sets out in the notice the matters it considers outstanding. In clause 64 that notice is sent to the other party, and the other party may add matters which, in its opinion, should go to arbitration, and thus the package goes to arbitration.

The only question in my mind is whether the words

> together with any other matter that the Arbitration Tribunal considers necessarily incidental to the resolution of the matters in dispute...

are wide enough to give the arbitrator the opportunity of sawing-off things one against another. I suppose it is.

Mr. LOVE: The assumption here, I think, is that, if there were no flexibility at all, the precise wording of the terms of reference as forwarded to the tribunal might almost have the effect of requiring the tribunal to come down with an award that created a nonsense of some kind. These words, as I understand them, are designed to make it possible for that nonsense to be avoided.

Clause 67 agreed to.

On clause 68—*Factors to be taken into account by Arbitration Tribunal.*

(*Translation*)

Mr. ÉMARD: On 68, could I have an explanation as to what A, B, C, and D, mean, and then in E, I think it sums up everything specified in A, B, C, D: "any other factor that to him appears to be relevant to the matter in dispute." Why then, detail A, B, C, and D?

(*English*)

Mr. LOVE: I think the drafters of the legislation felt that because, in the past, parliament has provided guidance to the pay determination authorities on the types of matters that are referred to in subclauses (a), (b), (c) and (d), parliament would now wish to provide the same kind of guidance at a time when, for the first time, provision is being made for binding arbitration.

I do not think that the language of the clause is such as to be restrictive on the tribunal, and certainly that is not the intent. I think the effect of subclause (e) is to make it quite clear that these matters are not restrictive.

Mr. LEWIS: Do you really need the clause at all?

Mr. LOVE: I think this is a matter for the Committee to decide. As I say, there are clear-cut precedents of this kind in the previous statutes relating particularly to the determination of pay in the public service. There was a clause of this kind in the 1961 version of the Civil Service Act, which imposed upon the Civil Service Commission an obligation to consider matters of this kind before making a recommendation to the government.

In view of the fact that the language of the clause is not such as to place any real restrictions on the tribunal, I think our view would be that the clause can do no particular harm, and may be of some value as an indication by parliament of the types of considerations that it would consider legitimate.

Mr. LEWIS: You have a permanent arbitration tribunal. I am not necessarily arguing against this clause, but it is another example of dotting every "i" and crossing every "t" in this legislation, which I am not sure is a fortunate approach. Is not the arbitration tribunal, which is a permanent one, the body to develop, as it goes along, criteria for determination of disputes? I have no objection personally, as far as I can understand the criteria set out here, to the way in which they are phrased; they are pretty normal criteria in collective bargaining; but I feel just a little unhappy about all of us around this table, who will not be involved in the actual disputes, setting down the criteria, and asking other members of parliament to do so. Why can we not leave it to the arbitration tribunal to develop criteria for consideration of these matters, and in decision after decision they will indicate the criteria that govern the government.

Mr. KNOWLES: Is it not already there in clause 67, that the tribunal shall consider the matters in dispute, of course; but then:

> . . .together with any other matter that the Arbitration Tribunal considers necessarily incidental to the resolution of the matters in dispute. . .

Mr. LOVE: Mr. Chairman, I do not think that is intended to deal with this. This is the situation in which the terms of reference, as put forward by the parties, specify certain terms and conditions of employment that the parties wish to have changed and, because of an oversight, let us say, in the drafting of the proposals put before the arbitration tribunal, a strict adherence to the matters set forward would put the arbitration tribunal in the position of having to make an award that really would not make much sense. I really do not think that clause 67 is designed to set forth in any way the types of considerations that the tribunal should take into account in dealing with the matters put before it.

Mr. BELL (*Carleton*): Mr. Chairman, while I certainly believe that we should do everything to simplify the bill, it seems to me that there can be no objection whatever to each one of the criteria set forth here, and there is advantage, at least in the early stages, of cataloguing the things that ought to come forward. It seems to me that this is actually helpful in the development of the jurisprudence that the tribunals will have.

Dr. DAVIDSON: Mr. Chairman, I was going to make the same point Mr. Bell has made, that at least for the period of time that is required to establish some

degree of continuity between the old regime and the new regime, it seems to me that there is justification for providing some broad and general philosophical guidelines, if you like, as to the general direction in which we would expect the arbitration tribunal to move. We gave a great deal of thought to this in the preparatory committee and we found ourselves recoiling from any attempt to prescribe detailed and rigid directives for the arbitration tribunal to follow. But we did feel that it would be rather unwise to set this new regime in motion to establish an arbitration tribunal that initially, for understandable reasons, will not be as familiar with the complex of relationships within the public service as it will after a few years and for parliament to give it no guidelines, no signposts whatever, by which it should endeavour to exercise its arbitral function. It was this consideration—that a complete vacuum would really be an abdication of parliament's responsibility—that prompted us to attempt gingerly the kinds of proposals that we have set out in section 68 as guidelines for the arbitral tribunal.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, under B, we speak of other variations, geographical, industrial variations. Do we mean by this difference in wages?

(*English*)

Mr. LOVE: I think that would be included, Mr. Chairman. Certainly, in my experience over the last year in the consultative process, I have found that both the representatives of employees and the representatives of the employer have had occasion to put forward arguments based on all of the matters set out in (a) to (d). As I say, there is nothing restrictive about this. If (a) to (d) were to have any effect at all, other than general guidance, they would simply mean that if one side or the other wanted to advance an argument that fell within their terms, it could not be told by the arbitration tribunal that it was putting forward an argument that was irrelevant. I think that is the sole effect, really, of the section.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: What scares me a little bit, is that at least twice I have seen "geographic considerations". I would have thought that the object of bill C-170, by having national units, would have been for wages to be equal from one end of Canada to the other.

(*English*)

Mr. LOVE: Mr. Chairman, the bill will, among other things, cover large groups of employees who are at the moment governed, not by national rates of pay, but by locality-oriented rates of pay. I am referring to the large group of employees who are governed by the prevailing rates general regulations. I do not think we can assume that bargaining in these national units will necessarily always proceed on the assumption of national rates.

Mr. LEWIS: Mr. Chairman, I think on the whole I would like to see the words "and have regard to" deleted. If they do not mean more than "consider"

then they are redundant. If they mean more than the word "consider" then they are too binding.

Mr. ÉMARD: Where is that?

(*Translation*)

Mr. LEWIS: I don't know what the French translation is, of—

(*English*)

"And have regard to,"

(*Translation*)

The French version. What are the words in the French translation?

The JOINT CHAIRMAN (*Mr. Richard*): "Considérer et apprécier".

(*English*)

Mr. BELL (*Carleton*): The old Civil Service Act used the phrase "take into account."

Mr. LEWIS: Well, I think "shall consider" is enough. Let us take the words "and have regard to" out. If they mean the same thing or if they mean more than that I do not think they are desirable.

Mr. LOVE: Mr. Chairman, I do not think that this would change the intent of the section in any way of which we are aware.

Mr. LEWIS: It is a bit of legal jargon that all lawyers get into. If we mean "consider" let us just say "consider." I move the deletion of the words "and have regard to." I do not go in for legal jargon.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved that in line 20 the words "and have regard to" be deleted. Agreed?

Some hon. MEMBERS: Agreed.

Motion agreed to.

Clause 68 as amended agreed to.

On Clause 69—*Procedure governing hearing and determination of disputes.*

Mr. LOVE: Mr. Chairman, this simply provides that the tribunal may determine its own procedure, shall give the parties full opportunity to present evidence and make submission and shall have the powers relating to the administration of oaths and the making of investigations that may relate to matters before it.

Clause 69 agreed to.

On Clause 70—*Subject matter of arbitral award.*

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, I am trying to get used to what Bill C-181 represents relative to the merit system. I see what the Commission is supposed to do so that the bill can be applied and see that the bill operates efficiently. It is so different from what happens in industry that I do not understand it quite well.

Particularly, I understand that the Civil Service Commission or the new identification of Public Service Commission is to administer Bill C-181. Now, in the case of arbitration, according to clause 70, sub-clause 3, we say that "no arbitrary award shall deal with the standards of procedures", what is important here "the processus governing the appointment". Appointment, I am in agreement, appointment everywhere in industry is the prerogative of management. When it comes to appraisal, and particularly promotion, transfer, lay-off, there, if I understand correctly, the Public Service Commission decided the other day, I think, to have special tribunals to deal with these cases. Did I understand correctly in this regard? It will be an arbitration tribunal, composed of members of the Public Service, to deal with these cases which cannot be submitted to arbitration. Is that it?

(*English*)

Dr. DAVIDSON: My understanding is that in the proceedings before this Committee there was agreement reached by the Committee on a system of tribunals for Bill C-181 which was somewhat different from the system that was proposed in the original bill. It would be this system of tribunals that the Committee has agreed upon for Bill No. C-181 that would deal with these matters that are referred to in subclause (3).

(*Translation*)

Mr. ÉMARD: Where is this covered, that these tribunals are to be established? Is it in Bill C-181?

(*English*)

Mr. LEWIS: Bill No. C-181.

Dr. DAVIDSON: It is for that reason, M. Émard, that this bill must exclude from its provisions matters that come within the jurisdiction of the arbitral arrangements provided for in Bill No. C-181.

(*Translation*)

Mr. ÉMARD: This remains in the hands of the Public Service Commission completely. Right?

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 70 carry?

Mr. LEWIS: No. I share Mr. Émard's implied fears about the limitations contained in subclause (3). I have argued this before and I do not want to start it all over again. I do not see any reason why it could not be possible to draft the subclause to direct that any decision on these matters must be based on the merit system established by the public service commission or must not do violence to it, or whatever language you want to use. But to take all of these things out of the collective bargaining process, when the arbitration process is part of it, I cannot accept. We have argued this before and I do not like taking the time of the Committee to do it again. I just simply do not see any reason why the subclause could not take the appointment of employees out of the area of negotiations and tie the remaining steps of appraisal, promotion, and so on, to the

merit system established by the public service commission so that the arbitrator cannot ignore it, cannot do violence to it, but within those limits leave room for him to be able to provide something. I cannot at the moment visualize any particular case but that is the general thought that occurs to me.

I find it difficult to understand in subclause (4) the reason—except some fears the employer has—for the last words of that subclause. Why do you have to order the arbitration tribunal not to write an award which contains:

> 70. (4) —reasons or any material for informational purposes or otherwise that does not relate directly to the fixing of those terms and conditions.

Are you intending to appoint morons to the arbitration tribunal? Because if you are not, the members of the arbitration tribunal are not likely to deal with or say more than the fact the matters in dispute are before them. If in some situation the arbitration tribunal finds it is necessary to make some general observations that may be of value, why should you prohibit them from saying so?

An hon. MEMBER: That is to cover minority decisions.

Mr. LEWIS: It is the "i" dotting and "t" crossing which I object to. I will move the deletion of that unless I hear reasons which persuade me I am wrong, which is possible. I cannot vote for clause 70 with the limitations on the arbitration procedure which are involved in subclause (3), and which concern a very wide area of normal collective bargaining, promotion, transfer, lay-off, all of these things are always in collective bargaining, and if you want to preserve the merit system I share that desire with you. I do not think it is beyond human ingenuity or lawyers' ingenuity to draft it in such a way as to tie the arbitration tribunal to the merit system, as established by the public service commission, without taking all of these out of the area of collective bargaining.

Senator CAMERON: Mr. Chairman, I have a note here that Arnold Heeney has commented to some extent on this particular section.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, he did.

Senator CAMERON: But I do not recall at the moment the exact way he put it.

Mr. LEWIS: Senator Cameron, in the very attractive way that Arnold Heeney has, what he said added up to the fact that he wanted to retain the merit system and that that must be left to the public service commission and cannot be left to negotiation or an arbitration tribunal that might dent it. That is the position in effect.

Mr. LOVE: Mr. Chairman, with respect to clause (3), as I understand the suggestion put forward, it would almost inevitably involve a juridictional conflict between two authorities, each of which would be interpreting the merit system. I think that is the basic problem that the drafter of the legislation faced in coming up with subclause (3).

With respect to the comment on clause (4), I think—

Mr. LEWIS: All I am asking is that we take away the muzzle.

Mr. LOVE: I think the underlying philosophy here is that, in a system of this kind, the award of the tribunal must be regarded by the parties as final and

binding. The experience in some other jurisdictions, and notably in the British jurisdiction, suggests that the parties are quite prepared to accept the award handed down—but if reasons were to be given, they may be somewhat upset by the implications of those reasons. In other words, the reasons might provide fodder for argument and dissatisfaction, even in situations where the awards themselves would not. The officials working on this have felt that the task of the arbitration tribunal is going to be an extremely difficult one at best, and that its status in the system would be protected to some considerable degree if it operated under terms of reference of this kind.

Mr. LEWIS: Surely the opposite is even more important, Mr. Love? Namely, that if the arbitration tribunal produces an award, which in its terms it might be considered unacceptable to just baldly put it down on a piece of paper, and it could be sold and supported by reasons, the fear that the reasons might give rise to disagreement is more than offset, in my experience, by the fact that they sell the decision to the employees concerned more often than they raise the opposite. If the arbitration board is given facts and figures and it sets out the facts and figures and its conclusion follows more or less logically—it never follows entirely logically—then the leaders, for example, of the employee organization concerned have something to persuade their members that they have not been taken. I would think that is a thousand times more important, with great respect, than the possibility that the reasons will have implications that people will not like. Furthermore, I again urge you not to make these things so rigid. Leave it to the arbitration tribunal, like any other tribunal, to use its common sense. If they think they are in a position where they can say, "The following are our conclusions and the following is the award and that is the best thing to do in a given set of circumstances", that is what they will do. We have to assume they will be men and women of intelligence and some knowledgability. If they feel that reasons are useful, then they will put reasons in. Why should Parliament say to them, "You cannot under any circumstances put in reasons, even if you think they are desirable, nor under any circumstances can you put in informational material that in your judgment may be of assistance to somebody. You just have to put down your conclusions and nothing else." I just do not see any need for it and I will move, Mr. Chairman, that the words "shall not contain reasons or any material for informational purposes" be struck out and the balance be edited accordingly.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis moves, seconded by Mr. Knowles that—

Mr. LEWIS: To end after the word "made" is the simplest way.

The JOINT CHAIRMAN (*Mr. Richard*): —all the words after the word "made" on line 30 be deleted.

Mr. BELL (*Carleton*): I take it the expression "that does not relate directly to the fixing of those terms and conditions" qualifies reasons. Mr. Lewis has endeavoured, I think, to leave the inference that there would be no reasons given, only conclusions. There will be reasons given in the arbitral award provided the reasons relate to the fixing of the terms and conditions.

Mr. LEWIS: Directly.

Mr. BELL (*Carleton*): With great respect, I think Mr. Lewis has not been reading recent reports of royal commissions which have been delivered by very distinguished judges and which have departed completely from terms of reference. It seems to me there is no harm in saying, "You had better stick with your terms of reference", and I think this is actually salutary. I wish this would be put into the Inquiries Act so we could tell all royal commissioners under the Inquiries Act they had better stick to their knitting.

Mr. LEWIS: You are just going from the particular to the general, Mr. Bell. This is logically unacceptable.

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready for the question?

Mr. WALKER: Have the officials any comment to make on this suggested amendment?

Senator CAMERON: Could we hear that again, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis has moved that all the words after the word "made" on line 30 be deleted.

Mr. LEWIS: It will read:

> An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

Period. Then the arbitration tribunal would use its judgment as to what else it wanted to say.

Senator CAMERON: I think, Mr. Chairman—

Mr. LEWIS: We will make sure that a certain judge is not chairman of the arbitration tribunal, that is all.

Senator CAMERON: I think, Mr. Chairman, this does have a pretty paternalistic sound. There is a good deal of that running through this legislation. I am inclined to go along with the idea that it could have more advantages than disadvantages to leave it to them to give what reasons they want.

The JOINT CHAIRMAN (*Mr. Richard*): Question?

Mr. WALKER: No, not yet. I want to know which way I am heading.

Mr. KNOWLES: You ought to know.

Mr. WALKER: I do not. I would like to hear, for my own information and guidance—

Mr. KNOWLES: I do not think Mr. Walker should be given any informational material.

Mr. WALKER: I have been getting material from the right; now I would like to listen to the left over here for a minute.

Dr. DAVIDSON: Mr. Chairman, I feel more like a left-over than a left, but it does seem to me that Mr. Bell's interpretation of this wording is a correct interpretation, and if there is any doubt about that interpretation being the correct one we would undertake to have a look at this wording to ensure that that is the correct wording.

Mr. LEWIS: I do not quarrel with Mr. Bell's interpretation of the words. I just quarrel with the idea that we tell the arbitration tribunal what it should say, that we should tell them they must stick to the terms of reference, which is what the first part of subclause (4) does, but not tell them what else they might want to say. Let them use their sense about it.

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready for the question? All those in favour of the amendment, please signify? Those opposed?

Mr. WALKER: Who seconded it, do you not need a seconder?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles seconded it.

Amendment agreed to.

Clause 70, as amended, agreed to.

On clause 71—*Award to be signed by chairman*

Mr. BELL (*Carleton*): Mr. Chairman, on clause 71 we come to this question of the chairman of the arbitration tribunal always being a majority of one. I do not want to argue this matter to any extent, I have argued it in the house, I have argued it before the committee previously, and apparently this is the system that is in use and has been successfully in use in the Whitley Councils in the United Kingdom, but to me in principle it is totally wrong and I have heard nothing at all that would justify that in an arbitration tribunal wherever the chairman sits is not only the head of the table, it is the whole table. The others really become automans with no function. It seems to me when you do this you might as well say, "Well, you will have an arbitration tribunal of one." I have said all this in the house and I expect I will have to say it all again in the house. That is all I intend to say now.

Mr. LEWIS: Is this what you mean, Mr. Love and Dr. Davidson, that if there is not a majority, then the chairman's decision stands? Why cannot you say just that?

Mr. BELL (*Carleton*): No, if it is two to one, then the chairman—

Mr. LEWIS: I know, but I am asking is that what you mean by this subclause, that the chairman overrides the rest—

Mr. LOVE: No.

Mr. LEWIS: —or do you mean that if there is a tribunal of three, and each one of them has his own ideas so that you do not have a majority, then the chairman's decision is binding. Why cannot the section just say that. Where there is no majority the chairman's decision shall be the decision of the board.

Mr. BELL (*Carleton*): But that is not—

Mr. LEWIS: I am asking if that is what they intend why cannot they say that?

Mr. BELL (*Carleton*): That is not, with great respect, what this section says. This section says when two ordinary members agree but the chairman does not agree, the chairman's position as one overrides the two.

Dr. DAVIDSON: That was never the intention.

Mr. LEWIS: That is what I think. I suggest we get the law officers to redraft it and say if the two other than the chairman agree, and the chairman disagrees,

theirs is the decision. If there is no majority, the chairman's is the decision. If that is what you mean, that is what we ought to say.

Mr. LOVE: I think, Mr. Chairman, that this has from the outset been the intent, although there is one point that should be mentioned. It is the intent that there should be no minority reports, for the reason that this is an arbitration tribunal and we can see nothing but difficulty if minority reports are handed down.

Mr. LEWIS: But that is in subclause (1); no one has raised objection to that, Mr. Love.

Mr. KNOWLES: You also want to provide that no formal statement is given as to whether it was unanimous or only a majority.

Mr. LOVE: That is right, yes.

Mr. LEWIS: No one is objecting to that.

Mr. BELL (*Carleton*): Subclause (2) as now drafted means whatever report is made by the chairman this is the report of the arbitration tribunal, despite the fact that the two other members are united on a common report in opposition to the chairman. That is what it says, there can be no doubt about it.

Mr. LOVE: Mr. Chairman, we would be only too happy to have the wording of subclause (2) reviewed by the law officers with a view to clarifying the intent.

Mr. LEWIS: I will do it, if I may. There are two steps. They can draft it, and it is in other labour relations acts so they can take it right out of the Ontario act, and I think even of the federal act. The majority of the board shall be the decision of the board, and where there is no majority the decision of the chairman shall be the decision of the board. It is just as simple as that.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 71(2) stand? The other subclauses carry?

Clause 71(2) stands.

Clauses 71(1) and 71(3) agreed to.

On clause 72—*Binding effect of arbitral award.*

MR. LOVE: Mr. Chairman, we would like to suggest that the committee consider standing clause 72, because there may be a need here for an amendment, comparable to the one we discussed in clause 58, that would ensure that an arbitral award was binding on the component parts of a council, where a council was a bargaining agent. There may also be a need for a minor amendment to subclause (2) because of commitments that have been made by the government in respect of the first agreements during the initial certification period. The intent is that it should be possible at least in some circumstances, for the provisions of the first agreements to be retroactive to October 1, 1966. We would like an opportunity to review this and to come forward with amendments at a later stage.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 72 stand?

Clause 72 stands.

On clause 73—*Term of arbitral award.*

Mr. LOVE: Mr. Chairman, I think once again, because of changes proposed in clause 26, that it would be necessary to consider some consequential amendments in subclause (2). And subclause (3) is now covered by the proposed new clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 73 stand?

Clause 73 stands.

On clause 74—*Implementation of awards.*

Mr. LOVE: This, once again, provides for the implementation of arbitral awards in the same way in which the earlier section we discussed provides for a period during which collective agreements should be implemented. It is a parallel section.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 74 carry?

Clause agreed to.

On clause 75—*Reference back to arbitration tribunal.*

Mr. BELL (*Carleton*): There have been quite a number of representations on this section, Mr. Chairman. I wonder if there are any comments Mr. Love would like to make about the representations that have been made?

Mr. LEWIS: Why do you want this?

Mr. BELL (*Carleton*): I think one of the comments was that it should be the board rather than the chairman that might refer back, but perhaps Mr. Lewis' question should be answered first.

Mr. LEWIS: Why do you want the arbitration tribunal to be subject to supervision by the chairman or the board?

Mr. LOVE: The basic problem here is that the tribunal might unintentionally fail to deal with a matter in dispute that has been referred to it. It might, in fact, fail to cover in a final way all of the matters that have been referred to it. We contemplated here a situation in which one of the parties might draw this to the attention of the chairman and have it referred back to the arbitration tribunal.

Mr. LEWIS: Excuse me for interrupting you, Mr. Love, but that is an entirely different situation. I read this section as operating before the parties were informed of the arbitration tribunal's decision. If what you have in mind is that at the request of one of the parties to the dispute—the chairman or the board, I do not care which—may refer a matter back, that is an entirely different story. My objection to it is that I read it as meaning that the chairman gets the award and before it is distributed to the parties he, in his wisdom, decides that something is not good enough and sends it back.

Mr. BELL (*Carleton*): You need to look at clause 76 in association with this.

Mr. LEWIS: Yes, there is provision for what the parties may do directly, so I am not sure you need clause 75 at all.

Mr. LOVE: Mr. Chairman, could I suggest—

Mr. LEWIS: Excuse me, except that clause 76 says both parties, and you may want a section that enables one party to say, "This has not been dealt with, do something about it."

Mr. BELL (*Carleton*): And to apply to the board—

Mr. LEWIS: To apply to the board.

Mr. BELL (*Carleton*): —to have the board return it.

Mr. LEWIS: Could you take a look at it for revision accordingly?

Mr. LOVE: We would be happy to take a look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 75 stand?

Clause 75 stands.

Clause 76 agreed to.

On clause 77—*Request for conciliation board.*

Dr. DAVIDSON: Mr. Chairman, if it is agreeable I will speak to the clauses having to do with the conciliation process. Clause 77 corresponds—and a great many of these sections correspond—very closely to the companion provisions in the I.R.D.I. Act. The companion provision here is section 17 of the I.R.D.I. Act.

Mr. LEWIS: Would you permit me to interrupt Dr. Davidson and ask, Mr. Chairman, how late you intend to sit? If there is an intention to adjourn at 12.30 there is not much sense in starting this separate section.

The JOINT CHAIRMAN (*Mr. Richard*): Is that a short statement you have to make, Dr. Davidson?

Dr. DAVIDSON: Mr. Love made the statement with respect to the sections as a group and I would have thought that we might have been able to run fairly quickly through quite a number of these sections since they do correspond so closely to the I.R.D.I. Act.

Section 77, then, Mr. Chairman, is simply the initial provision corresponding to the section I have referred to in the I.R.D.I. Act and corresponding also to a section that has already been approved by this committee. I think it is mainly section 63, having to do with a request for arbitration. They both start off exactly in the same way, where the parties to collective bargaining have bargained in good faith, have not been able to reach agreement and a dispute arises. In section 63 it is provided they may refer for arbitration and in this case it provides that they may refer the matter to the chairman with a request for a conciliation board.

Mr. LEWIS: What does subclause (2) mean, that the chairman can establish a board without being asked to do so?

Dr. DAVIDSON: We are talking about clause 77, Mr. Lewis.

Mr. LEWIS: I am sorry, I beg your pardon.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 77 carry?

Mr. LEWIS: I have already carried it in my mind.

Clause agreed to.

On clause 78—*Establishment of conciliation board where requested by either party.*

Dr. DAVIDSON: Now, the answer to Mr. Lewis' question is that clause 78(1) specifies two preconditions to the establishment of the board. One is that a conciliator has tried and failed and the other that either party has requested the establishment of a board. In those circumstances it is mandatory on the chairman

to appoint a board unless he thinks that the appointment of such a board is unlikely to serve a useful purpose. Subclause (2), on the other hand, deals with all other situations, and that could include a situation where a party has requested the establishment of a board in circumstances where there has been no conciliator appointed prior to the request for the establishment of a board. In this case it is optional for the chariman to decide. The combination of sections 77 and 78 makes it clear that the conciliation process, as distinct from the conciliation board process, is not an essential in all proceedings.

Mr. LEWIS: What you are saying is you may get a conciliation board without having had a conciliation officer?

Dr. DAVIDSON: Correct.

Mr. LEWIS: What worries me a little about subclause (2) is that, read as it stands, it gives the chairman the authority to establish a board even in a situation where neither of the parties has asked for it.

Dr. DAVIDSON: Yes. That is correct.

Mr. LEWIS: Is that not a little too much power in the hands of a chairman?

Mr. BELL (*Carleton*): I could agree to that if the board were to do it, but I have difficulty in having the chairman do it.

Mr. LEWIS: What you are giving the chairman is the power at any point to sneak in on the negotiations and decide that he does not like what is going on so he appoints a board.

Dr. DAVIDSON: Perhaps we have made the mistake of following the I.R.D.I. Act too closely, Mr. Lewis.

Mr. BELL (*Carleton*): What section of the I.R.D.I. Act?

Mr. LEWIS: I could show you some other things that you were mistaken in following too closely.

Dr. DAVIDSON: Section 17 of the I.R.D.I. Act provides, "Where a Concilation Officer fails to bring about an agreement between parties engaged in collective bargaining or in any other case where in the opinion of the Minister a Conciliation Board should be appointed to endeavour to bring about agreement between parties to a dispute, the Minister may appoint a Conciliation board for such purpose". The specific point here is that the minister is not limited to taking this action on the request of either party. The reason, rightly or wrongly, for specifying here that it is the function of the chairman rather than the board is that we have endeavoured to confer upon the chairman of the Public Service Staff Relations Board, in his capacity as chairman, the functions which, under the I.R.D.I. Act, are the responsibility of the minister as distinct from the Canada Labour Relations Board.

Mr. WALKER: Mr. Chairman, how do you cover the situation where neither party has made a request, and because of a lack of request for a board the public service is being harmed? I presume this is the situation that you are hoping this clause would be helpful in assisting. If that is the outside purpose, the bare chance of using that paragraph, I think it gives the chairman a wide open opportunity to move in unwanted and interject himself, and yet we also want, I believe, where the public interest is really being damaged by, say, stubbornness

on both sides, some authority in the chairman or the board to move at the right time. Is this along the line of your thinking?

Mr. BELL (*Carleton*): I think probably there is a need for this section but I do not like the power being vested solely in the hands of the chairman, and I would like to move that in line 35 the work "chairman" be struck out and the word "board" substituted therefor.

Mr. WALKER: I had the impression, Mr. Chairman, that Dr. Davidson and his officials were going to ask to have this clause stood so they could look at the wording of it. If I understood you correctly this is pretty well right out of the I.R.D.I. Act and that was the merit for putting it in.

Mr. LEWIS: On second thought I think there may be value in somebody appointing a conciliation board, if the negotiations have gone on too long and appear not to be getting anywhere and if neither side is making a move. There may be value in it. Do you think that the staff relations board as a whole, or a division thereof, should do it rather than the chairman?

Mr. BELL (*Carleton*): It seems to me in this circumstance it is too much power to put in the hands of the chairman alone.

Mr. KNOWLES: On the other hand, does that not give it a formal character that is not completely consistent with the purpose of assisting the parties?

Dr. DAVIDSON: We are constantly, Mr. Chairman, up against this problem, and I recognize the validity of the argument that we are putting a great deal on the shoulders of the chairman. What we are confronted with is the problem of assigning to the Public Service Staff Relations Board all of the functions which are the functions of the Canada Labour Relations Board on the one hand, and also taking care of the functions set out in the Industrial Relations Disputes and Investigation Act which in that act are placed on the shoulders on the minister. Obviously we cannot place any of these responsibilities on the shoulders of the Minister of Labour under this legislation and our solution has been to adhere, I think, consistently throughout this bill to the principle that where, under the Industrial Relations and Disputes Investigation Act, a responsibility is vested in the board as a whole—certification being an example—then under the bill before us those responsibilities are vested in the board as a whole. But where, under the Industrial Relations and Disputes Investigation Act, the responsibilities are vested in the minister as distinct from the Canada Labour Relations Board, we have consistently followed the practice in our bill of vesting those responsibilities in the chairman rather than in the Board. Now this is the principle that I would like to put before the committee as the explanation of the distinctions we have made consistently throughout the bill.

Mr. BELL (*Carleton*): It may have the virtue of consistency, but I am not sure that it has any other virtue.

Dr. DAVIDSON: Mr. Bell, even consistency is not always a virtue. But, may I just add too, that one of the concerns that we have, is that we should not get the Board, as a Board, involved in the kinds of processes that are sometimes fairly delicate; for example the timing of the decision on the right moment to move in, if it has to be made by 10 people meeting as a Board rather than being put in the hands of the chairman, has some disadvantages. There are certain of these responsibilities which under both pieces of the legislation—the I.R.D.I. Act and

this legislation—are vested in the chairman, which, if they were to be vested in the board as a whole would, we think, involve the board more directly than we think it should be involved in the relationships between the two parties and the tensions that build up in a negotiating situation.

Mr. LEWIS: You did undertake the other day to look into the question of dividing the chairman's authority.

Dr. DAVIDSON: Yes sir. We have not forgotten that, and I have asked that an examination be made of all these responsibilities. The thing that does concern me is that the chairman really has three sets of responsibilities under the bill as we have it drafted. He has the responsibility of being the Minister of Labour in this legislation. He has the responsibility of being the chairman of the board as a whole, and he has the responsibility of being the chief executive officer of what you might call the bureaucracy of the board. This places, I must agree, a pretty heavy burden on him, and we will look at this to see if there are any functions that we can properly recommend be vested elsewhere.

Mr. LEWIS: There is another point before we deal with Mr. Bell's amendment. Have you given any thought to the advisability of the chairman, or whoever it may be, who is on the verge of taking this kind of action, giving the party notice that he intends to do it? My instinctive objective to this kind of provision is to give anybody the right to jump in at any time they like without the parties' knowing about it. I think the whole process would be improved if there was provision that he had to give the party notice of his intention to do this. Then he can listen to what they have to say.

Mr. BELL (*Carleton*): Because Dr. Davidson has been examining, in general, the powers of the chairman, why do we not let this section stand?

Dr. DAVIDSON: Could we let it stand and work on it?

Clause 78 (1) agreed to.

On clause 78(2) stands.

On clause 79—*Designated employees.*

Dr. DAVIDSON: Clause 79 provides for the prior designation of the designated employees; that is to say, the employees

> —whose duties consist in whole or in part of duties the performance of which at any particular time or after any specified period of time is or will be necessary in the interest of the safety or security of the public.

It is the obligation of the employer to provide a list within twenty days after notice to bargain collectively is given by either of the parties, of the persons whom he proposes to designate as designated employees. The bargaining agent is given an opportunity to take exception. There is a negotiation process between the two sides called for, and where there is inability to decide on an agreed list, the decision has to be resolved by the Board.

There are two changes that we would like to suggest which, in our opinion, are purely technical. One has to do with subclause (2), the requirement on the part of the employer to furnish the list of designated employees within twenty days. This list is only relevant in the case of bargaining units that choose to go the route to the conciliation Board; it has no relevance at all in the case of units

that go the arbitration route. Therefore, we want to introduce a technical amendment that will limit the application of this subclause (2) to situations involving bargaining units that have opted for the conciliation board route.

We have kicked around subclause (5) quite a bit, in an effort to decide whose responsibility it should be to inform the employees in a bargaining unit as to which ones are designated employees. We have decided that this should not be made the responsibility of the bargaining agent but that it should be made the responsibility of the board.

Mr. LEWIS: I have one word that worries me, and that is the word "public" in subclause (1), line 11. Subject to discussion, I would feel much happier if the word was "state". I think "public" is too wide a concept. When you talk about the safety or security of the state, everybody knows that you are dealing with defence, the R.C.M.P. and areas of that sort. That is a thought that I have had ever since I read this bill.

Mr. BELL (*Carleton*): Offhand, I am inclined to agree.

Mr. LEWIS: The security of the public, the safety of the public, you can stretch that pretty far. And since it is a limitation on the normal process—a limitation with which I agree; I am not objecting to limitation—I would like to suggest the words "safety and security of the state" are much—

Dr. DAVIDSON: Mr. Chairman, could I use an illustration? If there were a situation involving the danger of accidents, where people's lives might be a hazard and where it could not be regarded as a matter affecting the security of the state, would you think that this should not be covered? Take, for example, stationary engineers.

Mr. LEWIS: This is my concern. Take the thing that is now happening on the West Coast, the foremen of the longshoremen are not coming in to work. Presumably their striking may affect the safety of the men working. They say they do not have adequate supervision. You have given me one example; I am giving you another one. Under "the safety of the public"—which of course, means any section of the public—the foremen of the longshoremen on the West Coast would not be permitted to strike, because without foremen you cannot do a safe job.

Dr. DAVIDSON: These have to be challenged by the bargaining unit, remember, Mr. Lewis. This is not a unilateral decision of the employer. It does seem to me that to limit this to situations where the high interest of the state is the only circumstance under which you could designate employees as employees who must stand by on the job, even though the strike may go on, would be very questionable as public policy. The arrangement proposed is very much like the standby arrangements that the unions accept as being part of their responsibility in the industrial setting.

Mr. LEWIS: They do that all the time.

Dr. DAVIDSON: In essence, this is a much more limited provision than the provision which I understand exists in the industrial setting.

Mr. KNOWLES: What about just "in the interest of safety or security"? It seems to me that Mr. Lewis' argument has merit, but the way it reads it is almost

like handing a political argument into this situation. I am certain that is not wrong but you could hardly write it into a statute.

Dr. DAVIDSON: If Parliament takes the responsibility of providing services to the public, has it not a responsibility to ensure that those services are maintained if the discontinuation of those services threatens the safety and security of the public?

Mr. LEWIS: Does this prevent a post office strike?

Dr. DAVIDSON: No. There is nothing related to the safety and security of the public.

Mr. LEWIS: Oh, but that might be an interpretation.

Suppose I await a letter from my doctor with regard to an illness in my family?

Dr. DAVIDSON: There might be a very limited sector where you have for example biologicals, blood samples or matters of this kind, and—

Mr. LEWIS: Yes, exactly.

Dr. DAVIDSON: —it might conceivably be possible for the employer to make the point that at least one or two people should stay on the job to look after these kind of transfers. In these circumstances, however it is always open to the staff, to the bargaining unit, to object to the employer's proposed designation on the grounds that this is stretching too far the interpretation. The case then, if there is to agreement, is resolved by recourse to the Public Service Staff Relations Board. I must say that it seems to me that this is a reasonable proposition. I must also say that I think it would be most unwise if I may say so with respect to put in here a provision which says by implication at least that services which are essential to the safety and security of the public do not have to be maintained by parliament, and that the government has no responsibility for at least trying to designate employees who should stand by and meet these emergency situations. Surely it is not suggested that the only circumstance that would justify a proposal to designate an employee who must remain on the job even though his unit is going out on strike, would be one that threatens the safety and security of the state as a whole.

Mr. BELL (*Carleton*): I confess I have changed my mind in listening to the discussion, from the offhand view which I had at first. I am reminded of the illustration that I think Mr. McCleave gave, when we were discussing earlier the lighthouse keeper of those who laid the buoys; certainly there is a case of the safety and security of the public rather than the state. There is no threat to the safety of the state if a lighthouse keeper walks off.

Senator CAMERON: Mr. Chairman, what is the relation of this clause to clause 101? Is there not some connection there that we should not lose sight of?

Dr. DAVIDSON: I am not clear Senator Cameron what you have in mind.

Mr. LEWIS: Of the purpose of designating employees because they cannot be on strike.

Mr. BELL (*Carleton*): That is the net result.

Dr. DAVIDSON: It should be made clear Mr. Chairman that what is involved here is not the invoking of this with respect to a whole occupational group of bargaining units, but only in the case of a group which has said that it proposes to resort to the conciliation board route, and to the strike option, the proposal here is that the employer may propose that certain individual members, presumably a minimum number of those, should be designated as persons who have to remain at their job even if their fellows go on strike. The numbers involved and the justification for those is a matter for negotiation between the bargaining unit and the employer, and if they cannot agree the matter is resolved by the Board.

The JOINT CHAIRMAN (*Mr. Richard*): Is clause 79 agreed?

Mr. KNOWLES: No. Is the safety and security of the state excluded in clause 79?

Mr. BELL (*Carleton*): No.

Mr. KNOWLES: Because you have used the word "public".

Mr. LEWIS: "Public" includes the state, but "state" does not include the public.

Dr. DAVIDSON: I see that I am supported by my two colleagues, learned in the law, Mr. Lewis and Mr. Bell, in saying that the answer to that is "no".

Mr. LEWIS: Oh, we all are lawyers but that does not say we are learned in the law.

Mr. BELL (*Carleton*): We may send you an account for that.

The JOINT CHAIRMAN (*Mr. Richard*): Is Clause 79 agreed to?

Mr. BELL (*Carleton*): Subject to an amendment on subclauses (2) and (5)

Clause 79, subclauses (1), (3) and (4) agreed to.

Clause 79, subclause (2) and (5) stand.

On clause 80—*Constitution of conciliation board.*

Dr. DAVIDSON: Clause 80, I am advised, is almost completely parallel to section 28 of the I.R.D.I. Act with the exception of subclause (6) which states that the provisions of section 61, which has already been approved by the Committee in respect of the arbitration tribunal proceedings, shall also apply to the qualifications for membership of persons on the conciliation board; that is to say, the basic proposition is that a person is not eligible to hold office on either an arbitration tribunal or a conciliation board if under subclause (1) of Clause 13, which we already have dealt with he would not be eligible to be a member of the Public Service Staff Relations Board. He must be a Canadian citizen; he must not be an employee of the employer organization and so on.

Clause 80 agreed to.

On clause 81—*Vacancies.*

Dr. DAVIDSON: Clause 81 is the I.R.D.I. Act, section 21.

Clause 81 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*):

On clause 82—*Notification of establishment of conciliation board.*

Dr. DAVIDSON: Clause 82 is a combination of the I.R.D.I. Act section 28, subparagraphs (6) and (7).

Clause 82 agreed to.

On clause 83—*Terms of reference of conciliation board.*

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed?

Mr. LEWIS: No, sir.

The JOINT CHAIRMAN (*Mr. Richard*): All right, it is a quarter to one and we will adjourn.

Mr. LEWIS: Do you have a suggestion to take away the power from the Chairman to amend the blessed thing? If not, we are going to argue about it.

Dr. DAVIDSON: I had line 3 taped, but I did not have line 7. I am sorry.

Mr. BELL (*Carleton*): Does Dr. Davidson have any idea when the draft amendments may be made available to us?

Dr. DAVIDSON: What we are hoping, Mr. Chairman, is that we will complete the study of the clauses in their present form by the end of the week. Over the week end we will be able to work out with officers of the Department of Justice as many as possible—I would hope all—of the amendments that relate to the clauses that have been stood and we hope to be ready to put these in the hands of the Clerk some time Monday. I would hope that we could make these available for members of the Committee so that we could sit down together on Tuesday morning and begin to go over what you might call the second reading of the clauses that have been stood.

Mr. KNOWLES: You promise us all that work over the week end despite the Grey Cup game?

Dr. DAVIDSON: Well, I was assuming that this Committee was going to have a meeting on Saturday afternoon, Mr. Chairman.

Mr. WALKER: They will be playing in the fog anyway.

The JOINT CHAIRMAN (*Mr. Richard*): If I had my way we would. We will meet this evening at 8 o'clock.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 21

FRIDAY, NOVEMBER 25, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board;* Mr. R. M. Macleod, Assistant Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25204—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lewis,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Madill,
Mr. Choquette,	Mr. Berger,	Mr. McCleave,
Mr. Davey,	Mr. Chatterton,	Mr. Orange,
Mr. Denis,	Mr. Chatwood,	Mr. Patterson,
Mr. Deschatelets,	Mr. Crossman,	Mr. Rochon,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Fairweather,	Mr. Simard,
Mr. MacKenzie,	Mr. Hymmen,	Mr. Tardif,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Isabelle,	Mrs. Wadds,
	Mr. Knowles,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Lachance,	

(*Quorum 10*)

Édouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

FRIDAY, November 25, 1966.
(38)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.42 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hymmen, Knowles, Lewis, Madill, McCleave, Orange, Richard, Tardif, Walker, (11).

Also present: Mr. Côté (*Nicolet-Yamaska*).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered Bill C-170 as follows: Clause 83, stand; Clause 84, carried; Clause 85, carried; Clause 86, carried, on division; Clause 87, carried; Clause 88, carried; Clause 89, carried; Clause 101, carried; Clause 102, carried; Clause 103, stand; Clause 104, carried; Clause 105, carried; Clause 90, carried; Clause 91, carried; Clause 92, stand; Clause 93, carried; Clause 94, carried; Clause 95, stand; Clause 96, stand (see amendment to subclause 96(5) below); Clause 97, stand; Clause 98, carried; Clause 99, stand.

Moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That the words "employee organization" be deleted lines 24, 25 and 26 Sub-clause 96(5) page 44 be deleted and the words "bargaining agent" substituted therefor.

The Committee accepted a Chart depicting the possible grievance machinery as an appendix to this day's proceedings. (*See Appendix V*)

At 11.00 a.m., the meeting adjourned to 2.30 p.m. this same day.

AFTERNOON SITTING
(39)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 2.43 p.m., the Joint Chairman, Mr. Richard, presiding.

25204—1½

Members present:

Representing the Senate: The Honourable Senators Deschatelets, MacKenzie (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Hymmen, Knowles, Lachance, Lewis, McCleave, Orange, Richard, Tardif, Walker (11).

In attendance: (As for morning sitting).

The Committee resumed the clause by clause study of Bill C-170 as follows: Clause 100, carried; Clause 107, carried; Clause 108, carried; Clause 109, carried; Clause 110, stand; Clause 11, carried; Clause 112, carried; Sub-clause 113(1), carried; Sub-clause 113(2), stand; Clause 114, carried; Clause 115, carried; Clause 116, carried; Schedule A, carried as amended (see two motions below); Schedule B, carried; Schedule C, carried.

Moved by Mr. Knowles, seconded by Mr. Lewis,

That Schedule A be amended by deleting the words "Government Printing Bureau" from Part I thereof and by inserting the said words in Part II thereof, immediately after the words "Fisheries Research Board".

And the question being put on the said proposed amendment, it was negatived on the following division: Yeas, Messrs. Bell (*Carleton*), Knowles, Lewis, McCleave—4; Nays, Senator Deschatelets and Messrs. Berger, Hymmen, Lachance, Orange, Tardif, Walker—7.

Moved by Mr. Walker, seconded by Mr. Orange,

Agreed,—That Part I of Schedule A be amended by deleting the words "(except the positions therein of members of the force)" after the words "Royal Canadian Mounted Police".

The Committee unanimously agreed to the withdrawal of the proposed motions re Clauses 32 and 34 put by Mr. Émard at meeting (36) November 22, 1966, and the substitution therefor of a proposed amendment to Clause 28 for consideration by the Treasury Board representatives:

Moved by Mr. Émard, seconded by Mr. Lachance,

"28. When two or more associations wish to be recognized to represent a unit of employees which is appropriate for bargaining purposes, in the circumstances described hereunder, the Board may require the said associations to form a council which, if certified, shall become the bargaining agent for all employees included in the bargaining unit. For the purposes of the present Act, the Council shall have all the rights, privileges and duties of a certified association.

The Board may thus subject the granting of certification to the establishment of a Council, if in its opinion, recognition of a single association, even if it is a majority association, would deprive one or more sizable groups of employees, either because of geographic location or the homogeneity of their group, of their right to be represented by the association of their choice.

No association may demand that the Board require establishment of a Council, unless the said association represents at least 15% of the employees included in the bargaining unit."

At 4.02 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

FRIDAY, November 25, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Will the meeting come to order.

It is unfortunate that we had to cancel the meeting last night because it would have enabled the members to have Friday morning free for other work. I am hoping this morning we can proceed as diligently as we have been proceeding and conclude the remaining sections on first reading. This will enable us to start over again on Tuesday with the amendments which, I hope, will by then have been drafted in their proper form by the officers of the department.

We are now at clause 83.

Mr. KNOWLES: Mr. Chairman, before we begin, I wonder if I could ask Dr. Davidson one question in case I have to do any homework on it over the week end. What has happened to the section which is in the old Civil Service Act regarding holidays—what we generally call statutory holidays?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): That has been removed from the legislation because it is considered to be bargainable. One of the considerations in removing it was the consideration that is in here, in the section we have already dealt with under arbitration, having to do with the inability to include in a collective agreement any matter that is, in effect, enshrined in the statutes.

Mr. BELL (*Carleton*): We had a discussion on this when Mr. Cloutier was a witness.

Mr. DAVIDSON: Yes.

Mr. KNOWLES: That is under the labour legislation. It is bargainable and yet we have it in the Canada Labour Standards Code.

Dr. DAVIDSON: Let me make it clear, Mr. Knowles. The government, as a declaration of policy, has already, stated that it intends to abide by the provisions of the Canada Labour Standards Code, so that it can be taken that the provisions regarding holidays in the Canada Labour Standards Code are the minimum provisions applicable to the public service as well as to industrial employment under federal jurisdiction.

Mr. KNOWLES: There is only one day's difference. There are eight in the Canada Labour Standards Code and there were nine in the Civil Service Act.

Dr. DAVIDSON: There were nine in the Civil Service Act but I think there are ten, as a matter of practice. I can assure you that there is no intention on the government's part, so far as I know, to endeavour to water down that level of statutory holidays. But it was felt that this should be a matter that the unions should be entitled to bargain on and, therefore, that we should take it out of the

statutes, particularly since it really does not belong in the Public Service Employment Act since it should not come under the jurisdiction henceforth of the Public Service Commission.

Mr. KNOWLES: Suppose I answered my own question by saying that it is not in the I.R.D.I. Act but it is in the Canada Labour Standards Code. Therefore, it is not in the bill now before us, but the government will follow the provisions of the Canada Labour Standards Code in this respect.

Dr. DAVIDSON: Correct.

Mr. KNOWLES: At least.

Dr. DAVIDSON: And the subject matter will be bargainable as it is in the I.R.D.I. concept.

Mr. KNOWLES: Thank you.

On clause 83—*Terms of reference of conciliation board.*

Mr. BELL (*Carleton*): This, I take it, is modelled on section 31 of the I.R.D.I. Act?

Dr. DAVIDSON: Mr. Chairman, I could limit the discussion, perhaps, by saying that having looked at this and having had some intimation of rumblings from Mr. Lewis on the wording of the last part, I would be prepared to suggest that we adopt the wording of the I.R.D.I. Act in this clause.

Mr. LEWIS: In answer to Mr. Bell, I think what section 31 of the I.R.D.I. Act says is that the minister may refer a report back to the conciliation board for further consideration.

Mr. BELL (*Carleton*): No.

Dr. DAVIDSON: No.

Mr. BELL (*Carleton*): Subsection (1) says: "Where the Minister has appointed a Conciliation Board he shall forthwith deliver to it a statement of the matters referred to it, and may, either before or after the making of its report, amend or add to such statement."

Dr. DAVIDSON: In my own view, after looking at that, it would be acceptable for us to adopt the same wording although, in fact, we do not think there is any material difference between our more elaborate wording and this section.

Mr. LEWIS: I had forgotten, frankly, this provision in section 31(1) of the Industrial Relations and Disputes Investigation Act. In my experience it has never come up. I do not know of a case where it was done.

An hon. MEMBER: It is imperative, sir.

Mr. LEWIS: Well, it is imperative to deliver the statement of the matters referred to the board; it is not imperative that he add or delete therefrom. I want to say that I still object to that power being in the chairman's authority, particularly the wording: "any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement." Why should the chairman have the right to add or subtract unless either of the parties asks him to? The decision is not final; it is not binding.

Senator CAMERON: Is there not a proposal to substitute?

Mr. LEWIS: That would still give him that power.

Dr. DAVIDSON: I think we felt, Mr. Chairman, that while the initial statement to the board presumably constitutes the basic statement of the issues, this statement should not be regarded as engraved in tablets of stone, that it should be capable of clarification or amendment, either on the initiative of the parties concerned or on the initiative of the chairman, and the channel through which these changes, if any, should be made should be the channel of the chairman who transmits the statement in the first place. Now, I confess that we were relying essentially on the fact that this is an established provision of the Industrial Relations and Disputes Investigation Act. I confess I am not certain whether or not a similar clause appears in other provincial legislation.

Mr. LEWIS: It may; there are quite a few. The provinces have modelled their legislation on the federal legislation so I imagine it may be there.

May I ask you another question before you reconsider? I think one of the things that worried me—this is not a matter of principle; I am thinking of it in practical terms as Senator MacKenzie, I am sure, has experienced—is that normally in the course of the bargaining before a conciliation board or with the assistance of a conciliation board, the statement of matters in issue is not necessarily adhered to and someone in the middle of the negotiations before the board comes up with a brainwave that if you give us so and so or if you do such and such, we will give you this and the such and such may not be on the statement at all. I think that what worried me was whether this means that the conciliation board cannot do this kind of exchange and accept this kind of give and take without the statement being amended by the Chairman of the Staff Relations Board.

Dr. DAVIDSON: Certainly this would not be my interpretation of what the intent is here, Mr. Lewis. It may be that we should review not only the wording we are talking about now but the somewhat tighter wording that is in clause 83 compared to the I.R.D.I. Act and section 20 of the Ontario Labour Relations Act, where we say that the statement prepared by the chairman is to set forth the matters on which the board shall report its findings and recommendations to the chairman.

Mr. LEWIS: Exactly.

Dr. DAVIDSON: Now, those words are neither in the I.R.D.I. Act nor in the Ontario Labour Relations Act, and I would certainly wish to look at this. But I think I would come back to the point that if this provision is in the I.R.D.I. Act and the Ontario Labour Relations Act, there certainly should be no harm in including it in this legislation, in the form in which it appears in other legislation, particularly if, as you say, to your knowledge it has seldom if ever been used.

Mr. LEWIS: I think it is made clear that the statement prepared by the chairman is based on the issues submitted to him by the parties—I am not wording it now—and does not constitute terms of reference in the same way as terms of reference to an arbitration board.

Dr. DAVIDSON: But they are bound by it.

Mr. LEWIS: But they are bound by it, which is what it now reads like. That is what, I think, concerned me, in the back of my mind.

Mr. J. D. LOVE (*Personnel Policy Branch, Treasury Board*): Mr. Chairman, if I might just comment on this, largely for the sake of contributing to the discussion, it has been my assumption that the statement referred to the conciliation board would in no way prevent the parties with the assistance of the conciliation board in hammering out an understanding. I always have assumed that the statement, in fact, would have a bearing on what the conciliation board might make recommendations on if it failed to bring about agreement between the parties. I think in its origin, the section in the I.R.D.I. Act, to which reference has been made and which would permit the minister to add to the statement, was designed to take care of the very unusual situation in which the minister concluded that although neither of the parties had referred to a particular matter in setting up the terms of reference for the board of conciliation, the minister concluded that there was an issue that was having an effect on the relationship and on the possibilities of settlement, and by adding to the statement he might put the board in a position to make public recommendations on a matter which, in his judgment, was affecting adversely the possibilities of settlement.

Clause 83 stands.

On clause 84—*Duties of conciliation board.*

Dr. DAVIDSON: Clause 84 is straightforward, Mr. Chairman. It comes from section 32 of the I.R.D.I. Act.

Clause 84 agreed to.

On clause 85—*Powers of conciliation board.*

Dr. DAVIDSON: Clause 85 is comparable to sections 33 and 34 of the I.R.D.I. Act and is comparable to clause 69 of this bill, which the Committee has already dealt with.

Clause 85 agreed to.

On clause 86—*Report to Chairman.*

Dr. DAVIDSON: Clause 86 is similar to section 35 of the I.R.D.I. Act so far as subsection (1) is concerned. So far as subsections (2) and (3) are concerned they correspond in terms of the conciliation board process, with similar clauses having to do with the ruling out of matters covered by statute and matters relating to the merit system. These matters, you will recall, were ruled out in the arbitration process in clause 70 and they are ruled out here so far as the terms of reference of the conciliation board are concerned.

I will assume that the same reservations as set out by some members on these points would apply here.

Mr. LEWIS: Mr. Chairman, I had a throught on this issue on which every civil service organization has commented, I think I am right to say, without exception. I am referring to subsection (3), the limitation in bargaining on promotion, demotion, transfer, lay-off, and so on. I appreciate entirely the point made by Mr. Love the other day and the point made by Mr. Heeney when he was before the Committee, since everyone agrees on the desirability and, perhaps, even the imperativeness of retaining the merit system, that it is necessary that the Public Service Commission do so, and there are not the double jurisdiction, conflicting decisions and the erosion of the merit system by this or that.

I have tried to think a great deal about this and whether or not it is possible to arrive at a system that would do both things: that would give the Public

Service Commission sort of the final say in these matters in order (a) to maintain the merit system and (b) to maintain it on a consistent standard, and at the same time still enable the organizations representing public servants to bargain, to raise issues with regard to them, and to express in bargaining what they wish done about it.

The following thought occurred to me. I am not putting it to you, Dr. Davidson and your assistants, in any dogmatic way, but I wonder if it is not worth looking at. First, I think, clearly no one else should have anything to do with appointment except the Public Service Commission, so I would put a period after the word "appointment". I have no quarrel at all with the proposition that neither the arbitration board nor the conciliation board should have anything to do with appointment—I should say initial appointment.

So far as the appraisal, promotion, demotion, transfer, layoff or release of employees is concerned, can you visualize any difficulties about leaving these matters to be matters for bargaining and for decisions by an arbitration board or recommendations by a conciliation board provided such decisions or recommendations have the approval of the Public Service Commission, whose decision shall be final?

What I visualize is that representing a civil service organization, the spokesman makes a certain recommendation with regard to promotion, demotion or transfer; it is discussed, and if the conciliation board or the arbitration board thinks there is merit in this suggestion, it will go to the Public Service Commission be put before the commission and if the commission says: "No, you cannot have it; this interferes with it." That is it. If the commission says: "Well, that does not seem to interfere with the merit system; if it will make these 10,000 or 20,000 people happier to have it this way, why not?" Then they can recommend or award.

Mr. CHATTERTON: I would like to put a question, Mr. Chairman, through you to Mr. Lewis. Would that no create a difficulty where, say, one of the parties, the employee, had settled on some other issue on the understanding that the question with regard to, say, demotion was agreed upon and then the commission did not accept the recommendation of the conciliation board or changed the decision of the arbitration board. And where would the party stand then if they had agreed?

Mr. LEWIS: In my own mind, as I said, I would not be dogmatic at all, but it seems to me a possible avenue for giving the staff organizations the right to bargain about this. I visualize, in my mind, that the moment the matter is reached, if the board thinks it has merit—that is the conciliation board or the arbitration tribunal—it would immediately be in touch with the Public Service Commission and, I imagine, some officer of the commission who is in charge of the major things and quickly find out.

Mr. BELL (*Carleton*): This is not just in arbitration or conciliation; this is in negotiation as well. Would you not, by the proposal you make, make every collective bargaining agreement subject to the final decision of the Public Service Commission?

Mr. LEWIS: On these issues.

Mr. BELL (*Carleton*): On these issues, before a collective bargaining agreement could finally be concluded it would have to be referred to the Public Service Commission and by them approved in relation to these matters?

Mr. LEWIS: What is so horrendous about that? You probably would not reach the agreement; this is an intermediate step. May I point out there is nothing here to prevent these matters being in negotiation. If I read the act correctly and if I understood the explanations correctly of all the people who have appeared before us, there is nothing to prevent—am I not right—these issues—

Dr. DAVIDSON: There is nothing to prevent these issues being discussed.

Mr. LEWIS: —being discussed, which is what negotiation really is and I can raise it at the bargaining table. The only thing is that when the discussion is over, neither the aribtration board nor the conciliation board can pronounce a conclusion on it, whether in the form of a decision or in the form of a recommendation.

What I am suggesting is that the discussion on these things undoubtedly will take place. I expect I would bet a lot of money, if I had it, that you will not keep it off the bargaining table. These matters are so essential to conditions of work that you are not going to be able to keep any staff organization from raising hell about the way in which certain standards are being carried on. I suppose they can raise it with the Public Service Commission directly.

Dr. DAVIDSON: It is the only agency that has the jurisdiction and the legal authority to do anything about it.

Mr. LEWIS: You do not think any such compromise is feasible?

Dr. DAVIDSON: I must say that certainly we would explore it, Mr. Lewis, but I would be very much concerned about any such proposition as this, not only for the reason that Mr. Bell adduces but because it does involve superimposing the authority of the Public Service Commission over the authority of arbitration tribunals and over the authority of conciliation boards. I think there would be only disillusionment and resentment that could come from that in the actual experience at the bargaining table. I think the Committee and Parliament have to really make up their minds whether they are going to give the jurisdiction on these matters to the Public Service Commission and set up an appeal system within the jurisdiction of the Public Service Commission, or are they not? If we try to mix the two and develop a double set of tribunals really, or a system of veto of one set of tribunals over another set of tribunals in the same subject matter, I think we are only borrowing trouble for the future.

Mr. LEWIS: Mr. Bell and you may be right.

Mr. CHATTERTON: Dr. Davidson's argument applies even more if there was some further tribunal for appeal beyond the commission, as Mr. Bell has proposed. It would apply even more in that sense.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 86 carry?

Mr. LEWIS: I am still not happy with subclause (3), although I suppose the majority carries it.

The JOINT CHAIRMAN (*Mr. Richard*): On division?

Mr. LEWIS: I would still like to think about this whole area.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 86 carries on division.

Clause 86 agreed to.

On clause 87—*Copy of report to be sent to parties.*

Dr. DAVIDSON: That is section 36 of the I.R.D.I. Act, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 87 carry?

Mr. LEWIS: What does "forthwith" mean?

Mr. DAVIDSON: As soon as possible.

Mr. LEWIS: All right.

Clause 87 agreed to.

On clause 88—*Report as evidence.*

Dr. DAVIDSON: That is section 37 of the I.R.D.I. Act.

Clause 88 agreed to.

On clause 89—*Binding effect where agreed by parties.*

Dr. DAVIDSON: That is section 38 of the I.R.D.I. Act.

Clause 89 agreed to.

On clause 101—*Participation by employee in strike.*

Dr. DAVIDSON: This is the provision with respect to the circumstances under which strikes are prohibited and strikes are permitted. It corresponds, generally, I am advised, to the provisions of the I.R.D.I. Act with the exception that (1) (c), the reference to a designated employee, does not appear in the I.R.D.I. Act and, of course, (b), the reference to the exclusion of bargaining units that have opted for arbitration, does not appear in the I.R.D.I. Act. I think all of the rest corresponds to the I.R.D.I. Act

Mr. LEWIS: May I respectfully suggest that you do not need the words in subclause (2) "who is not an employee described in subsection (1)". They cannot participate in a strike, in any case. At all events, every time I have read it, I have to go back and see why it is in there.

Dr. DAVIDSON: Can I check on this, Mr. Lewis?

Mr. LEWIS: Maybe you do need it, I do not know.

Clause 101 agreed to.

Dr. DAVIDSON: I will check and report on it, but I take it the clause is approved, apart from that?

Some Hon. MEMBERS: Yes.

On clause 102—*Declaration or authorization of strike.*

Dr. DAVIDSON: This corresponds to section 41(4) of the I.R.D.I. Act.

Clause 102 agreed to.

On clause 103—*Application for declaration of strike as unlawful.*

Dr. DAVIDSON: Clause 103(1) and (2) correspond to sections 67 and 68 of the Ontario Labour Relations Act. I think there is one suggestion that we would offer here for improvement. These both involve ex parte applications to the board for a declaration by the board that a strike is or would be unlawful in one case, or whether a strike is or would be lawful in another case.

Mr. LEWIS: Why do you say ex parte?

Dr. DAVIDSON: Where it is alleged by the employer. Clause 103 begins: "Where it is alleged by the employer".

Mr. LEWIS: Is it your intention that the other side would not get notice?

Dr. DAVIDSON: That is the point I am coming to. As it is now worded, there is no assurance of notice being given to the other parties, and it was our intention to propose to the Committee that we redraft it to provide for notice being given to the other party.

Clause 103 stands.

Mr. LEWIS: Excuse me, what is the situation in which subsection (2) would operate? Unless the union's right to strike was challenged, in what situation would the union ask for a declaration that it is virtuous?

Dr. DAVIDSON: I would assume that it would only be a situation where the union, for greater certainty, wanted to be assured of its position. It is really to maintain the balance between the position of the employer and the employee, and this was put in to even things out.

On clause 104—*Offences and punishment.*

Dr. DAVIDSON: The provisions of clause 104 come directly from sections 41 and 42 of the I.R.D.I. Act.

Mr. MCCLEAVE: I had objections, Mr. Chairman, in the light of some of the penalties we have been putting in recent legislation, but now that they are equivalent to the I.R.D.I. Act, then I make no objection.

Clause 104 agreed to.

On clause 105—*Prosecution of employee organization.*

Dr. DAVIDSON: This is taken from section 45(1) of the I.R.D.I. Act.

Clause 105 agreed to.

On clause 90—*Right of employee to present grievance.*

Dr. DAVIDSON: Mr. Chairman, this opens up the eighth block of clauses covering clauses 90 to 99. These clauses provide for the establishment of grievance processes within departments and agencies, subject to the legislation, and for third party adjudication of grievances arising out of the interpretation or application of a collective agreement or arbitral award, or out of disciplinary action resulting in discharge, suspension or financial penalty. Under these provisions an employee would have the right to present grievances covering a wide range of matters affecting his terms and conditions of employment. Grievances relating to matters for which another appeal process had been provided by statute, would not be admissible to the grievance process, for example, the appeal processes established under the Public Service Employment Act.

The special status of bargaining agents in relation to grievances would be recognized. Grievances relating to the interpretation or application of a collective agreement or arbitral award would not be admissible unless the bargaining agent give its consent and the employee was represented by the bargaining agent. In addition, no employee organization, other than the bargaining agent, would have the right to represent employees in the bargaining unit where a bargaining agent had been certified.

A grievance could be referred to an adjudicator named in a collective agreement, to a board of adjudication, or to an adjudicator appointed by the Governor in Council on the recommendation of the Public Service Staff Relations Board. Adjudication decisions would be final and binding on the parties.

Before getting into the clause by clause review, members of the Committee may wish to focus their attention briefly on the chart on the easel, depicting the type of grievance process that might be contemplated under the provisions of the bill.

The JOINT CHAIRMAN (*Mr. Richard*): This chart will be inserted as part of today's proceedings.

Some hon. MEMBERS: Agreed.

Mr. LOVE: Mr. Chairman, the chart is headed "Possible Grievance Machinery" because, in fact, the grievance machinery under the provisions of the bill would be governed by regulations made by the Public Service Staff Relations Board which, presumably, would establish minimum standards to which all departmental and agency grievance procedures would have to adhere.

This is the type of machinery that is, at the moment, contemplated. There would be, perhaps, a maximum of four steps in the grievance procedure in a particular department and the employee would have the right to present his grievance at each step. He might start at the level of the local manager in Windsor; failing a settlement of the grievance at that level, he would have the right to present it at step two, which might be the regional director for Ontario, and so on up to the director general of the branch in question, and finally to the level of the deputy head. Adjudication is then provided for, in defined circumstances, and the award of the adjudicator would be final and binding.

Mr. MCCLEAVE: The adjudicator, though, would not be part of the department itself in which the grievance was taking place?

Mr. LOVE: No. He would be an independent third party person.

Mr. MCCLEAVE: Could the map or sketch not have added on it the steps, one to four, within the department and the fifth one, extra department.

Mr. LOVE: Yes, it would have been clearer if we had indicated this.

Mr. CHATTERTON: By whom is the adjudicator appointed?

Mr. LOVE: There are a number of possibilities provided for in the bill. If the parties to a collective agreement wished to do so, they could name an adjudicator in the collective agreement. Failing that, the employee would have the right to ask for a three man adjudication board, and, if the employer agreed to it, a board could be established. Failing that, an adjudicator from among the group of adjudicators under the jurisdiction of the chief adjudicator, all of whom would be appointed by the Governor in Council on the recommendation of the Public Service Staff Relations Board, would be named to hear the case.

Mr. CHATTERTON: Is there any obligation for the Governor in Council to appoint in such a case?

Mr. LOVE: Yes, sir, there is a provision in the bill which provides that the Governor in Council shall appoint adjudicators on the recommendation of the Board.

Mr. LEWIS: Have you given consideration to placing this power in the Staff Relations Board instead of in the government? I have the same general objection in theory and in philosophy that the ultimate employer is the one who appoints the adjudicators. I suggest you might give the same consideration here as you

have given in other parts of the bill, and put that authority in the Staff Relations Board rather than in the Governor in Council. We jumped something, but since it was raised, I put it in at this point.

Mr. LOVE: Perhaps we could take that up when we reach the relevant clause, Mr. Lewis.

Mr. LEWIS: Some members might say this is a strange role for me but this provides that the employee can have a grievance only if his bargaining agent agrees.

Mr. LOVE: This is on a matter arising out of the interpretation of an agreement.

Mr. LEWIS: Yes, when it arises out of the interpretation of the agreement. It is probably the only way to have order. I have often thought that there might not be harm in lodging the grievance although it should not go to adjudication without the bargaining agents' approval.

Mr. DAVIDSON: It is well to keep in mind here, Mr. Lewis, that it is conceivable that an employee who is not a member of the bargaining unit may be involved here and it would be desirable, in the view of those who drafted this, to ensure that a person who did not happen to be a member of the employee organization, should not have the power to raise—except through the bargaining agent—a grievance with respect to a collective agreement that the bargaining unit had negotiated with the employer.

Mr. LEWIS: Yes, that is in subsection (3). I am not objecting to that. In fact, I am not objecting at all. I am just raising a point on subclause (2): "An employee is not entitled to present any grievance relating to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award unless he has the approval of and is represented by the bargaining agent." What I am asking is whether that is not really placing in the employee's organization a little too great a power? I can see the desirability of saying that the employee cannot go to adjudication which involves complete machinery and expense and all the rest of it, but why should he not be able, even if his organization does not agree with him, to talk it over with the local manager, the regional director of the deputy head and say, I have been done wrong by? It seems to me it may not be a necessary limitation up to the step of adjudication.

Mr. LOVE: This has to be viewed in the light of the possibility of a jurisdictional conflict, a situation involving a bargaining unit for which a bargaining agent has been certified, but in which an insurgent union or an insurgent employee organization is working and organizing. There was some concern, I think, on the part of the employee organizations who were consulted and even on the part of the management representatives, if I may refer to them as such, about the kind of situation that might develop in those circumstances if, without the support of the bargaining agent, employees could lodge grievances relating to an agreement that had been negotiated by the bargaining agent.

I think, Mr. Chairman, that everyone who has worked on this recognizes the difficulty involved and the potential problems that could arise from the power which would be put in the hands of the bargaining agent by this clause. I think other problems would undoubtedly be produced if we went the other direction.

Mr. LEWIS: Would it, if it was limited to the first four steps only, which is the only suggestion I am making here for consideration? Again, I am not saying it dogmatically, but if he were only able, even if the bargaining agent disapproved, to go through the first four steps and if he lost or could not persuade anyone of the justice of his case by then, he would be through. He cannot go to adjudication without the approval of the bargaining agent. Bargaining agents are no more angels than management and representatives of bargaining agents are no more angels than representatives of management. Abuse is always possible of some individual's rights. I just suggest that you might consider giving the individual employee the right to go through the grievance procedure, short of adjudication.

Mr. CHATTERTON: In practice, surely, this would not forbid an employee, even those subject to subclause (2), going to his local manager to discuss some problem. It would be a form of grievance, probably.

Mr. LOVE: It would prevent him from lodging a formal grievance. A distinction is made here between a complaint which any employee may take up with his supervisor and the lodging of a formal grievance in writing under the processes provided for under the law.

Mr. BELL (*Carleton*): I have no doubt that the allegedly aggrieved person will see his member of parliament and the first three steps will be obviated and step four will come into effect.

On clause 91—*Reference of grievance to adjudication.*

Mr. LEWIS: I am sorry, but before we go on, Mr. Chairman, there is no provision here for the bargaining agent itself to lodge a grievance.

Mr. LOVE: Mr. Chairman, you will recall that, in discussing the definition of grievance, there was an indication from the witnesses that consideration was being given to the possibility of defining this in such a manner as to permit an employee to lodge a grievance on his own behalf or on behalf of a group of employees. Mr. Lewis is quite right in suggesting that there is no means provided in the law whereby a bargaining agent, as an institution, could lodge a grievance. There is, however, in section 98, a provision which is designed to provide the bargaining agent with a capacity to protect its interests under an agreement without resorting to the grievance process as such. It provides that where the employer or the bargaining agent has executed a collective agreement or is bound by an arbitral award, and either one feels that obligations entered into by one party or the other are not being lived up to, he may refer the matter to the chief ajudicator who shall personally hear and determine whether there is an obligation as alledged and whether, if there is, there has been a failure to observe or to carry out the obligation.

In other words, the view of the people who worked on the legislation was that if there is a problem affecting the bargaining agent as an institution, rather than have it go up through four levels, it would—

Mr. LEWIS: Go to the top step.

Mr. LOVE: —it would be better really to have it go right to the top and get it cleared up at that level.

Mr. LEWIS: That certainly helps some in this sphere. You see, (b) of 98(1) limits the right of the bargaining agent to lodge a grievance only in cases where an employee cannot do so. You have in practice what they call group grievances.

Mr. LOVE: The group grievance problem would be handled by the amendment to the definition which would permit an employee to lodge a grievance on behalf of a group of employees.

Mr. LEWIS: I will then withdraw my objection.

Clause 91 agreed to.

On clause 92—*Appointment of adjudicators.*

Mr. LEWIS: This is a clause, I suggest, where perhaps consideration could be given to putting the authority to appoint these adjudicators in the hands of the board rather than the government.

Mr. BELL (*Carleton*): I take it that Dr. Davidson will have to get instructions on that.

Dr. DAVIDSON: We certainly would be glad to give it consideration, and we appreciate the point. We think it loads further responsibilities on the board but, I think, there is a valid point of consistency here. The only thing I would mention, Mr. Lewis, is that, perhaps, if you look at the words you will realize it is not quite as it might appear to be on the surface—

Mr. LEWIS: It is on the recommendation of the board.

Dr. DAVIDSON: —because the Governor in Council cannot appoint anybody whom the board does not recommend.

Mr. LEWIS: I know; I saw that.

Dr. DAVIDSON: This is the only point you had on this clause?

Mr. LEWIS: Yes, it is the only point.

Mr. MCCLEAVE: I was just going to ask Dr. Davidson how many members of this—this permanent panel of people or permanent officers—is it proposed to appoint?

Mr. LOVE: Mr. Chairman, I do not think anybody has any idea at this point as to how many adjudicators will be required for the system. It is my personal view that, in the first few years of the system, until things settle down, there is likely to be a fairly heavy case load. The simple answer to your question is that no one can really predict at this point what the requirement is likely to be.

Mr. CHATTERTON: It surely will not mean that the Governor in Council may appoint only those persons recommended by the board?

Dr. DAVIDSON: Right.

Mr. LOVE: Yes.

Dr. DAVIDSON: It can refuse them. It can refuse the recommendation of the board but it cannot amend the recommendation of the board. It cannot name somebody the board has not recommended.

Senator DESCHATELETS: In case of refusal, I suppose they supply other names?

Dr. DAVIDSON: That is right.

Mr. WALKER: Is refusal the right word, Dr. Davidson. It says: "The Governor in Council, on the recommendation of the Board, shall appoint such officers", such being the ones who were recommended, I would think.

Dr. DAVIDSON: It still means, as I understand it, that the Governor in Council does have the power to say, we refuse to accept this particular recommendation of the board.

Mr. LEWIS: Is there any difference in principle between appointing the adjudicators and the others where you took the power from the Governor in Council and gave it to the board? I, myself, do not see any difference.

Mr. LOVE: I think, Mr. Chairman, it would be wise for us to take a look at this, if the Committee would agree. I would like to have a word with the law officers about the point that has been raised.

Mr. LEWIS: When you do that you have the same problem we had earlier about the removal on the unanimous recommendation of the board.

Mr. LOVE: Yes, I was going to mention that.

Mr. LEWIS: You will have to make that change as well.

Clause 92 stands.

On clause 93—*Composition of board of adjudication.*

Mr. KNOWLES: Mr. Chairman, I have been looking at this in conjunction with clause 96. I do not think there is any problem but, perhaps, I should raise it. A board of adjudication consists of three members and since there is no provision about a quorum or anything of that sort, the assumption is that it can act only if all three of them are present; and similarly that the decision referred to in clause 96(2), being a decision of the majority, means two out of three, but they all have to be present.

Mr. LOVE: Yes, that certainly is the assumption, sir.

Mr. KNOWLES: We had some uncertainty, in another case a while back, about this quorum.

Mr. LOVE: That was on the question relating to the unanimous recommendation of the Board. We have not had a final opinion from the legal people in the Department of Justice about this, but I did have some discussions yesterday afternoon and it would appear that "on the unanimous recommendation of the Board" would have to be construed in the light of the earlier sections which say that the Board, for the purposes of any decision, consists of the chairman or the vice-chairman and at least one member from each side. So a unanimous recommendation would really require the support of the chairman or vice-chairman, whoever was sitting in the chair, plus a minimum of one representative from both sides.

Senator DESCHATELETS: Why do you not say it needs a quorum of two?

Mr. LOVE: The chairman, plus two—one from each side.

Mr. LEWIS: What they are telling you is that it means the particular panels sitting on the matter; it does not mean all the members of the board.

Mr. LOVE: That is right. There would be problems, I think, if we tried to move to the concept of total membership of the board because, at any given point in time, it is quite conceivable that one member of the board may be off on an extended holiday or ill.

Mr. LEWIS: More likely ill.

Mr. LOVE: It would restrict the capacity of the board to act with promptness on the cases which came forward.

Mr. KNOWLES: Let us get back to the board of adjudication which consists of three people, the adjudicator and one member nominated by each side. I take it that it is not a proper meeting unless all three are present?

Mr. LOVE: I would think that is so, yes, sir. I should not think there would be any question about that. Clause 93 says: "the board shall be composed of three members", and I assume that a board, when making a decision, is simply not a board unless it is composed of three members.

Mr. KNOWLES: Two can make the decision but all three have to be present.

Clause 93 agreed to.

On clause 94—*Notice to specify whether named adjudicator, etc.*

Mr. LOVE: Mr. Chairman, I would like to just mention in passing that we think we have discovered a series of very minor drafting errors. The word "person" is referred to in a number of these clauses instead of "employee". I think this is the result of an earlier draft in which an attempt was made in this clause to distinguish between an employee and a person. Subsequently, for purposes of the bill that went before the house, the legal draftsmen decided on another device whereby an employee, for the purposes of the grievance clauses, is defined in such a way as to include a person who would be an employee but for the fact that he had been identified as a person employed in a managerial capacity. It may be that the legal officers will suggest that the word "person", wherever it appears in these clauses, be changed to "employee". I would not think that that would require the standing of the clauses but I thought I should mention it.

Clause 94 agreed to.

On clause 95—*Compliance with procedures in grievance process.*

Mr. CHATTERTON: On subclause (1), does it mean there that the grievance cannot go to the adjudicator until he has gone through all those first four steps?

Mr. LOVE: That is right, sir.

Mr. BELL (*Carleton*): Or the statutes provided for in the collective agreement.

Mr. LOVE: That is right. I think the point here is that—and this would be standard industrial practice, I think—until such time as the parties at the various levels have had a full opportunity to sort out the problem, adjudication is not possible.

Mr. LEWIS: Suppose both parties agreed to skip some of the steps?

Mr. LOVE: This could be done, sir.

Mr. LEWIS: It cannot under clause 95(1).

Mr. LOVE: I think the clause setting forth the regulation-making powers of the board make it clear that it is contemplated that the employer or the parties in some circumstances, should be able to arrange for some of the steps to be skipped.

Mr. LEWIS: Where is that?

Mr. LOVE: In clause 99(b). It is quite possible that on certain types of grievances it would be undesirable to have the matter dealt with at, let us say, all four levels. It might make sense to have certain types of grievances handled from the outset at the level of the deputy head.

Mr. LEWIS: Clause 99 gives the authority to the Staff Relations Board. Say, you have a very practical matter, such as someone messing up the grievance or something arising in the grievance procedure which makes it desirable to go straight to the deputy head and everybody agrees that is the wise thing to do, why can they not do it? When you enshrine it in a statute and say, you cannot go to adjudication unless you have gone through every step, is it not possible to add—I am not wording it—"except if both parties agree otherwise". If the employer and the bargaining agent agree to drop the first three steps, why should they not be able to do so?

Mr. CHATTERTON: I am thinking, also, of the practical procedures whereby if you have to go through all four steps, there is a question of time, even if you can afford it. In practice, I would say, that if a grievance arises with an employee, he could refer directly to the deputy head, who would most likely refer it down to the local manager's level. He may not but in practice, I think, it could well be done if allowed by statutory right, to go right to the deputy head initially. He could, if necessary, make a decision if he wished to, or refer it back.

Mr. LOVE: Mr. Chairman, I think the answer to Mr. Chatterton on that one is that it is generally considered desirable in labour-management relations to try to settle the matter as close as possible to the level at which the problem occurs. I would not like to see a provision in the statute which would make it possible for the employee to go to the deputy head at the outset because I think this would enable us to get into a situation where a great deal of time was consumed because matters were being referred to the deputy head and back down to the first level. Generally speaking, I think we should observe the principle that the place to start is as close as possible to the level where the problem has arisen.

Quite frankly, I do not see any real reason why certain steps in the process should not be skipped if the parties are agreed that they should be skipped. I would like to take advice on that matter, if I might.

Mr. LEWIS: The only suggestion I am making, following up Mr. Chatterton's comment, is that subclause (1) might have words added to it: "Unless the employer and the bargaining agent agree otherwise" or something like that.

Clause 95 stands.

On clause 96—*Decision of adjudicator.*

Mr. LOVE: Mr. Chairman, in clause 96(5) there has been some criticism by at least one of the employee organizations which, upon review, we consider valid or justified. Clause 96(5) refers to an employee organization; it has been suggested that this should really refer to bargaining agent because only a bargaining agent could have the kind of obligations which this subclause assumes. We would like to suggest that the words "employee organization", where they appear in this subclause, be amended to read "bargaining agent", in both cases.

Mr. WALKER: I move that on line 24 of subclause (5) the words "employee organization" be replaced by "bargaining agent"; also in line 26.

Mr. LEWIS: I second the motion.

Amendment agreed to.

Mr. CHATTERTON: Why should the decision of the adjudication officer or board be sent to the board rather than directly to the parties involved?

Mr. LOVE: Mr. Chairman, I think this is a very good point. The principle reason for requiring it to be sent to the board is that people working on the legislation thought it would be desirable to have a central source of reference where all adjudication decisions could be kept on file, catalogued and made available to the parties. There is a jurisprudence of sorts that is important here and we felt that, administratively, it would make good sense to have all adjudications filed with the board.

Mr. CHATTERTON: Would it not make more administrative sense to require that the adjudicators send a copy of the decision?

Mr. LOVE: I must say that I think this is a good suggestion. In discussing this last night the point came up. I see no reason why the basic purpose to which I referred would not be as well served by an amendment that would require the adjudicator to send copies directly to the parties but also to file a copy with the board.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 96 for that change.

Clause 96 stands.

On clause 97—*Where adjudicator named in collective agreement.*

Mr. BELL (*Carleton*): I think there are likely to be some problems arising out of this. Are you suggesting that the individual may have to pay costs? That certainly is not a notion which has been accepted in the public service previously.

Mr. LEWIS: Nor in any collective agreement in industry.

Mr. BELL (*Carleton*): What is the justification for this?

Mr. LOVE: Mr. Chairman, I should mention that on clause 97(2) consideration is being given to an amendment really based on a suggestion, I think, made by the Canadian Labour Congress, when it was before the Committee. The amendment would make the subsection read: "Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, the person—that would read "employee"—whose grievance it is or where that employee is represented by his bargaining agent, the bargaining agent is liable to pay and shall remit to the board such costs...". I think it is general practice, in the private sector, for the costs of adjudication to be shared. This is generally regarded as an important principle if only for the reason that, if there is no obligation in terms of costs, the resort to adjudication is likely to be excessive and, perhaps, even abused.

Mr. BELL (*Carleton*): I don't think we should put a means test on adjudication.

Mr. LEWIS: Although I agree with the point Mr. Bell is making, I would like to divide it into two parts. I think there is another reason normally, in industry the union pays the expenses of its member on the board, the employer pays the expenses of his member on the board and they share the expenses of the chairman. In this case your chairman will be, under subsection (2), if I understand it correctly, an adjudicator appointed either by the Governor in Council or by the board, presumably at a salary.

Dr. DAVIDSON: Not always.

Mr. LEWIS: Under subclause (2)? I am not talking about subclause (1), which is an adjudicator established under the agreement. There is a difference between the bargaining agent being required to carry the cost and the aggrieved employee being required to carry it; it is the latter to which, I think, Mr. Bell objects, and I would take very strong exception to placing the burden of costs on the aggrieved employee. Under any circumstances it cannot be justified. Since he cannot go to adjudication except with the approval of the bargaining agent, I think the entire load should be carried by the bargaining agent and never by the employee.

Mr. LOVE: The effect of the proposed amendment would be to place the financial obligation on the bargaining agent except in circumstances where there was no bargaining agent.

Mr. LEWIS: Under those circumstances, I think the employer should pay. Seriously, you make it impossible. Any one of us who practices law comes across every day people who simply cannot afford legal action and until such time as we pay our civil servants much more than we are likely to pay them, I think if he has a grievance there should be no means test for him.

Dr. DAVIDSON: Mr. Lewis, despite my past record, I am not trying to advocate the insertion of a means test here. But I am a little bit worried about one of the possible consequences of what you are talking about. I am not certain that this applies but I would like to raise the question anyway. Would the effect of what you are suggesting now be to make a distinction between the employee who is not a member of an employee organization, who would get his adjudication done for him free, and the employee who is a member of an employee organization, who would be required to call upon his employee organization.

Mr. LEWIS: He would also get it free.

Dr. DAVIDSON: But would his employee organization have to pay?

Mr. LEWIS: Yes, because he has a bargaining agent. He has all the advantages and disadvantages, if you like, of a bargaining agent. He pays dues to the bargaining agent. The reason for paying dues is to receive this kind of service.

Dr. DAVIDSON: Is it conceivable that this formula would result in the charge being made that the legislation was loaded in favour of remaining not a member of the bargaining unit?

Mr. LEWIS: There is that danger, and that is a valid point.

Mr. CHATTERTON: Going back to the member who is not a member of the bargaining unit, can he go to final adjudication merely on his request?

Mr. LOVE: Just on matters arising out of a disciplinary action involving discharge, suspension or financial penalty. Generally speaking, you can go to adjudication only on a matter arising out of the interpretation of a collective agreement and in those circumstances there would be a bargaining agent.

Mr. CHATTERTON: Would not any employee who was in that position, who has a grievance with regard to those three points, be stupid not to go to the final point knowing it is not going to cost him any money. It might be quite frivolous but yet he would have the opportunity of going right to the adjudicator, costing a lot of money, knowing he cannot lose because it is not going to cost him

anything. Could there not be some provision whereby the board could eliminate such appeals where it considers then frivolous?

Mr. LEWIS: There is a point, though, and the only reason I am raising it, Mr. Chairman, is that if you are talking about employees who were, of their own will, outside the bargaining unit, that is a different story. But every employee who is in an area where there is a bargaining agent—where there is collective bargaining at all—but is outside that is outside either by provision of the statute in the definition of employee or by designation of the board, so that his exclusion is enforced on him by the statute. Am I not right?

Dr. DAVIDSON: He is outside the bargaining unit?

Mr. LEWIS: Yes.

Dr. DAVIDSON: Under those circumstances.

Mr. LEWIS: And, therefore, cannot have access in the same way. The only reason I am concerned is that he should have to pay out of his own pocket because we are forcing him out of the area which would enable him to get the service of the bargaining agent. It is not a choice of his.

Mr. CHATTERTON: It would eliminate the question of frivolity, though.

Mr. LEWIS: No, it does not eliminate that. The difficulties Dr. Davidson and Mr. Chatterton raised are valid. I am not denying that.

Mr. CHATTERTON: It ought, itself, to give him the power to adjudicate as to the expenses to be charged to such an employee.

Mr. LOVE: I think there would be some virtue in having, at least, nominal costs charged in these circumstances.

Just on the point made by Mr. Lewis, as I understand the bill, and it gets a bit complicated on this point, it would be not only the employees who had been excluded because of their managerial responsibilities who would have the capacity to go as individuals to the board on matters relating to discharge, suspension and financial penalty. An employee in an occupational group that did not have a certified bargaining agent would also have the right to proceed to adjudication on these matters.

Mr. HYMMEN: Mr. Chairman, on Mr. Lewis' point, the employee who is not out of the bargaining unit voluntarily and through no fault of his own, under clause 90 (3), may request and attain the assistance of a bargaining agent.

Mr. WALKER: He may not obtain it.

Mr. HYMMEN: No; he may request it.

Mr. WALKER: They may refuse to represent him.

Mr. HYMMEN: If it is not through his circumstances and if the exclusion is not voluntary, there is always that possibility of obtaining assistance.

Mr. LEWIS: Perhaps the officers here will take a look at it.

Mr. BELL (*Carleton*): I think this should stand until the amendments come up, but I would certainly like to say that I do not believe a test of frivolity ought to be the financial means of the person applying for adjudication.

Clause 97 stands.

Clause 98 agreed to.

On clause 99—*Authority of Board to make regulations respecting grievances.*

Mr. BELL (*Carleton*): I have two comments on clause 99. It seems to me that the lead clause is very broad. It empowers the board to make regulations in relation to the adjudication of grievances. This is absolutely wide open.

Secondly, I would like to enquire what the provisions may be in the Regulations Act about separate regulations made by a board to be laid on the table or what other provision there is for adequate publicity to these regulations?

Mr. WALKER: Mr. Chairman, does this power given to the board to make regulations supersede any of the other specific clauses dealing with—

Mr. LOVE: I would think so, Mr. Chairman. I think the board would have power to make regulations. It is really in relation to the procedures for the presenting of grievances, the adjudication of grievances.

Mr. LEWIS: Mr. Chairman, through you to Mr. Love: Does this not wash out the grievance procedure in the collective agreement? I think this is another erosion of the collective bargaining process by attempting to dot every "i" and cross every "t". All of the things which you give the board the power to make regulations on in clause 99 are normally part of the grievance procedure written into a collective agreement. The procedure will differ from collective agreement to collective agreement, depending upon what the parties agree upon. Could this not be made subject to this, that it applies only where the collective agreement does not provide grievance procedures.

Mr. LOVE: Mr. Chairman, rightly or wrongly, it has been felt that there should be certain minimum standards applied so that there is a reasonable degree of consistency in the grievance procedures applying to public servants across the public service. I think—among other reasons and this may not be a very good one from Mr. Lewis' point of view—it would be desirable from an administrative point of view to have a reasonable degree of consistency in the grievance procedures. We are contemplating here a system of bargaining which is likely to involve a fairly substantial number of bargaining units which are horizontal and national in character, so that it is conceivable if the matter were left to the collective agreement that we would have a significant number of different grievance procedures applying in any one department, and the feeling has been that this might produce a degree of administrative chaos, at least, in the early stages of the system.

Mr. LEWIS: Have you not been in the service long enough not to be worried about that?

Mr. LOVE: The answer to that is yes.

Mr. LEWIS: Mr. Chairman, I just simply cannot agree. If I may, without presumption, say that the way you avoid this chaos is by you people on the Treasury Board working out the standard model grievance procedure which you present at the bargaining table, from your experience, and I am sure if it is one that fits the situation, it will be accepted. Then gradually you work, as a result of bargaining, into a grievance procedure across the country which is consistent by the Treasury Board people doing the negotiating, presenting a model along the lines that you think is administratively possible. Here, again, is something you

are taking away from the bargaining table. You give the Staff Relations Board the right to write the grievance procedure for every collective agreement. I think where there is no grievance procedure in a collective agreement, these regulations should apply, but the parties should be able to make their own grievance procedures.

Mr. CHATTERTON: Mr. Chairman, I was thinking that if this were amended so as to apply only in the case where the agreement itself does not specify the procedure and, secondly, that these regulations apply until such time as the first agreements are concluded, it would set a pattern for the initial period until the agreement itself is concluded.

Mr. LOVE: Mr. Chairman, I think we would like to examine this suggestion.

Clause 99 stands.

Dr. DAVIDSON: Before we leave, Mr. Chairman, could I go back to Mr. Bell. We have the Regulations Act here. I would hate to try to interpret them. The definition of "regulation" in the Regulations Act says that it is: "a rule, order, regulation, by-law or proclamation (i) made, in the exercise of a legislative power conferred by or under an Act of Parliament," by a variety of authorities including "a board, commission, corporation or other body or person that is an agent or servant of Her Majesty in right of Canada" which I think this probably is not, although I do not know. It also says: "but does not include (v) a rule, order or regulation governing the practice or procedure in any proceedings before a judicial tribunal." It would be a matter of interpretation on which I could not venture an opinion.

Mr. BELL (*Carleton*): Perhaps, Dr. Davidson, you would have this examined over the week end. I am as conscious as you of the fact that in clause 19(2) you provided for publication in the Canada *Gazette* specifically. I certainly believe that if there are to be regulations at all, that these should have some technique of publicity.

The JOINT CHAIRMAN (*Mr. Richard*): There are only two clauses left of a general nature, 100 and 107.

Mr. KNOWLES: I have an amendment to move to Schedule A.

The JOINT CHAIRMAN (*Mr. Richard*): All right; we will meet again at 3.30 this afternoon.

The meeting is adjourned.

AFTERNOON SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order, gentlemen. We will now start the meeting.

On clause 100—*Orders not subject to review by court.*

The JOINT CHAIRMAN (*Mr. Richard*): Are there any objections to clause 100 before we get into the formalities?

Clause 100 agreed to.

On clause 107—*Evidence respecting information obtained under Act.*

Dr. DAVIDSON: This is the provision, Mr. Chairman, which corresponds to sections 81 and 83 of the Ontario Labour Relations Act, and there is some wording corresponding to it in the I.R.D.I. Act, providing that reports and proceedings before conciliation boards are not subject to being used as the basis for evidence in any civil action. I think the wording of clause 107 goes somewhat beyond that, but the principle is the same.

Mr. BELL (*Carleton*): How far does it go beyond the other wording?

Dr. DAVIDSON: It refers to the arbitration tribunal, Mr. Bell, as well as to the question of the adjudicator.

Mr. BELL (*Carleton*): What is the section closest to it in the I.R.D.I. Act?

Dr. DAVIDSON: Section 37, which reads as follows: "No report of a Conciliation Board, and no testimony or proceedings before a Conciliation Board are receivable in evidence in any court in Canada except in the case of a prosecution for perjury."

Mr. LEWIS: You have that one.

Mr. BELL (*Carleton*): That was in a previous section.

Mr. LEWIS: Dealing with the conciliation board, I think.

Dr. DAVIDSON: I could read you, Mr. Bell, sections 81 and 83 of the Ontario Labour Relations Act.

Mr. LEWIS: Why?

Mr. BELL (*Carleton*): Yes; would you put those other sections on the record?

Dr. DAVIDSON: Section 81 of the Ontario Labour Relations Act reads as follows: "No member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit respecting information obtained in the discharge of their duties under this Act."

Section 83 is about a page and a quarter long.

Mr. BELL (*Carleton*): I assume it is to the same effect.

Dr. DAVIDSON: It covers a great many things including secrecy on union membership, non-disclosures, competency as witness, but there is one section which says: "The Chairman or any member of a conciliation board it not a competent or compellable witness in proceedings before a court or other tribunal respecting any information or material furnished to or received by him, any evidence or recommendation submitted to him or any statement made by him in the course of his duties under this Act." That is section 83(2)(c) of the Ontario Labour Relations Act.

Mr. LEWIS: Then subsection (3) is also in the same general field.

Dr. DAVIDSON: Subsection (3) reads as follows: "No information or material furnished to or received by a field officer under this Act and no report of a field officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no field officer is a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report."

Mr. LEWIS: You cannot really have discussions if they can be dragged into a court.

Clause 107 agreed to.

On clause 108—*Payment of witness fees.*

(*Translation*)

Mr. LACHANCE: Was clause 104, carried?

The JOINT CHAIRMAN: Yes, it was carried.

(*English*)

Dr. DAVIDSON: This corresponds, Mr. Chairman, to section 65 of the I.R.D.I. Act.

Senator MACKENZIE: Could I ask for information, Mr. Chairman? What is the witness fee? Have you any idea?

Dr. DAVIDSON: I have not the faintest idea.

Senator MACKENZIE: I ask this because sometimes it is quite inadequate at $6.

Mr. LEWIS: It is inadequate. It would be the actual cost of transportation plus, I think, $6 a day, or something like that.

Mr. MCCLEAVE: It never is the actual cost of transportation.

Dr. DAVIDSON: Mr. Chairman, inadequacy is the principle that we wish to accede to here.

Senator MACKENZIE: I could not agree more that you are—

Clause 108 agreed to.

On clause 109—*Oath or affirmation to be taken.*

Dr. DAVIDSON: May I draw here to your attention the distinction between persons who are appointed under this act and persons who, under a previous section, are appointed under the provisions of the Civil Service Act. The requirement to swear this oath does not apply to the secretary of the board and other officers and employees who, under clause 17(2), are appointed under the provisions of the Civil Service Act. They are required to swear an oath, as I recall it, under the Civil Service Act. This present provision applies to persons who are not appointed under the Civil Service Act, but who are appointed to any duty under the provisions of this act itself.

Mr. LEWIS: There is a note in the Public Service Employment Act, is there?

Dr. DAVIDSON: Yes. I am told there is.

Mr. LEWIS: I have never found a witness who takes an oath to be more truthful as a result of it.

Mr. BELL (*Carleton*): I do not think I would want to agree with that.

Mr. LEWIS: I am glad that you are—

Mr. BELL (*Carleton*): I have never examined a witness who did not take the oath.

Mr. KNOWLES: Are you suggesting that he is just as truthful if he does not?

Mr. LEWIS: Yes.

Mr. BELL (*Carleton*): Personally, Mr. Chairman, I would hope that some day we could tidy up this whole situation in the various acts and get an oaths of office act which would cover the whole situation and not have to put this sort of thing in each act.

(*Translation*)

Mr. LACHANCE: I was under the impression that we were on 109, I was under the impression, Mr. Chairman, in view of the fact that we are referring to schedule C, that there had been some question of an amendment to add at the end of schedule C, "and of which I took cognizance"—In another words, schedule C—

(*English*)

Mr. LEWIS: But it says that already. It says "—to the best of my skill and knowledge."

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Schedule C, yes.

Mr. LACHANCE: Yes, Mr. Lewis, you are a lawyer. A person who takes an oath, here, swears to fulfill "to the best of my skill and knowledge the duties," but under the law, is it knowledge? I am speaking of the act itself and it is important that a person swearing to fulfill the duties according to an act will declare "of which I have knowledge", if afterwards we want to object this oath.

Mr. LEWIS: In other words, in case they did not know.

Mr. LACHANCE: So a person will not be able to say: "I did read the Act".

(*English*)

Dr. DAVIDSON: Mr. Chairman, I think that it would be a little dangerous to put in the words "et dont j'ai pris connaissance," in the place where Mr. Lachance has suggested, without running the risk of the interpretation that the extent of the responsibility of the person taking the oath is limited to the provisions of the law of which he has knowledge.

If you want to accomplish what Mr. Lachance is suggesting it seems to me that it would be necessary to have the oath worded as it is now and to have a further statement that "I take this oath in the full knowledge of what my duties are, under the Public Service Staff Relations Act". Because this should not be worded in such a way as to limit the responsibility of the person taking the oath to those duties of which he claims knowledge.

(*Translation*)

Mr. LACHANCE: I was just submitting this point, Mr. Chairman, I did not have any intention of making an amendment to it, except after having more information from people like Mr. Davidson. All the same, it seems to me that if we want to have a person to take an oath, there must be a reason for it, if subsequently, we want to use this oath to institute proceedings against a person who has violated, let's say, who has not fulfilled the duties of the position, of his position. You must admit that this person could probably say: "I never read the Act." It might not be the case, Mr. Chairman, of senior officials, but I am speaking of junior officials too, who have—of junior public servants in this large office, who also have some importance. One might simply say: "Well, did

you take an oath before fulfilling these duties?" That is why I believe it might be wise that any person who is called upon to take an oath, as this states that they were in full knowledge of the Act before swearing. It seems to me to be logical, that a person who has not read the Act should not be called upon to swear.

(*English*)

Mr. BELL (*Carleton*): Mr. Chairman, I have spent many hours on this bill, but I would hate to be called upon to swear that I had full knowledge of it. If I had to swear that, I am afraid I would have to decline the oath.

Mr. TARDIF: I do not think Mr. Lachance said "full knowledge"; he said, "after having read it". That does not mean that he would remember everything.

(*Translation*)

Mr. LACHANCE: If I am told that the person involved must read the Act before taking the oath, I am satisfied.

(*English*)

Dr. DAVIDSON: Mr. Chairman, I will be glad to check that and advise the Committee later.

Mr. LEWIS: If I might ask, can he not be given his duties under the Public Service Staff Relations Act without having read the act?

Mr. MCCLEAVE: I wonder if the honourable member for Russell, whose observations about reading this act, and whose visits are as frequent as Haley's Comet and about as long—

Mr. TARDIF: I am sorry I cannot hear you. You are probably making remarks about me, because I heard the word "Russell". Will you say it a little louder?

Mr. MCCLEAVE: Yes. I was going to ask the honourable member for Russell, who has honoured us by an appearance, whether he means that by reading Bill C-170 he could take this oath and affirmation, or whether there is a substitute.

Mr. TARDIF: In the first place, I must correct your first remark that I am honouring you by my presence. The only reason why you do not see me here oftener is that you do not come often enough.

The JOINT CHAIRMAN (*Mr. Richard*): Order.

Mr. TARDIF: With regard to being able to take an oath after reading that act, certainly I could take an oath that I had read it if I had read it, and I think I have read about as much of it as you have.

Mr. MCCLEAVE: This does not seem to answer the question, and it seems to be a rather personal quarrel that the member of Russell has taken upon himself.

Surely we have an oath and affirmation which mean something to the public servant who is asked to take them. I suggest that the clause stand until we can look at it again, and perhaps the honourable member for Russell will be at the next meeting.

Mr. TARDIF: That, of course, is a decision that had been taken before you mentioned it.

Mr. LEWIS: I am back in the House of Commons!

The JOINT CHAIRMAN (*Mr. Richard*): I have this position and I would like some peace.

Mr. TARDIF: Let us not have peace at any price, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): No, I think you have had a good try.

Mr. MCCLEAVE: For a man who is here so rarely, he has had a very good try, indeed.

Mr. LEWIS: Leave it alone.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 109 stands for further study of schedule C.

Clause 109 stands.

On clause 110—*Facilities and staff.*

Mr. KNOWLES: Is this necessary, Dr. Davidson?

Dr. DAVIDSON: I have found myself asking that, too.

Mr. LEWIS: Hear, hear.

Mr. KNOWLES: If the board is stupid enough to ask these people to work out in the cold—

Mr. LEWIS: I think it was probably put there by the Treasury Board to make sure that it did not have the responsibility, and that is all.

Dr. DAVIDSON: It might be taken as a direction that the expense of all of this shall be included as part of the expenses of the board in making its financial requirements known to the government of Canada; but apart from that—

Mr. KNOWLES: Have we provided space for the board anywhere in this act?

Dr. DAVIDSON: No.

An hon. MEMBER: Let us overlook it.

Mr. KNOWLES: No, I move that clause 110 be deleted.

Pardon me, on a point of order, I cannot do that. I can only vote against it.

Mr. BELL (*Carleton*): I had it pointed out to me by Mr. Knowles at one time in the House that you do not move anything to be deleted.

Mr. KNOWLES: I beat you to it, Dick. You can put it that I am going to vote against it.

Mr. LEWIS: Mr. Chairman, should the officers not be given a staff? Should we not have the opportunity to ask somebody about it?

Mr. KNOWLES: All right.

Mr. LEWIS: Could we not ask the drafters about it? They may have a reason; I do not know.

Mr. KNOWLES: It would be odd—

Mr. LEWIS: I cannot think what it would be.

Mr. KNOWLES: It would be odd if the arbitration tribunal had offices and the board did not.

Clause 110 stands.

On clause 111—*Application of Public Service Superannuation Act.*

Mr. BELL (*Carleton*): When would you anticipate that the Governor in Council would otherwise order, Dr. Davidson?

Dr. DAVIDSON: You might have a person who is accepting an appointment to the board, and you might have a situation where that person did not wish to be covered, as well as a situation where the person of choice would be available only if he could be assured of some pension protection during the period that he is serving. Here we have to think of persons who are going to be members of these boards and tribunals as well as persons who are going to be appointed on an ad hoc basis.

Mr. LEWIS: I know nothing about this area, really, but is it not possible to leave it to the person concerned who would have the option of either joining or not joining, as he wishes?

Dr. DAVIDSON: In fact, this is, in effect, what this accomplishes indirectly, Mr. Lewis.

Let me explain what would happen if this clause were not here. If this clause were not here, the Governor in Council, even in the absence of this clause, could act under the Public Service Superannuation Act to include any group or class of persons as a whole who might wish to be included, but he could not include one individual in that class of persons and not include another individual. For example, if you had a public service staff relations board—and I assume this for the moment for the purposes of this argument—where all of the ten members of the board were full time persons, in the absence of this clause, the Governor in Council could include all ten of them under the Public Service Superannuation Act, or include none of them, but he could not include some and not include others.

This provision makes it possible for the Governor in Council to conform to the wishes of each of the individuals who may or may not wish to be included under the Public Service Superannuation Act.

It may very well be the case that the representatives of the employee interests on the board will wish to be provided with some assurance of pension protection, in which case they could be covered. On the other hand, it may be that certain employer representatives on the board would not wish to be covered.

Mr. BELL (*Carleton*): Being already covered.

Dr. DAVIDSON: Being already covered, or having arrangements which lie outside of the Public Service Superannuation Act. We may be bringing in somebody from outside who, for his own reasons, does not wish to make contributions. You may have a retired civil servant, for example, who has made all the contributions that he is required to make and who does not wish to have his pension abated by the amount he receives by way of remuneration under this act; he could opt to remain out.

Senator DESCHATELETS: Does this imply that the person to be appointed would be given an option before appointment?

Dr. DAVIDSON: That is, in fact, how it is intended to make it work.

Mr. LEWIS: You say that that is the practical effect, if read together with the Superannuation Act?

Dr. DAVIDSON: Correct.

Mr. LEWIS: "A person appointed under this Act" does not mean merely the members of the various boards or tribunals?

Dr. DAVIDSON: No.

Mr. LEWIS: Would it not also include all the staff?

Dr. DAVIDSON: No, sir. If you look at clause 17(2) you will see that the secretary of the board and other officers and employees shall be appointed under the provisions of the Civil Service Act, and they are automatically covered by supernnanuation. It is only those people who are appointed by Order in Council or on some temporary basis where this question arises of their being excluded, or being included, on an *ad personam* basis.

Mr. LEWIS: The regular staff is going to be appointed by the public service commission?

Dr. DAVIDSON: That is correct. This clause does not apply to the employees who are appointed under the provisions of the public service employment act.

Clause 111 agreed to.

On clause 112—*Limitation respecting matters involving safety or security of Canada.*

Dr. DAVIDSON: This clause ties back, Mr. Chairman, to the reference to clause 112 in the clause 90(2) which has already been dealt with by the Committee, and provides, in effect, that an employee is not entitled to present a grievance relating to any action taken pursuant to an instruction, direction or regulation given or made as described in clause 112. Clause 112 provides, in effect, that nothing in this or any other act shall be construed to require an employer to do or to refrain from doing—and that would include a disciplinary action—anything contrary to any instruction, direction or regulation given by the government of Canada as distinct from the employer, in the interests of the safety or security of Canada, or any state allied or associated with Canada.

The effect of that is that where the government of Canada gives a direction that the employer shall do, or not do, something relates that direction to the safety and security of Canada, or allied or associated states, then that action, in effect, stops the carrying out of the grievance procedure.

Mr. BELL (*Carleton*): The only observation that I would like to make in connection with this is that I hope that the provisions of this particular section will be drawn to the attention of the Royal Commission headed by Max MacKenzie and including the Honourable M. J. Coldwell, and that they may have an opportunity to look at this in the light of the other aspects which are involved.

Mr. LEWIS: My only concern about this section, the necessity for which I recognize, is that it could be applied in such a way that it will be the government and not the staff relations board which will designate the employees to be excluded. The government can send the staff relations board an order, or an instruction saying, "We want you to make darned sure that such and such shall not be written in any bargaining unit and we make this instruction for the safety and security of Canada."

Dr. DAVIDSON: I think, surely, though, that is something which must be with the Governor in Council and not with any board. The factors might not be such that they could be disclosed to a board at the particular time.

Mr. LEWIS: I said what I did in the hope that it will not be used in that way.

Dr. DAVIDSON: Personally, I think it would be used responsibly, but I do emphasize again—

Mr. LEWIS: Even by the present government?

Dr. DAVIDSON: Yes, even by the present government. There are some rare occasions when I think they show some discrimination!

Mr. KNOWLES: The civil service does not want them to.

Clause 112 agreed to.

On clause 113—*Exclusion of corporations from Part I of Industrial Relations and Disputes Investigation Act.*

Dr. DAVIDSON: Clause 113, Mr. Chairman, consists of two subclauses, one of which is comprehensible and the other incomprehensible.

Mr. LEWIS: That is a better average than most.

Mr. KNOWLES: We are too good to Dr. Davidson.

Dr. DAVIDSON: I must say that I am shocked to think that the members of this Committee would not understand at least the provisions of subclause (1), for that is the one I would regard as being easy to understand.

Mr. KNOWLES: You explained it to us before on an earlier clause.

Mr. DAVIDSON: This, in effect, narrows the provisions in the I.R.D.I. Act by which the Governor in Council can exempt corporations from the provisions of that act, and limits the power to exempt to those corporations which do not have the full authority over determining their own conditions of employment. The escape hatch from the I.R.D.I. Act is very substantially closed by subclause (1).

Subclause (2), which I have already asked the Department of Justice people to try to reword and simplify, merely says that where the Governor in Council in future removes a corporation from the I.R.D.I. Act it must put it under this act. It goes on then to say that where the Governor in Council before the coming into effect of this act has already excluded a corporation from the I.R.D.I. Act—and the N.R.C. is the only example—and the Governor in Council, having done that, then decides to revoke the order of exclusion, the effect of that revoking of the order of exclusion is to place that agency back under the I.R.D.I. Act, automatically; so that there can be no agency or corporation established to perform any function or duty on behalf of the government of Canada that will not fall under one or the other piece of legislation, unless the legislation by which that corporation was created contains a clause saying that, notwithstanding the provisions of these two acts, this corporation does not come under either of them.

The JOINT CHAIRMAN (*Mr. Richard*): Do you want this clause to stand?

Dr. DAVIDSON: I would like to have subsection (2) stand.

Subclause (1) of clause 113 agreed to.

Subclause (2) of clause 113 stands.

On clause 114—*Expenditures.*

Mr. KNOWLES: This bows to the motion that Parliament has control of expenditures.

Dr. DAVIDSON: Yes; but I would not read too much into this, Mr. Knowles, if I were you.

Mr. McCLEAVE: Especially after the speech you made the other day in the Public Accounts Committee, Dr. Davidson.

Clause 114 agreed to.

On clause 115—*Annual report to Parliament.*

Mr. WALKER: You had something on this, Mr. Bell.

Mr. Bell (*Carleton*): Yes, I think I has raised earlier whether there were...

Dr. DAVIDSON: Yes under clauses 4 and 5, I think you refrred to it, if my notes are right.

Mr. BELL (*Carleton*): Yes; whether there ought to be a specific definition of any of the deletions or additions or transfers reported separately in the report to parliament.

Dr. DAVIDSON: From the schedules?

Mr. BELL (*Carleton*): Yes; it relates to our discussion earlier on clauses 4 and 5 which deal with additions, transfer and deletions in the schedules. These do not seem to have any requirement that there be a report to parliament that this has been done. I had thought, at the time when we were discussing that, that perhaps we should spell out in this clause that the report to parliament ought to include what had been done under clauses 4 and 5.

Dr. DAVIDSON: Has the Committee a preference whether it should be included in clause 115 or included in clause 5 itself?

Mr. BELL (*Carleton*): So long as it is included in a report to Parliament I could not care where it is.

Dr. DAVIDSON: I would be very glad to undertake to obtain the views of the department of Justice people on where this can best be inserted as a requirement.

Mr. BELL (*Carleton*): Yes.

Dr. DAVIDSON: I do not think there will be any difficulty.

Mr. BELL (*Carleton*): The only point I have is that I do not want to suddenly discover, two or three years afterwards, that there has been an amendment or a deletion and it has not been reported in any way to parliament.

Senator DESCHATELETS: Do you not think it would be easier to find in clause 115?

Mr. BELL (*Carleton*): I think clause 115 is probably the best place.

Dr. DAVIDSON: Could I ask a supplementary question, Mr. Chairman—and I am not using the parlance to which you gentlemen are accustomed in Parliament—Would you prefer to have this in the annual report rather than have it published in the Canada *Gazette*?

Mr. BELL (*Carleton*): I would think so, yes. In fact, I would prefer both, actually.

Mr. LEWIS: The Canada *Gazette* gives you the information earlier.

Mr. BELL (*Carleton*): Yes; I think there might be advantage to publication in the Canada *Gazette* and, perhaps, later mention in the annual report.

Mr. LEWIS: It could just be entered as an appendix to the report.

Mr. BELL (*Carleton*): Mr. Chairman, I would not want to overload the law with directions, but my own personal view, for what it is worth, is that it would be more useful to have a requirement that any orders under clauses 4 and 5 should be published in the Canada *Gazette*.

Mr. KNOWLES: And the annual report could note that.

Dr. DAVIDSON: Surely we can leave it to the board to decide what they put in their annual report.

Mr. KNOWLES: I am not suggesting that—

Mr. LEWIS: I think the Canada *Gazette* is preferable.

Mr. BELL (*Carleton*): I never got into too much trouble in other days when I accepted Dr. Davidson's advice, so I am prepared to accept it now.

Dr. DAVIDSON: You did not take my advice for very long.

The JOINT CHAIRMAN (*Mr. Richard*): If clause 115 carries in the present form, it is satisfactory, but then you are back to clauses 4 and 5 which were carried.

Dr. DAVIDSON: We will undertake to cover that in any case, Mr. Chairman.

Mr. LEWIS: Excuse me, Mr. Chairman, does subsection (2) of clause 113 not relate in some way to clause 5? I merely draw it to your attention. Is there not some overlapping? If you could just look at it.

Dr. DAVIDSON: No, there is not.

Clause 5 deals with transfers within the public service staff relations act, from one schedule to another. This deals with transfers from outside in and inside out.

Clause 115 agreed to.

On clause 116—*Coming into force.*

Mr. BELL (*Carleton*): One would hope that in clause 116 the date would be very early.

Dr. DAVIDSON: It would have to be, with the schedule that we have in mind.

The real reason for clause 116 is to make certain that the date for the proclamation of this act and the other two acts will be the same.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure, Mr. Bell, in answer to your question, that the interested will realize that we have been doing our very best.

Clause 116 agreed to.

On schedule A—*Departments and other portions of the public service of Canada in respect of which Her Majesty as represented by the Treasury Board is the employer.*

Mr. KNOWLES: Mr. Chairman, without making a long speech, because we have been over this ground quite often, I should like to move, seconded by Mr. Lewis, that Schedule A be amended by deleting the words "Government Printing Bureau" from Part I thereof, and by inserting the said words in Part II thereof immediately after the words "Fisheries Research Board". The point in putting it there, of course, is to preserve "alphabeticalism".

Mr. BELL (*Carleton*): Does Mr. Lewis second that murder of the English, language as well?

Mr. LEWIS: Just the motion I feel almost as sensitive about that as would Eugene Forsey.

The JOINT CHAIRMAN (*Mr. Richard*): Moved by Mr. Knowles, seconded by Mr. Lewis, that Schedule A be amended by deleting the words "Government Printing Bureau" from Part I thereof and by inserting the said words in Part II thereof immediately after the words "Fisheries Research Board".

Mr. MCCLEAVE: Are you sure Mr. Knowles, that this is not a printer's error?

Mr. KNOWLES: You mean in the original act?

Mr. MCCLEAVE: No; in what you attempt to do now.

Mr. KNOWLES: No; this proves what a good band of printers we have over there. They did not make an error to their own advantage.

Mr. Chairman, we have been over this many times; I have stated the view that if we are going to develop collective bargaining on a satisfactory basis we should have some consideration for the views of those affected. I am prepared to admit that most of the civil servants want this bill with the improvements which have been made, but there are two groups who would like something different.

One group is the post office group, with which we can deal later, and the other group consists of the employees of the Printing Bureau, who feel that they would like to be known as employees of a separate employer. Two or three of their groups were here and pointed out to us that their operation is unique, that it is closer to a commercial operation than almost anything in the government service; also, that they have a long tradition of virtual bargaining; it has not been recognized as collective bargaining, but they have been dealing with their employer on a separate basis, and I think that they made a case for this.

There are some little details that will follow afterwards, which I think they should work out with their separate employer, but I would urge very strongly that we improve the bill by meeting this request, and put the employees of the Government Printing Bureau under Part II of Schedule A.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. MCCLEAVE: I think this argument is very appealing but I wonder what Dr. Davidson or Mr Love would say about it?

Dr. DAVIDSON: I will be very glad to comment, Mr. Chairman, if there are no other members of the Committee who want to precede me.

Mr. BELL (*Carleton*): I think I might like to comment, but I would like to hear what Dr. Davidson has to say first.

Mr. WALKER: May I make a comment, Mr. Chairman, at this time?

I have looked at Part II of Schedule A and it seems to me that there is a distinctive characteristic about those particular eight agencies that are in there. The distinctiveness of the ones already in Part II, in my judgment, would be destroyed by the passing of Mr. Knowles' motion. I do not think that there are the same considerations for the transferring of the Government Printing Bureau as there are for the present grouping of Part II.

Again, I go back to the basic purpose of this bill. It would tend to destroy at the outset, and to disrupt at the outset, the merit system, the reclassification

groupings, and I am just wondering if it is not too early in the process of collective bargaining—regardless of what may happen in the future through any action the board may take—at this time for those of us who are in this Committee and who are getting this thing launched, to start opening a crack that may well come later, but which I do not think should be initiated now.

Mr. LEWIS: I am not going to put Mr. Walker on the spot, but would he tell us what considerations apply to the eight now in Part II that do not apply to the Government Printing Bureau?

Mr. WALKER: I think the groupings—it is becoming a little difficult to hear myself, Mr. Chairman.

Mr. LEWIS: Why not tell your colleague, Mr. Tardif?

Mr. WALKER: Could we have order, Mr. Chairman?

Mr. LEWIS: There is another opportunity.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Yes, Mr. Walker.

Mr. WALKER: I think the groupings under Schedule A are not done on the basis of craft unions or special interest groupings as opposed to the general principle that we have in the bill.

Mr. LEWIS: Where do the craft unions come into this?

Mr. WALKER: I would think that this applies. Certainly my background in this sort of discussion is very limited, and Mr. Lewis has much more experience than I, but I do think that this is the problem, that the printing unions are attempting—and quite rightly—to preserve their type of community of interest as a craft union.

Senator DESCHATELETS: They want to be represented by their own people, if I remember rightly. That was the meaning of their brief. There are 200 people there.

Mr. KNOWLES: Do they not already have a separate relationship in that they are not inserted in the *Statistical Review*? Do they not already have a separate relationship?

Mr. WALKER: May I just finish this, and then I will be through?

All I am suggesting is that we are opening the door at the very outset to arguments that may be just as reasonable as the argument of the Government Printing Bureau, that a community of interest, or a geographic location, is a more overriding consideration than the basic principle on which we are trying to initiate this legislation.

Mr. MCCLEAVE: The point I was going to make, Mr. Chairman, is that I read the two lists and I cannot see how they can be divided craftwise, or geographic-wise, or otherwise, but I think that Dr. Davidson usually is able to sum up in a few trenchant words what is being attempted, and he may be able to help us before we, as members, continue this discussion. What is the philosophy for the division between Part I and Part II?

Dr. DAVIDSON: The philosophy, Mr. Chairman, is based on the fact that all of the agencies listed in Schedule A as coming under the jurisdiction of the Treasury Board as the representative of the employer—all of these agencies,

without exception—have historically had their wages and working conditions and conditions of employment, generally, determined by the Treasury Board up to and including this moment.

Mr. BELL (*Carleton*): Only since 1960, surely.

Dr. DAVIDSON: I beg your pardon.

Mr. BELL (*Carleton*): Or 1961; at least, history is made very quickly, apparently.

Dr. DAVIDSON: I must say I was a bit surprised to draw the inference from Mr. Knowles' statement that he was under the impression that the employees of the Government Printing Bureau dealt, in the matter of their wages and working conditions, with the head of the Government Printing Bureau, because my clear understanding is that the Treasury Board deals with these matters, as it does with all other matters affecting both classified employees and prevailing rate employees.

It is true, as I recall, that there are certain provisions contained in the legislation which relate the rate of pay of members of certain crafts in the Government Printing Bureau to rates in Montreal, Toronto and one or two other centres. The effect of these provisions is to gear the prevailing rates for those employees to two or three centres of Canada rather than to Ottawa, as such, or to any national averaging of the rates as a whole.

Mr. KNOWLES: I do not think there is any great difference between us, Dr. Davidson. I realize that it is Treasury Board in the last analysis, but do not the printing unions, either individually or through their council, meet with the management at the bureau in this process, and lay before management what their contracts are—

Dr. DAVIDSON: This could be equally true of the dockyard workers in Halifax and Esquimalt and many other situations; and it is also true, if I may say so, that when collective bargaining comes along and the negotiating team for the employees of the bargaining unit concerned sits down across the table from the negotiating team for the employer, the negotiating team for the employer will include not only representatives of the Treasury Board but representatives of the Government Printing Bureau—the management side. Therefore, the situation will not differ all that much in terms of actual practice.

But if you will look at Schedule A you will see that each one of the agencies listed in Schedule A, Part II, is presided over by a board or commission, so that there is some kind of what you might call a corporate structure that is capable of carrying out the role of a separate employer.

I do not deny that in Schedule A, Part I, there are also some boards and commissions there, but it would be anomalous, to say the least, if the Government Printing Bureau, which is under the direction of the Director of the Government Printing Bureau, were to be set up as a separate employer, with the Director of the Government Printing Bureau going directly to the Governor in Council for his authority to draw up collective agreements with the employees of the Government Printing Bureau, and to have all of the other departments and agencies of the government dealing with the Treasury Board.

Mr. MCCLEAVE: May I ask a question of Dr. Davidson? Apparently the group that Mr. Knowles has made the motion on behalf of is the only one that feels

strongly enough about it to make the request to go from Part I to Part II of this schedule. So that we do not deal with things rather in the abstract—you admit this cross-mating of boards in one section with boards in another, and so on—is there any objection, in practice, to having Mr. Knowles' request granted in the case of the one group which wants to be.

Dr. DAVIDSON: You are asking me a direct question and I will have to give you a direct answer. From our point of view there would be objections—there would have to be objections.

Mr. MCCLEAVE: On what grounds?

Dr. DAVIDSON: The employer here is the Treasury Board, the government of Canada. The Printing Bureau is not set up as a separate corporate entity. I must say that I think the expressed desire of the employees of the Government Printing Bureau—the fact that this is the only one which has made the request —should not be taken as being indicative of the fact that they are the only ones who could conceivably be interested. They are located in Ottawa, and this is the centre where the discussion is going on. In your own constituency, Mr. McCleave, the employees of the dockyard might well find themselves in the same position, and if this arrangement were granted to any other group of employees they would come forward and say, "Well, we should have known about this and we should have had the privilege of opting which of these two schedules we are attached to".

Mr. MCCLEAVE: Dr. Davidson, I am going to be very unfair and ask you to name anything in Part I that would point to employees of dockyards? It would either be the National Defence Employees Association, in my opinion, or none at all, and they are not in here.

Dr. DAVIDSON: They are employees of the Department of National Defence.

Mr. MCCLEAVE: Yes; but the Department of National Defence is not in here either.

Dr. DAVIDSON: I beg your pardon, sir, if you would look at the top three lines you would see that all departments...

Mr. MCCLEAVE: That is right; all departments, yes.

Mr. KNOWLES: I would like to point out to you, Dr. Davidson, that people like the dockyard workers are directly under the Department of National Defence, but the Government Printing Bureau, apparently, is not included in any department. It has to be listed separately like the National Gallery of Canada and the National Energy Board.

An hon. MEMBER: And the Agricultural Stabilization Board.

Mr. KNOWLES: It is one of 25 or 30 entities which have to be looked at and a decision made. Granted that each of the entities now under Part II may have a board in charge of it, still there are several entities in Part I which have boards in charge of them. Was it not awkward to make that kind of decision? There is the Atomic Energy Control Board in Part II but the Air Transport Board is in Part I. If you would make that kind of a shifting about in these entities, what is wrong with shifting this entity, the Government Printing Bureau, which you have already identified by itself in Part I, into Part II?

Dr. DAVIDSON: You suggest, Mr. Knowles, that the Government Printing Bureau is not part of a department. The Government Printing Bureau does report to the Minister of Defence Production, and I would have to check whether the Government Printing Bureau is, in fact, a portion of the Department of Defence Production, or whether it is an entity outside that reports to the minister.

Mr. BELL (*Carleton*): It is not necessary to enumerate—

Dr. DAVIDSON: Perhaps I could come to the other part of my argument. I must say that I think it would be unwise for the government—and this is the advice I would have to give to the government—to accept, at this time, a proposition that a unit such as the Government Printing Bureau which is listed in Schedule A, Part I, which has traditionally had its wages and working conditions determined as a result of Treasury Board authority rather than be a separate board or agency,—it would be unwise, at this time, for the government to agree to the transfer of that unit to the part of the schedule which would enable the Government Printing Bureau to be recognized as a separate employer deriving its authority for entering into a collective agreement directly from the Governor in Council.

Not only do I feel that would be unwise, but I believe that if the situation is examined it will be seen that it is quite possible for the employee organizations concerned to achieve what I understand they basically want through the formation of a council of employee organizations within the bargaining unit that is to be set up at the Government Printing Bureau bargaining unit.

Mr. LEWIS: You visualize it as a separate bargaining unit, in any case, do you?

Dr. DAVIDSON: You mean the Government Printing Bureau?

Mr. LOVE: Or a separate occupational group for the printing trades, Mr. Chairman.

Mr. MCCLEAVE: Are they paid on this prevailing rate formula, Dr. Davidson?

Mr. LOVE: They are paid on the basis of prevailing rates, Mr. Chairman.

Mr. BELL (*Carleton*): Well, not true prevailing rates.

Mr. LOVE: They are governed by the—

Mr. BELL (*Carleton*): They are not prevailing rates in Ottawa which is the normal prevailing rate. It is the prevailing rate for Toronto and Montreal.

Mr. LOVE: That is right, but they are governed by a set of regulations which are associated with the prevailing rate regulations, and the only difference here is that instead of the rates being based on Ottawa rates, they are based on Toronto and Montreal rates.

Mr. LEWIS: On their collective agreements.

Mr. MCCLEAVE: May I ask this further question? Looking at those listed in Part II, you say would there be any of the eight groups there that were paid on prevailing rates? Maybe this is where I can resolve it in my own mind.

Dr. DAVIDSON: While Mr. Love is looking that up, could I just make a further point that the Government Printing Bureau consists not only of members of the craft unions who are interested in coming under a separate employer but

the Government Printing Bureau also has a number—I do not know how many—of clerks, stenographers and personnel who correspond very closely to the kind of personnel who are employed in agencies and departments of government coming under Schedule A, Part I and these employees are appointed under the provisions of the Civil Service Act.

Mr. KNOWLES: What about the National Research Council?

Dr. DAVIDSON: No, they are not appointed under provisions of the Civil Service Act.

Senator DESCHATELETS: Dr. Davidson, I suppose that the problem we are discussing here is not limited to the Printing Bureau as the only case. Suppose that we move then to Part II. You have a list of other units that might want to be moved also, such as the national level. This is the problem I think we face. It is not only the Printing Bureau itself, but if you open the door, you fear that certain other units would like to be moved also.

Dr. DAVIDSON: Well, in fairness to the employees in the Government Printing Bureau, they are the only group who have requested this, and I am not in a position to say that other groups wish it or that they would request it. I want to be fair to the position to that extent; but from another point of view what this would involve would be the separation of a group of civil servants—and now I am talking about the employees in the Government Printing Bureau who are not members of craft unions—from the main body of bargaining in so far as the rest of the civil service is concerned. It would mean placing the wages and working conditions of this relatively small number of civil servants—a couple of hundred of them, I believe—under the jurisdiction of a separate employer, the Governor in Council.

Mr. KNOWLES: What is done in the case of the stenographers and clerks at the National Research Council?

Dr. DAVIDSON: The National Research Council determines separately its own policies with respect to the wage levels and salary levels applicable to its clerks and stenographers. As a matter of administrative practice, it adopts for its own purposes the corresponding civil service rates but this is in a non-bargaining context, Mr. Knowles, and they are not civil servants.

Mr. KNOWLES: They are not appointed.

Dr. DAVIDSON: To find ourselves in a situation where because certain civil service stenographers were being dealt with by a separate employer, and other civil service stenographers are being dealt with by the Treasury Board, we were obliged to pay separate levels of pay to the same classifications of civil servants—this it seems to me would put us in a difficult position.

Mr. KNOWLES: What will be the position, let us put it that way, of the clerks and stenographers at the National Research Council after this bill goes through, The National Research Council being a separate employer and bargaining with that separate employer being provided?

Dr. DAVIDSON: It could conceivably result that the National Research Council might feel obligated to enter into an agreement with its bargaining unit that would provide for a different scale of pay for the clerks and stenographers in the National Research Council, but at least that would not result in civil

servants appointed under the provisions of the Civil Service Act, and being in the same classes, being paid different amounts.

Mr. KNOWLES: But if you can meet the situation in one situation in Ottawa, why can you not meet it in another?

Dr. DAVIDSON: Well, of course, I think the answer would be that it can be met by the Government Printing Bureau craft unions, who are the ones that are interested in this transfer, forming themselves into a union council and seeking the right to act through the council as the bargaining agent for the employees that they represent. They would not then be involved in having to try to represent the clerks and the stenographers who are not part of their craft unions; and they would have a direct bargaining relationship with the Treasury Board which is in the final analysis the employer that will decide the wage questions, as they do at the present time. In that Treasury Board team representing management would be representatives of the Government Printing Bureau.

Now, may I just go on to add that following the initial certification period, then the question becomes a matter for the Public Service Staff Relations Board, and if there is any desire on the part of the unions represented at the Printing Bureau to break out into separate elements and to form separate bargaining units, either as a group or individually, they have then to make their case to the Public Service Staff Relations Board.

Mr. MCCLEAVE: May I ask Dr. Davidson this: let us take the two top ones in Part I and Part II and the stenographers in the Atomic Energy Control Board and the stenographers in the Agricultural Stabilization Board. Can they bargain for the same things? Presumably they can type 120 words a minute, and are very efficient, work a seven hour day, and do it properly. They will get only the same pay as a result of the bargaining.

Dr. DAVIDSON: The stenographers who are employed by the Agricultural Stabilization Board will be included in the bargaining unit that deals with the clerks and stenographers vis-à-vis the Treasury Board, and all of the clerks and stenographers in all of these agencies and departments that are listed in Schedule A, Part I, will be subject to the same collective agreement. The employees of the Atomic Energy Control Board will be in a separate bargaining unit.

Mr. MCCLEAVE: Every last one, scientist and non-scientist alike?

Dr. DAVIDSON: All of the employees of the Atomic Energy Control Board will be in a bargaining unit that is separate, in one or more bargaining units—

Mr. BELL (*Carleton*): In relation to their occupation, to their occupational groups, you mean?

Dr. DAVIDSON: In relation to their occupational category, Mr. Bell, but not necessarily occupational groups. They will bargain with the Atomic Energy Control Board, and the Atomic Energy Control Board will, as it reaches the concluding stages of its negotiations be obligated to go to the Governor in Council to have the bargain it proposes to enter into with its employees confirmed and ratified before the agreement can be finalized.

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready for the question?

Mr. BELL (*Carleton*): The rest that Dr. Davidson, I think, has put in relation to this has been the extent of Treasury Board control. I think that that was his initial point, that under Part I, Treasury Board controls, but in Part II it was more relaxed.

Dr. DAVIDSON: There is no Treasury Board control over Part II.

Mr. BELL (*Carleton*): Well, that was precisely my point. I have had the responsibility of reporting both to Parliament and Treasury Board for at least one of the organizations under Part II, namely, the National Film Board, and unless the situation has been changed very considerably, I must say that I signed a great many more submissions to Treasury Board for the National Film Board than I did for the National Gallery or the Public Archives or the National Library, and a much more rigid control was exercised in those days over the National Film Board than over these other organizations, and I find from my personal experience Dr. Davidson's division very difficult to understand.

Dr. DAVIDSON: If you will look at the provisions of the National Film Act, Mr. Bell, you will see written into the legislation a very precise, a very clear line of demarcation between the levels over which the Film Board has authority and responsibility to determine wages and classifications and conditions of employment generally and the levels where the reference has to be made to Treasury Board. There is a statutory authority vested in the Film Board under the National Film Act to deal with wages and working conditions of its own employees in certain areas of the Film Board.

Mr. BELL (*Carleton*): Then, if that be true, I have the recollection of that, why does not the National Film Board straddle Part I and Part II?

Dr. DAVIDSON: Because it was our view that it would not be feasible to have an employer that was a separate employer for part of its employee work force and not a separate employer for the other part of the work force. Consequently, not being able to change, or feeling that we would not be justified in asking that the law be changed affecting the National Film Board, we decided that the best thing to do was to recognise that it was a separate employer for purposes of all of its staff requirements...

Mr. BELL (*Carleton*): Are we by indirection changing the law relating to the National Film Board?

Dr. DAVIDSON: That is a good point. I would have to look at the National Film Act to establish this, but my impression would be that with respect to the National Film Act we already refer to the Governor in Council rather than to the Treasury Board as the authority to whom the National Film Board must turn even for those portions of its work force that do not come under its direct jurisdiction.

The JOINT CHAIRMAN (*Mr. Richard*): Is the Committee ready for the question? Mr. Walker.

Mr. WALKER: I see much more relationship between the Government Printing Bureau and the majority of the other agencies or departments under Part I than I do for the Printing Bureau under Part II. I would like to suggest that if in fact the Printing Bureau is moved to Part II, then by right there will be just as much logic for half a dozen or more of these other people in Part I to follow the very same routine, and I think as of right.

Mr. McCLEAVE: They are not asking for it; only one group has had sense enough to ask for it.

Mr. WALKER: But I would suggest that the result of the passing of this motion, if it passes, and I hope it will not, would be that by right, I would suggest, we would have to extend to all other employees an invitation to do the very same thing. This is the point that I fear, particularly at the outset and the initiation of this legislation. What the board does later, three years from now, is something out of our control.

Mr. KNOWLES: Mr. Chairman, what is so wrong with the conclusion to which Mr. Walker objects? We are not passing legislation under the theory that it is our right to give to these people what we think is good for them. We are trying to develop a system of collective bargaining that will be satisfactory to both sides. As I have said a dozen times in the course of these few weeks, I think that our public servants follow into three groups, one very large group that likes this bill whether Mr. Lewis and I like it or not; O.K., they can have it. But there are two other groups that want something different. I suggest that we should pay some attention to their wishes. This is one of the groups, and that is why I moved the amendment.

Mr. LEWIS: May I ask Dr. Davidson or Mr. Love, whoever has the answer, when you set up the Queen's Printer's employees as a separate occupational group, will you include in that separate occupational group everyone employed by the Queen's Printer, including office boys, stenographers and so on?

Mr. LOVE: Mr. Chairman, as I understand it, and I have not checked the definition developed by the Bureau of Classification Revisions recently, the proposal is that there be an occupational group composed of the printing operations' employees and that would exclude the clerks and stenographers, and so on, who would be in the appropriate occupational group in the system. So the group, as I understand it, would consist of the people who are engaged in the printing processes.

Mr. LEWIS: The printer, the typeholds, the pressmen, the lithographers, the bookbinders, I think these are the four occupations. Now, is there anything in the act that would prevent that group dealing with the separate employer, or if you put them under Part II of Schedule A, that you include everybody? You see, I have a notion that we are arguing about something which in practical terms may really not make any difference, and if it does not make any difference, I think the argument for giving these unions what they are asking for is pretty strong. If you are contemplating a bargaining unit consisting only of the technical people, those concerned with the printing operation, anyway, then why can that bargaining unit not deal with the immediate employer?

Dr. DAVIDSON: Mr. Chairman, I will try again, but I am repeating myself when I say that this would require you to have a separate employer who is a separate employer for one half of his work force and is not a separate employer for the other half, and I would doubt whether you can have an employer who exists half slave and half free in that context. Either you have an employer who is independent—

Mr. LEWIS: I am prepared to let him be half free. Why should you object?

Dr. DAVIDSON: Either you have an employer who is independent of the Treasury Board as employer and reports to the Governor in Council, and has to

have his authority from the Governor in Council, or you have an employer as a departmental employer who is subject, like all of the other departments and agencies in Part I, to the final authority of the Treasury Board, I think. It has got to be one or the other, it seems to me.

Mr. McCLEAVE: Dr. Davidson, this is not true of the private sector surely where you may have half the employees at the back in the warehouse company operating through the International Teamsters Union, for example, and the other ones bargaining differently from the white collared workers at the front end of the business. This seems to me to be the inflexibility of these divisions under boards, commissions, departments or what not, you cannot take groups within departments and put them all in the category; that we seem to be dealing with—

Dr. DAVIDSON: I can only add one more thing, and that is that it is correct that there is in Schedule A, Part II, no agency that employs employees under the Civil Service Act. These are all non-civil servants, and the proposals to transfer the Government Printing Bureau to the Schedule A, Part II, would have the effect of transferring several hundred civil servants to a regime of separate employer that finds no duplicate in any of the other agencies that are in Schedule A, Part II at the present time.

Mr. KNOWLES: As Mr. Walker suggested, this is fragmentation, but Mr. Love has already made clear to us there is going to be fragmentation anyway because the printing operations group is going to be separated from the stenographers and clerks.

Mr. LOVE: On an occupational basis.

Mr. KNOWLES: As far as half free and half slave, Dr. Davidson, then you have got a minister that is only half yours.

Dr. DAVIDSON: Does that make me half free or—

The JOINT CHAIRMAN (*Mr. Richard*): Is the Committee ready for the question? All those in favour of the amendment proposed by Mr. Knowles signify. Those opposed?

Amendment negatived.

Mr. KNOWLES: Can we have the names recorded, please?

The JOINT CHAIRMAN (*Mr. Richard*): I am reluctant. I would point out, or maybe I should not point out, the Civil Service Commission—

Mr. KNOWLES: Mr. Chairman, did you hear my request? I would like to have the names recorded.

The JOINT CHAIRMAN: The 'yeas' and the 'nays'.

Mr. WALKER: Ring the bell, call in the members.

The JOINT CHAIRMAN (*Mr. Richard*): Schedule B.

Mr. KNOWLES: Did you not hear me?

Mr. McCLEAVE: He is not only blind but deaf.

Mr. KNOWLES: I am asking you to have the names recorded, the 'yeas' and 'nays'.

The JOINT CHAIRMAN (*Mr. Richard*): Well, if you insist.

Mr. KNOWLES: Yes, I do.

Mr. WALKER: Shall we vote on that?

Mr. KNOWLES: I have no objection.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure you want to use the information to good purpose.

Mr. KNOWLES: Mr. Chairman, I object to that comment. It is my right to ask for 'yeas' and 'nays' and I suggest that you should grant it and stop all this fuss.

The JOINT CHAIRMAN (*Mr. Richard*): There is no fuss, I did not hear you. It is most unusual.

Mr. LACHANCE: Mr. Chairman, could I just check that you have recorded it.

The JOINT CHAIRMAN (*Mr. Richard*): The secretary has done so.

Mr. KNOWLES: You have the names of those who voted 'yea', that will be clear in the minutes.

(*Translation*)

Mr. LACHANCE: Mr. Chairman, is it really the practice to always have names recorded.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, on request.

Mr. LACHANCE: I think that others will remember this, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Sometimes it is good to abide by the regulations.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Schedule B.

Mr. LACHANCE: Mr. Chairman, before we leave Schedule A—

Dr. DAVIDSON: The Civil Service Commission will have to be changed to the Public Service Commission.

Mr. KNOWLES: Is it not later?

The JOINT CHAIRMAN (*Mr. Richard*): Schedule B—

Mr. BELL (*Carleton*): Where is the Canada Council, Dr. Davidson?

Dr. DAVIDSON: It is not a part of the Public service nor an agency of the government. It is wholly outside, as are the Bank of Canada, and the Canadian Wheat Board.

The JOINT CHAIRMAN: Schedule A carried.

Schedule A agreed to.

Schedule B agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Civil Service; that should be public service, or whatever name is chosen.

Mr. KNOWLES: Dr. Davidson.

Dr. DAVIDSON: Public service of Canada.

Mr. KNOWLES: Or whatever it is finally called.

Dr. DAVIDSON: Yes. Mr. Chairman, could I just ask you to look back for a minute to Schedule A, Part I, and draw your attention to the fact that we will

ask the Committee to remove after the words "Royal Canadian Mounted Police" the words in brackets there, because I have already mentioned that we intend to take care of that exception in an amendment to the definition of an employee in clause 2.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed?

Mr. BELL (*Carleton*): You mentioned that before.

Schedule agreed to.

Mr. WALKER: Mr. Chairman, I remind you that on Schedule C there was something about the oath; did we get that straightened up?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. BELL (*Carleton*): There was during the course of the discussion, Mr. Chairman, considerable reference to whether the provisions for the Pay Research Bureau should be included in the statute. I confess that I am inclined to think that statutory provision should be made for this bureau, and I would like to raise the matter now. It has been raised several times in the course of examination. I do not necessarily ask Dr. Davidson to refer to it now, but perhaps he might consider before Tuesday whether there should be a section which provides for a Pay Research Bureau to be under the Public Service Staff Relations Board, and the conditions upon which the data, statistical information accumulated by this should be made available to both the parties, to both sides.

(*Translation*)

Mr. LACHANCE: Last Tuesday, Mr. Chairman, Mr. Emard had moved a motion, seconded by myself, an amendment to Sections 32 and 34. I discussed the problem with Mr. Emard, who for personal reasons and serious reasons, cannot be here this afternoon, who gave me permission to say that he allowed me to withdraw the amendment which I had proposed last Tuesday and which was tabled. It was not moved officially, it was rather tabled for study, for consideration, and after consideration and revision and drafting, it is quite probable that this amendment would have been moved again by Mr. Emard and myself.

I think that all members of the Committee will recall this. I would therefore like to have permission to withdraw this amendment, but I do not want members of the Committee to think that Mr. Emard or myself have abandoned the idea of submitting certain arguments. It is precisely to be able to table another one. I have here in English and in French another amendment to amend Section 28(1). If I can take the liberty of making one remark it is to arrive at the same result that we had in mind.

The JOINT CHAIRMAN: If I understand correctly, Mr. Lachance, you have in mind submitting this new formula of amendment to the Committee and to the officials of the Treasury Board so as to allow them to consider it.

Mr. LACHANCE: And to report at the next meeting.

The JOINT CHAIRMAN: Or when we come to consideration of these clauses.

Mr. LACHANCE: At least to be in conformity with what we already decided so that it will be completely in agreement and in conformity with the Sections of the Act. Of course, officials of the Treasury Board consider that there should be some changes too in Sections 32 and 34. In the light of this amendment, I think then that officials of the Treasury Board should advise us of this. Perhaps I am

mistaken but I think it is their duty to enlighten us in this matter. It really is to implement this proposal which is to be presented in due form, whether it is in agreement with other sections of the Act.

(*English*)

Mr. LEWIS: We will get copies of this from the clerk?

(*Translation*)

Mr. LACHANCE: I have a few copies here, Mr. Lewis, which I would give you if you want them.

Mr. LEWIS: With pleasure.

(*English*)

The JOINT CHAIRMAN: Now, our next meeting is on Tuesday at 10:30.

Mr. LEWIS: And 1:30—one hour in the offing.

The JOINT CHAIRMAN: That is not what I had in mind. I understand that the Labour committee is meeting at 9:30, and we could go from 10:30 to 1:00, with your co-operation.

(*Translation*)

Mr. LACHANCE: Thank you, Mr. Chairman, for having accepted your meeting for 10.30. Precisely because of Labour and Employment which is meeting at 9.30 and several members of that Committee also are on this one.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): We will adjourn until 10:30 on Tuesday.

Mr. WALKER: The purpose will be for the amendments.

The JOINT CHAIRMAN (*Mr. Richard*): We will start over again with the amendments.

Senator DESCHATELETS: How many are there?

Mr. BELL (*Carleton*): As I understand it, Dr. Davidson is going to try to let us have for Monday afternoon draft amendments.

Dr. DAVIDSON: Correct.

Mr. LEWIS: Not all of them, but at least the basic ones.

The JOINT CHAIRMAN (*Mr. Richard*): The secretary will indicate between now and Tuesday to the members of the Committee which clauses are affected by any future amendments.

Mr. LEWIS: Could we have a list. I do not make notes.

The JOINT CHAIRMAN (*Mr. Richard*): Of the clauses we have which we have passed.

Mr. LEWIS: Of the clauses we have had stood.

The JOINT CHAIRMAN (*Mr. Richard*): That is exactly what I had in mind.

Mr. BELL (*Carleton*): Or the ones that stood—

Mr. LEWIS: Or the ones that stood—

Mr. WALKER: That is right.

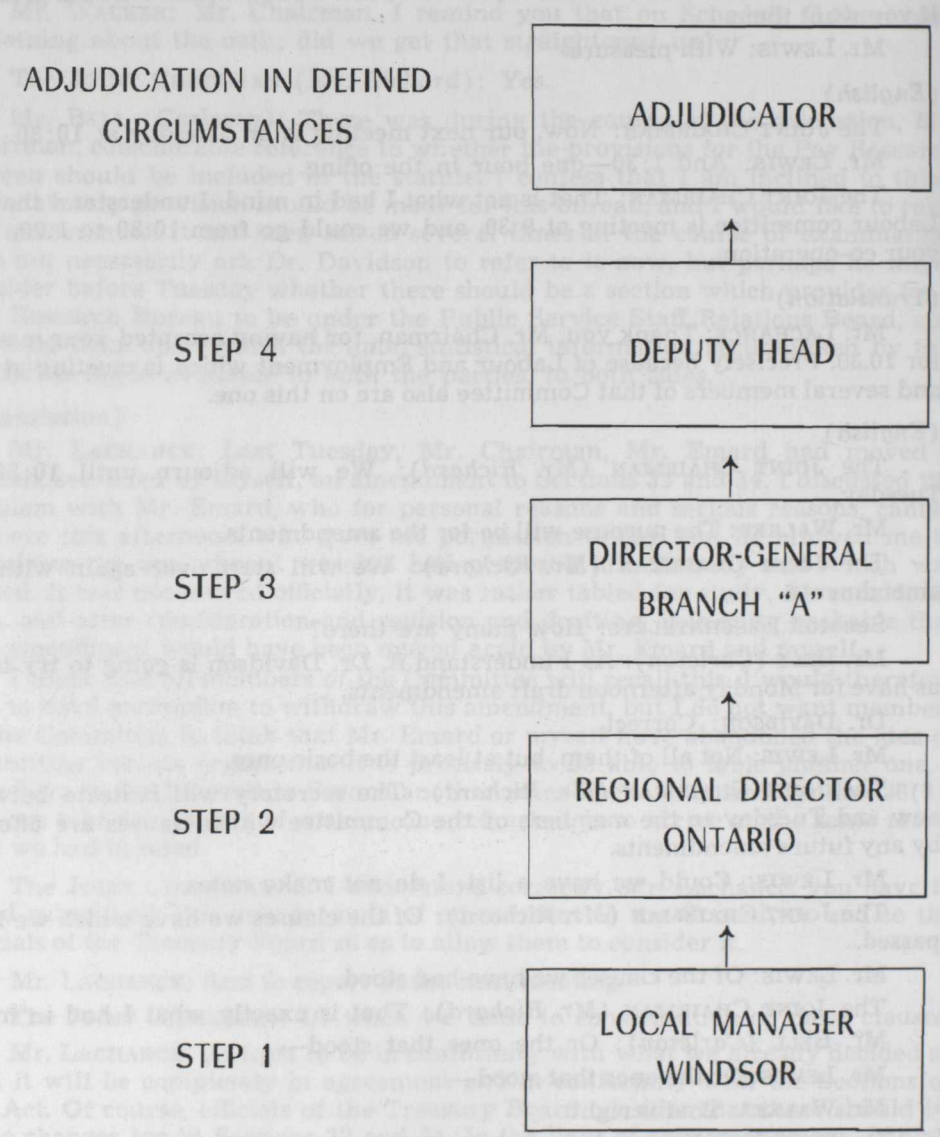
Dr. DAVIDSON: We have cleared up all but about 25.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you.

APPENDIX V

(On clause 90)

POSSIBLE GRIEVANCE MACHINERY



First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

—and—

Léon-J. Raymond, Esq., M.P.

—

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 22

TUESDAY, NOVEMBER 29, 1966

BILL C-170

An Act respecting employment and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board;* Mr. P. M. Faddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

EDMOND CLOUTIER, C.M.G., O.A., D.Paed., L.Ph.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

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Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

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ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25387—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate	*Representing the House of Commons*	
Senators		
Mr. Beaubien (*Bedford*),	Mr. Ballard,	[2]Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Patterson,
Mr. Deschatelets,	Mr. Crossman,	Mr. Rochon,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	[1]Mr. Éthier,	Mr. Simard,
Mr. MacKenzie,	Mr. Fairweather,	Mr. Tardif,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Isabelle,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr. Lachance,	

Edouard Thomas,
Clerk of the Committee.

[1] Replaced Mr. Hymmen on November 28, 1966
[2] Replaced Mr. Orange on November 28, 1966

Corrigendum:

Issue No. 16, Thursday, November 3, 1966.
For "Tony Nanty" Line 34, Page 749, read "Tory Party".

ORDER OF REFERENCE

MONDAY, November 28, 1966.

Ordered,—That the name of Messrs. Éthier and Langlois (*Chicoutimi*) be substituted for those of Messrs. Hymmen and Orange on the Special Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

25387—1½

MINUTES OF PROCEEDINGS

TUESDAY, November 29, 1966.
(40)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.42 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Crossman, Émard, Éthier, Fairweather, Knowles, Langlois (*Chicoutimi*), Lewis, Madill, McCleave, Richard, Rochon, Tardif, Walker (16).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Dr. P. M. Ollivier, Parliamentary Counsel, House of Commons; Messrs. P. M. Roddick, Secretary, R. M. McLeod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered suggested amendments to clauses of Bill C-170 allowed to stand at previous meetings, as follows:

Clause 1, stand; Paragraphs 2(a) to (i) inclusive, carried; Paragraph 2(j), carried as amended (see motion below); Paragraphs 2(k) and (l), carried; Paragraphs 2(m) and (n), carried as amended (see motion motion below); Paragraph 2(o), stand; Paragraphs 2(p) to (s) inclusive, carried as amended (see motion below); Paragraph 2(t), carried; Paragraph 2(u), amended (see motion below); Sub-paragraph 2(u)(i), carried as amended (see motion below); Sub-paragraphs 2(u)(ii) and (iii), carried; Sub-paragraph 2(u)(iv), stand; Sub-paragraph 2(u)(v), carried as amended (see motion below); Sub-paragraph 2 (u)(vi), carried; Sub-paragraph 2(u)(vii), stand; Paragraphs 2(v) to (bb) inclusive, carried; Clause 7, stand; Clause 8, carried as amended (see motion below); Clause 9, carried as amended (see motion below); Clause 16, carried as amended (see motion below); Sub-clause 17(1), carried as amended (see motion below); Sub-clause 17(2), carried as amended (see motion below); Sub-clause 17(3), carried as amended (see motion below); new Sub-clause 17(4), carried on division (see motion below); Clause 18, stand; Paragraphs 19(1)(a) to (e) inclusive, carried; Paragraph 19(1)(f), carried as amended (see motion below); Paragraphs 19(1)(g) to (j) inclusive, carried; Paragraph 19(1)(k),

stand; Paragraph 19(1)(l), carried; Sub-clause 19(2), carried; Clause 23, stand; Clause 25, carried on division; Clause 26, carried as amended (see motion below); Clause 27, carried as amended (see motion below); Clause 28, stand; Clause 29, deleted (see motion below); Clause 32, carried as amended (see motion below); Clause 34, stand; Clause 35, carried as amended (see motion below); Clause 36, carried as amended (see motion below); Clause 37, stand; Clause 38, stand; Sub-clause 39(2), stand; Sub-clause 39(3), carried as amended (see motion below); Clause 51, carried as amended (see motion below); Clause 52, deleted (see motion below); Clauses 53 and 54, carried as amended (see motion below); Clause 55, carried as amended (see motion below); Clause 56, carried as amended (see motion below); Clause 57, carried as amended (see motion below); Clause 58, stand; Sub-clause 60(2), carried; Sub-clause 63(1), carried as amended (see motion below); Clause 64, carried as amended (see motion below); Clause 67, carried as amended (see motion below); Clause 70, carried as amended (see motion below); Sub-clause 71(2), carried as amended (see motion below); Sub-clause 72(1), stand; Sub-clause 72(2), carried as amended (see motion below); Sub-clause 72(3), carried; Clause 73, carried as amended (see motion below); Clause 75, carried as amended (see motion below); Clause 78, carried as amended (see motion below); Sub-clause 79(2), carried; Sub-clause 79(5), carried as amended (see motion below); Clause 83, carried as amended (see motion below); Clause 92, carried; Clause 94, carried as amended (see motion below); Clause 95, stand; Clause 96, stand; Clause 97, stand; Clause 99, stand; Clause 103, carried as amended (see motion below); Clause 109, carried as amended (see motion below); Clause 110, carried; Sub-clause 113(2), stand; Schedule B, carried as amended (see motion below); new Schedule B, carried (see motion below); Schedule C, carried as amended (see motion below).

By leave of the Committee, consideration was given to certain clauses which carried at a previous meeting to permit technical and/or consequential changes resulting from some of the amendments.

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That paragraph 2(j) be amended by striking out line 19 and substituting the following therefor: "Chairman under section 52 to assist the parties".

Moved by Mr. Walker, seconded by Mr. Tardif,

Agreed,—That paragraphs 2(m) and (n) be struck out and the following substituted therefor:

"(m) "employee" means a person employed in the Public Service, other than

(i) a person appointed by the Governor in Council under an Act of Parliament to a statutory position described in that Act,

(ii) a person locally engaged outside Canada,

(iii) a person whose compensation for the performance of the regular duties of his position or office consists of

fees of office, or is related to the revenue of the office in which he is employed,

(iv) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,

(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,

(vi) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,

(vii) a person employed by or under the Board, or

(viii) a person employed in a managerial or confidential capacity,

and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament.

(n) "employee organization" means any organization of employees the purposes of which include the regulation of relations between the employer and its employees for the purposes of this Act, and includes, unless the context otherwise requires, a council of employee organizations;".

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That paragraphs 2(p), (q) together with marginal note, (r) and (s) be struck out and the following substituted therefor:

"(p) "grievance" means a complaint in writing presented in accordance with this Act by an employee on his own behalf or on behalf of himself and one or more other employees, except that

(i) for the purposes of any of the provisions of this Act respecting grievances, a reference to an "employee" includes a person who would be an employee but for the fact that he is a person employed in a managerial or confidential capacity, and

(ii) for the purposes of any of the provisions of this Act respecting grievances with respect to disciplinary action resulting in discharge or suspension, a reference to an "employee" includes a former employee or a person who would be a former employee but for the fact that at the time of his discharge or suspension he was a person employed in a managerial or confidential capacity;

Initial certification period.

(q) "initial certification period" means, in respect of employees in any occupational category, the period ending on the day

specified in Column III of Schedule B applicable to that occupational category;

(r) "occupational category" means any of the following categories of employees, namely,

(i) scientific and professional,

(ii) technical,

(iii) administrative and foreign service,

(iv) administrative support, or

(v) operational,

and any other occupationally-related category of employees determined by the Board to be an occupational category;

(s) "occupational group" means a group of employees specified and defined by the Public Service Commission under subsection (1) of section 26;".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That paragraph 2(u) be amended by striking out marginal note and line 9 and substituting the following therefor:

"Person employed in a managerial or confidential capacity.

(u) "person employed in a managerial or confidential capacity".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-paragraph 2(u)(i) be amended by striking out lines 15 and 16 and substituting the following therefor: "head of a department or the chief executive officer of any other portion of the".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-paragraph 2(u)(v) be amended by adding the words "on behalf of the employer" after the word "formally" line 38.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 8(1) be amended by striking out lines 17 and 18 and substituting the following therefor:

"8. (1) No person who is employed in a managerial or confidential capacity, whether or not he is acting on behalf of the em-" and

That sub-clause 8(2) be amended by striking out line 15 on page 7 and substituting the following therefor: "in a managerial or confidential capacity."

By leave, moved by Mr. Walker, seconded by Mr. Crossman,

Agreed,—That sub-clause 9(1) be amended by striking out line 23 and substituting the following therefor: "employed in a managerial or confidential capacity, whether or not he acts on" and

That sub-clause 9(2) be amended by striking out line 27 and substituting the following therefor: "to prevent a person employed in a managerial or confidential capacity".

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That paragraph 16(2)(b) be deleted and the following substituted therefor:

"(b) at least two other members to be designated by the Chairman in such a manner as to ensure that the number of members appointed as being representative of the interests of employees equals the number of members appointed as being representative of the interests of the employer." and

That sub-clause 16(3) be deleted and the following substituted therefor:

"(3) A decision of a majority of those present at any meeting of the Board, or of a division thereof, is a decision of the Board or the division thereof, as the case may be, except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote."

By leave, moved by Mr. Walker, seconded by Mr. Émard,

Agreed,—That Clause 17 together with marginal notes be struck out and the following substituted therefor:

"Chairman to be chief executive officer.

17. (1) The Chairman is the chief executive officer of the Board.

Appointment of Secretary.

(2) A Secretary of the Board shall be appointed under the provisions of the Public Service Employment Act, who shall under the Chairman have supervision over and direction of the work and staff of the Board.

Other staff.

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the Public Service Employment Act.

Appointment of experts and advisers.

(4) The Chairman may appoint and, subject to the approval of the Governor in Council, fix the remuneration of conciliators and other experts or persons having technical or special knowledge to assist the Board in an advisory capacity."

Moved by Mr. Walker, seconded by Mr. Ethier,

Agreed,—That paragraph 19 (1) (f) be struck out and the following substituted therefor:

"(f) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations;".

Moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That Clause 26 be struck out together with marginal notes and the following substituted therefor:

"Specification of occupational groups.

"26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in

subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Times relating to commencement of collective bargaining during initial certification period.

(5) During the initial certification period, in respect of each occupational category,

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

(6) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purposes of this Act, the Board shall, at the time of making the determination, Other occupational categories.

(a) specify the day corresponding to that described in subsection (3) that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That Clause 27 be amended by striking out line 33 and substituting the following therefor: "tive bargaining may, subject to section 30, apply".

Moved by Mr. Walker seconded by Mr. Knowles,

Agreed,—That Clause 29 together with the marginal note be deleted.

Moved by Mr. Walker, seconded by Mr. Fairweather,

Agreed,—That sub-clause 32(1) be amended by striking out line 33 and substituting the following therefor: "section 27, the Board shall, subject to subsection (4) of" and

That sub-clause 32(3) be amended by striking out the lines 3 to 6 inclusive on page 17 and substituting the following therefor: "employees in that unit relate."

By leave, moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That paragraphs 35(1) (b) and (c) be amended by adding the word "and" after the semicolon line 9 and deleting the same word line 13.

Moved by Mr. Walker, seconded by Mr. Ethier,

Agreed,—That Clause 36 and marginal notes be struck out and the following substituted therefor:

"36. (1) Subject to subsection (2) of section 37, every bargaining agent for a bargaining unit shall, in such manner as may be prescribed, specify which of either of the processes described in paragraph (w) of section 2 shall be the process for resolution of any dispute to which it may be a party in respect of that bargaining unit. "Specification of process for resolution of disputes.

(2) For the purpose of facilitating the specification by a bargaining agent of the process for resolution of any dispute to which it may be a party in respect of a bargaining unit, the Board shall, upon request in writing to it by the bargaining agent, by notice require the employer to furnish to the Board and the bargaining agent a statement in writing of the employees or classes of employees in the bargaining unit whom the employer then considers to be designated employees within the meaning of section 79, and the employer shall, within fourteen days after receipt of such notice, furnish such statement to the Board and the bargaining agent." Employer to furnish statement.

By leave, moved by Mr. Walker, seconded by Mr. Bell,

Carried,—That paragraph 51(a) be amended by striking out lines 25 to 27 inclusive and substituting the following therefor: "referral thereof to arbitration," and by striking out line 41 and substituting the following therefor: "Act and a collective agreement has been entered into or an arbitral award has been".

Moved by Mr. Walker, seconded by Mr. Fairweather, and resolved

That Clause 52 be deleted together with marginal note and by leave, that Clauses 53 and 54 be renumbered as Clauses 52 and 53 respectively.

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That sub-clause 55(1) be amended by striking out lines 37 to 39 inclusive and substituting the following therefor:

"54. The Treasury Board may, in such manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the *Financial Administration Act*, enter into a"; and

That sub-clause 55(2) be renumbered as Clause 55.

By leave, moved by Mr. Walker, seconded by Mr. McCleave,

Agreed,—That sub-clause 56(2) be amended by striking out line 38 and substituting the following therefor: "Schedule C."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 57(2) be amended by striking out line 4 and substituting the following therefor: "the collective agreement shall, subject to subsection (5) of section 26, be";

That sub-clauses 57(3) and (4) together with marginal notes be deleted; and

That sub-clause 57(5) be amended by striking out line 24 and substituting the following therefor: "(3) Nothing in sub-section (2) shall be".

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That sub-clause 63(1) be amended by striking out line 39 and substituting the following therefor: "writing to the Secretary of the Board given"; and by striking out paragraph 63(1)(a) and substituting the following therefor:

"(a) at any time, where no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or".

Moved by Mr. Walker, seconded by Mr. Ethier,

Agreed,—That sub-clause 64(1) be struck out and the following substituted therefor:

"64. (1) Where notice under section 63 is received by the Secretary of the Board from any party requesting arbitration, the Secretary shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Secretary, by notice in writing of any matter, additional to the matters specified in the notice under section 63, that was a subject

of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 67 be amended by numbering the present clause as sub-clause 67(1) and by adding thereto the following sub-clause together with marginal note:

"(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof." "Where agreement subsequently reached.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 70(2) be amended by striking out lines 24 to 26 inclusive and substituting the following therefor:

"employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof."; and

That the marginal note to sub-clause 70(4) be deleted and the following substituted therefor: "Award to be limited to bargaining unit."

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That sub-clause 71(2) together with marginal note be struck out and the following substituted therefor:

"(2) A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof, the decision of the chairman of the Arbitration Tribunal, shall be the arbitral award in respect of the matters in dispute." "Decision.

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That sub-clause 72(2) be amended by striking out lines 27 and 28 and substituting the following therefor:

"on the parties but not before,

(a) in the case of an arbitral award rendered during the initial certification period, a day four months before the day specified in Column I of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case, the day on which notice to bargain collectively was given by either party."

Moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That sub-clause 73(2) and (3) together with marginal note be struck out and the following substituted therefor:

"(2) Subject to subsection (5) of section 26, no arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (a) or (b) of subsection (1), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties."

Moved by Mr. Walker, seconded by Mr. Knowles,

Agreed,—That Clause 75 be struck out and the following substituted therefor:

"75. Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the matter back to the Arbitration Tribunal, and the Arbitration Tribunal shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 65."

By leave, moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That paragraph 78(1)(a) be amended by striking out line 22 and substituting the following therefor: "under section 52 has made a final report to the"; and

That sub-clause 78(2) be amended by striking out line 40 and substituting the following therefor: "parties are unlikely to reach agreement, but before establishing such a board the Chairman shall notify the parties of his intention to do so."

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That sub-clause 79(5) be amended by striking out line 41 and substituting the following therefor: "So informed by the Board."

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That Clause 83 be amended by striking out line 3 and substituting the following therefor: "tion board a statement setting forth the".

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 94(1) be amended by striking out line 2 and substituting the following therefor: "adjudication, the aggrieved employee shall, in the manner pre-";

That sub-clause 94(2) be amended by striking out line 10 and substituting the following therefor: "adjudication and the aggrieved employee has notified the chief"; and

That paragraph 94(2)(b) be amended by striking out line 19 and substituting the following therefor: "tion has been requested by the aggrieved employee".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 103(1) be amended by striking out line 44 and substituting the following therefor: "lawful and the Board, after affording an

opportunity to the employee organization to be heard on the application, may make such a declaration."; and

That sub-clause 103(2) be amended by striking out line 8 and substituting the following therefor: "Board, after affording an opportunity to the employer to be heard on the application, may make such a declaration."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 109 be amended by striking out line 11 and substituting the following therefor: "form prescribed in Schedule D before any person authorized".

By leave, moved by Mr. Walker, seconded by Mr. McCleave,

Agreed,—That Schedules B and C be re-lettered as Schedules C and D respectively, and that the following be added as Schedule B:

"SCHEDULE B.

Initial Certification Period.

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agreement may be entered into or arbitral award rendered)	Column III (Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Jan. 31, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969"

By leave, moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That the said Bill be further amended by striking out Schedule C (formerly B) and substituting the following therefor:

"SCHEDULE C.

(SECTION 56).

Government Employees Compensation Act
Government Vessels Discipline Act
Public Service Employment Act
Public Service Superannuation Act"

At 1.00 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 29, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Yesterday all members of the Committee received copies of the draft amendments prepared by Dr. Davidson and his staff over the weekend while we were looking at the football game. We will proceed with the first suggested amendment, which is to clause 2 page 2, line 19. Mr. Walker, are you ready to move this?

Mr. WALKER: Yes, if there is no discussion. Mr. Chairman, I suggest that anybody who has a particular interest in the various amendments should just speak up and move them as they are introduced. I will move the ones that nobody else wants to touch.

The JOINT CHAIRMAN (*Mr. Richard*): The first amendment is to page 2, line 19, which is to be struck out and replaced. The only change is "section 52".

Mr. WALKER: I move that clause 2 of Bill No. C-170, an act respecting employer and employee relations in the Public Service of Canada, be amended by striking out line 19 on page 2 and substituting the following:

Chairman under section 52 to assist the parties.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next suggested amendment is to clause 2, paragraphs (m) and (n). These are to be struck out and replaced.

Mr. BELL (*Carleton*): Did Dr. Davidson indicate the reason for importing the word "confidential" with "managerial capacity"? Is the test of confidentiality to be subjective or objective?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, might I just point out that the words in the definition are not changed in this respect. All that happens is that in designating more clearly what groups we are seeking to define we have tried to meet the point that was raised by Mr. McCleave at an earlier meeting. Mr. McCleave raised the point that while he did not necessarily object to the inclusion of all these categories in this group of persons being excluded, he thought it was stretching things rather far to refer to a confidential messenger, for example, as a person who is employed in a managerial capacity. It was in an effort to satisfy Mr. McCleave that we changed the lead phrase without changing the content of the definitions that relate to the lead phrase.

Mr. LEWIS: What exactly do you have in mind for "confidential?"

Dr. DAVIDSON: The only references to "confidential", Mr. Lewis, are the references that were already in the definition at the time the Committee reviewed it earlier, and those are the references shown under clauses 2(u)(i) and

2(u) (vi), a person who is employed in a position confidential to the offices listed under clause 2(u)(i), and a person employed in a position confidential to any person described in clause 2(u) (ii), (iii), (iv) or (v). So those remain unchanged, but we merely added the reference in the lead words to "confidential", to try to meet Mr. McCleave's point that these people, if they were to be excluded—and that is a separate question—should not be excluded by being referred to as "persons employed in a managerial capacity", but should rather be excluded as persons employed in a capacity that is more accurately described as a "confidential" capacity.

Mr. BELL (*Carleton*): I am not sure that Mr. McCleave's point has been met on this and whether we are not excluding a very much broader category than was intended. That is why I asked whether the test of confidentiality was to be subjective or objective. The fact is that every secretary occupies a confidential position towards her chief. If the mere fact of occupying a confidential position towards another is going to exclude them from collective bargaining, we have gone an awfully long distance. If what is meant is that it is a confidential position, then that is something quite different. But to say that a person is employed in a confidential capacity seems to me to be carrying it very, very far indeed.

Dr. DAVIDSON: Mr. Bell, may I try to answer that question by pointing out that when you put these words in the definition shown on page 4 the definition will read as follows:

> "person employed in a managerial or confidential capacity" means any person who
>
> (i) is employed in a position confidential to the Governor General,"

and so on. Or, going down to (vi), a person

> "who is employed in a position confidential to any person described in subparagraph (ii), (iii), (iv) or (v)."

I would argue, with respect, that there has been no change whatever in the coverage of the definition. All that has changed is the label that is being applied, and, of course, there is no particular reason from the staff point of view why these words "or confidential" should be put in unless the Committee feels that it will clarify what is meant by this group of persons without extending the range of the definitions themselves.

Mr. LEWIS: Mr. Chairman I tend to agree, with Dr. Davidson that the inclusion of the word "confidential" at this particular spot probably does not expand what is said in subclause (u). I apologize for not being here the last time this section was discussed, but I was rather disappointed—we will come to that later—that some of these subclauses in (u) had not been changed. Do you not think, Mr. Bell, that Dr. Davidson is probably right, that if you read the general statement at this point about the exclusion of "managerial" and "confidential", then you go on to subclause (u) where managerial and confidential are defined?

Mr. BELL (*Carleton*): I am inclined to think when I look at subclause (u) that this is correct. Perhaps Dr. Ollivier will say that he thinks there is no change in meaning as a result of this.

Dr. P. M. OLLIVIER (*Parliamentary Counsel*): I have not made a special study of it. I am relying on Dr. Davidson.

Mr. LEWIS: The definition in subclause (u) is what controls.

Mr. BERGER: Subclause (u) is the controlling definition.

Mr. LEWIS: It is what defines what "confidential" means.

Mr. WALKER: I move that clause 2 of the said Bill be further amended by striking out paragraphs (m) and (n) thereof and substituting the following:

(m) "employee" means a person employed in the Public Service, other than "Employee."

(i) a person appointed by the Governor in Council under an Act of Parliament to a statutory position described in that Act,

(ii) a person locally engaged outside Canada,

(iii) a person whose compensation for the performance of the regular duties of his position or office consists of fees of office, or is related to the revenue of the office in which he is employed,

(iv) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,

(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,

(vi) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,

(vii) a person employed by or under the Board, or

(viii) a person employed in a managerial or confidential capacity,

and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament;

(n) "employee organization" means any organization of employees the purposes of which include the regulation of relations between the employer and its employees for the purposes of this Act, and includes, unless the context otherwise requires, a council of employee organizations; "Employee organization."

Motion agreed to.

Mr. LEWIS: Did we carry (n) as well?

The JOINT CHAIRMAN (*Mr. Richard*): I am sorry?

Mr. LEWIS: When you say the amendment is carried, do you mean both (m) and (n), because I would like to ask what you mean by the addition "for the purposes of this Act"?

Dr. DAVIDSON: This was an effort, Mr. Chairman, on our part to sharpen up and define what is intended to be covered by this definition of an "employee organization". I suppose it is conceivable that without these added words we might include the R.A.—

Mr. LEWIS: Fraternal organizations—

Dr. DAVIDSON: —or other organizations which have as their object purposes that are not within the purview of this legislation.

The JOINT CHAIRMAN (*Mr. Richard*): Next is clause 2, subclauses (p), (q), (r) and (s). You all have a copy of the amendment.

Mr. WALKER: I move that clause 2 of the said Bill be further amended by striking out paragraphs (p), (q), (r) and (s) and substituting the following:

"Grievance." (p) "grievance" means a complaint in writing presented in accordance with this Act by an employee *on his own behalf or on behalf of himself and one or more other employees*, except that

(i) for the purposes of any of the provisions of this Act respecting grievances, a reference to an "employee" includes a person who would be an employee but for the fact that he is a person employed in a managerial *or confidential* capacity, and

(ii) for the purposes of any of the provisions of this Act respecting grievances with respect to disciplinary action resulting in discharge or suspension, a reference to an "employee" includes a former employee or a person who would be a former employee but for the fact that at the time of his discharge or suspension he was a person employed in a managerial *or confidential* capacity;

"Initial certification period." (q) "initial certification period" means, in respect of employees in any occupational category, the period ending on the day specified in Column III of Schedule B applicable to that occupational category;

"Occupational category." (r) "occupational category" means any of the following categories of employees, namely,

(i) scientific and professional,

(ii) technical,

(iii) administrative *and foreign service*,

(iv) administrative support, or

(v) operational,

and any other occupationally-related category of employees determined by the Board to be an occupational category;

"Occupational group." (s) "occupational group" means a group of employees *specified and defined by the Public Service Commission under subsection (1) of section 26;*

Mr. CHATWOOD: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment suggested is to subclause (u) of clause 2. You have a copy of the amendment in your hand. Are there any comments?

Mr. LEWIS: I would appreciate it very much if you took this subclause by subclause, Mr. Chairman. I think this is a key section of the act, in that it deals with possible exclusions.

Mr. WALKER: I move: that paragraph (u) of clause 2 of the said Bill be amended (a) by striking out line 9 on page 4 and substituting the following:

(u) "person employed in a managerial *or confidential* capacity". "Person employed in a managerial or confidential capacity."

Senator FERGUSSON: I second the motion.

Motion agreed to.

Mr. WALKER: I move that paragraph (u) of clause 2 of the said Bill be amended (b) by striking out lines 15 and 16 on page 4 and subsituting the following: head of a department or *the* chief executive officer of any *other* portion of the;

Mr. LEWIS: You have just added the word "other".

Dr. DAVIDSON: This is really a correction.

Senator FERGUSSON: I second the motion.

Motion agreed to.

Mr. WALKER: I move that paragraph (u) of clause 2 of the said Bill be amended by striking out line 33 on page 4 and substituting the following: *administrator* or who has duties that cause him to

Mr. LEWIS: Mr. Chairman, I must apologize to you and the Committee. I was not here when this was discussed last time and I may be repeating what was said. I do not like the words

> "cause him to be directly involved in the process of collective bargaining on behalf of the employer".

If you mean that he represents the employer in collective bargaining, why do you not say so? If you mean more than that, what do you mean?

Dr. DAVIDSON: First of all, Mr. Chairman, may I point out that we have changed the word "officer" to "administrator". This was a suggestion offered by one of the staff associations for the purpose of relating the expression used here, "personnel administrator", to the classification of personnel administrator that is used as part of the formal and official classification system. This really means that any person whose duties include those of a personnel administrator in a department or agency, as well as in a central agency, would be covered by this definition.

> The second part, a person who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer,

I think, if my interpretation is correct—and I am subject to correction by Mr. Love here—that this means that persons, other than persons whose duties include those of personnel administrator, who have been assigned duties which involve them directly in the collective bargaining process are, because of the fact that they have been assigned duties that involve them directly in the collective bargaining process on behalf of the employer, automatically included in this definition. But this, as you realize, is subject to the provsio that the bargaining agent may challenge the employer's attempt to include an individual within the scope of this definition and, if that is challenged, the board makes the final decision.

Mr. LEWIS: Mr. Chairman, I am not terribly impressed by that, because if I were the board and I read this language my decision is pretty well predetermined, or it may be. Here is a person, for example, who is employed at the Pay Research Bureau. I suppose you have machine operators there or computer operators.

Dr. DAVIDSON: Mr. Chairman, Mr. Love and I both agree that the person who is working at the Pay Research Bureau is not directly involved in the process of collective bargaining.

Mr. LEWIS: My point, Dr. Davidson, is that I have no case to be made that they are that kind of person because they calculate the fiugures, come up with an answer and give it to somebody, and it forms a part of the bargaining that that person is engaged in some capacity that you—

Dr. DAVIDSON: Mr. Lewis, may I just interject by suggesting to you that that may well be true of a pay research unit in an employer organization but I do not think, unless I am mistaken, that there is any counterpart, even in your extensive experience, of a pay research bureau set up as a completely neutral agency designed to serve the interests of both parties at the bargaining table by providing them with basic factual information. Am I wrong in that?

Mr. LEWIS: No, you are not. There is certainly that difference. Why do you need such involved language as "directly involved in the process"? Why do you need language that is so wide? Why cannot we simply say, "or who has duties that cause him to participate in the process of collective bargaining on behalf of the employer"?

Dr. DAVIDSON: Could we take a look at the question of the involved language?

Mr. LEWIS: If he participates in the process, I can see the words "directly involved", although "directly" is a bit of a safeguard. I fear it is a little too wide.

Dr. DAVIDSON: Before we leave this—and we will undertake to take a look at it—could I just raise the question of your suggested use of the word "participate"? It seems to me that we have to be careful to use a form of wording that results not merely in the person who is in a given negotiation actually participating in that negotiation, but rather a person whose duties require him to participate, as the occasion requires, in the process of collective bargaining on behalf of the employer. The important thing is that if participation in the processes of collective bargaining is one of the standing responsibilities and duties of this individual he should be included in this definition, and he should

not be put in the position where during one negotiation where he is an active participant in a bargaining session he is covered by the definition and during another time of the year when he is not actively and directly participating he is not included in this definition.

Mr. LEWIS: I agree. I do not think your fear is justified, Dr. Davidson, because once he is excluded from the bargaining unit he is excluded from the bargaining unit for the life of the agreement and probably thereafter. Once a certification is issued, and this particular position is included in the bargaining unit, he is just not in the bargaining unit, he is excluded. Well, I do not want to take any more time. I just raised the point that the words, "cause him to be directly involved in the process", seem to me too wide.

Senator FERGUSSON: I second the motion.

Motion agreed to.

Dr. DAVIDSON: Mr. Chairman, could I have the Committee's indulgence for just one minute to suggest a small technical change that is not in the list before the Committee? It has to do with line 38 on this page:

> who is required by reason of his duties and responsibilities to deal formally

Insert the words, "on behalf of the employer". We wish to make it clear that these people who are excluded by this definition from the bargaining unit are only those who deal with grievances on behalf of the employer.

Mr. WALKER: I so move.

Motion agreed to.

Mr. LEWIS: I thought Dr. Davidson said he would look at the point I raised on (c), and you just said "carried".

The JOINT CHAIRMAN (*Mr. Richard*): Yes, you said you had no further objections.

Mr. LEWIS: No. I said I did not want to take any more time, but Dr. Davidson said he would look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Well, do you want to look at it, Dr. Davidson?

Mr. KNOWLES: We want him to look at it.

The JOINT CHAIRMAN (*Mr. Richard*): I am talking to the Committee, Mr. Knowles. I want to know if the Committee wishes to...

Mr. KNOWLES: Accept Dr. Davidson's offer to look at it? Yes.

The JOINT CHAIRMAN (*Mr. Richard*): That is all.

Mr. LEWIS: Dr. Davidson will come back and report to us after he has looked at it.

Dr. DAVIDSON: I can undertake that, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Stand clause (c). Next is the amendment to Clause (d).

Mr. WALKER: I move that paragraph (u) of clause 2 of the said Bill be amended (d) by striking out line 47 on page 4 and substituting the following: would create a *clear* conflict of interest.

Mr. BELL (*Carleton*): What is the difference between "conflict of interest" and "clear conflict of interest"?

Mr. KNOWLES: Well, "conflict of interest" is clear.

Dr. DAVIDSON: Obviously you cannot win on this because, Mr. Bell, you may recall that you asked us to take a look at some of the suggestions that had been made in particular on some of these definitions by the Professional Institute. We have made a number of changes in an effort to meet some of these points, and one of the changes that we felt we could make was the change in wording "but for whom membership in a bargaining unit would create a clear conflict of interest." The Professional Institute wanted us to go even further than this and say: "would create a clear and irreducible conflict of interest". I did not feel that we could accept the word "irreducible", but I did feel that we could go half way to meeting the concern of the Institute, and it is a legitimate concern, it seems to me. This is, after all, the catch-all clause to which some objection has been taken, and it has been argued in this Committee that it is inevitable in the nature of the employer-employee relations that every employee is in a position where there is a conflict of interest between his duty to his employer and his duty to the bargaining unit.

Personally I do not accept that proposition, but I think we do wish to make it clear that the persons to be covered by subclause (vii) here should be persons where there is a very real conflict of interest, a meaningful conflict of interest, and not just one that can be theorized as a conflict of interest which has no significance in the day to day relationships.

Mr. LEWIS: Mr. Chairman, I suppose this is going over ground that has been gone over, but I think that subclause (vii) is an unnecessary clause and one which is based on a totally false philosophy concerning collective bargaining. An employer frequently assumes that because an employee is in a bargaining unit there is a conflict of interest between his work for the employer and his membership in the bargaining unit. It just is not true, and I cannot for the life of me see the person anybody can have in mind who is not already covered by the extensive exclusions that the rest of the clause contains. If there is anyone whom you cannot bring under any of the headings of "confidential" for "managerial", then there simply cannot be a conflict of interest as representing the employer in the collective bargaining process, which is surely all that we are interested in. I just simply do not see the slightest reason for this catch-all phrase except that somebody—and I am not accusing anybody—is so distrustful of the collective bargaining process, and I cannot put it any other way—so distrustful of the collective bargaining process that they want to have some clause under which they can find some way to yank someone out of the collective bargaining unit. There is no possible justification for this clause. I would like to hear from Dr. Davidson or any one of his officers what kind of person and what kind of position they have in mind. If you had a bargaining unit tomorrow, who would be affected by the presence of this subclause who is not already capable of being included in any one of the other subclauses? Give me one example.

Dr. DAVIDSON: Mr. Chairman, I have already given one example to the Committee on a previous occasion and I will repeat that example, but could I merely say that if those who drafted this bill are distrustful of anything, it is not, I assure the Committee, the collective bargaining process as Mr. Lewis suggests. It is that they are rather...

Mr. LEWIS: You keep on building these fences around it.

Dr. DAVIDSON: It is, rather, that they are distrustful of their omniscience and of their ability to foresee precisely at this point in time every conceivable situation where there might be a legitimate basis for the employer putting to the employee organization and to the board the proposition that in a given situation there is a conflict of interest which justifies that person's exclusion from the bargaining unit. I say that if we are distrustful of anything we are distrustful of our ability at this point in time to predict every conceivable instance where that would be a justifiable proposition.

Mr. LEWIS: May I interrupt, Dr. Davidson, to ask why do you have the Staff Relations Board? That is a matter of experience, and if subclause (vii) said something like this:

> "or anyone who in the opinion of the Board, should not be a member of a bargaining unit"

I would have no objection. If you come to the Board with an argument that so and so—although he does not fall precisely under one of the headings prior to this—for the following reasons should be excluded, and you leave it to the Staff Relations Board to make that decision on the basis of information proposed and brought to it, I would have no objection.

Dr. DAVIDSON: But surely, Mr. Chairman, that is the exact effect of the clause as it is drafted.

Mr. LEWIS: No, because "a conflict of interest" is far too wide a phrase.

Dr. DAVIDSON: Mr. Chairman, with respect could I ask Mr. Lewis to turn his attention to lines 20 to 29, which govern all of the subclauses (iii), (iv), (v), (vi) and (vii)? Lines 20 to 29 clearly provide that where the employer thinks he is justified in putting up for exclusion an individual coming under this, he first of all in effect puts in to the union and if the union agrees, that person is so excluded. If the union disagrees, then it is put to the board to decide. Does this not, in fact, result in the same thing?

Mr. LEWIS: Yes, that is why you do not need the final subclause (vii). I am sorry I interrupted you. What was the example you gave?

Dr. DAVIDSON: Before giving my example could I merely point out to you, Mr. Lewis, that in dealing with managerial exclusions we are certainly limiting the managerial exclusions in the Public Service Staff Relations bill much more strictly than the managerial exclusions are limited in the legislation dealing with outside industrial relations. The Industrial Relations and Disputes Investigation Act has a far more extensive provision for managerial exclusions than does this legislation, because every person at any supervisory level is automatically excluded, as I understand it, under the Industrial Relations and Disputes Investigation Act.

Mr. LEWIS: I beg your pardon.

Dr. DAVIDSON: Is that not correct?

Mr. LEWIS: No, sir. The definition does include a manager or superintendent or any other person who, in the opinion of the board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations.

Dr. DAVIDSON: Yes, and then it goes on to refer to groups of people, members of certain professional classes.

Mr. LEWIS: Yes, but they are different; they are under a separate act.

Dr. DAVIDSON: Perhaps I overstated the proposition, but I would still contend that the managerial exclusions, particularly in the supervisory ranges, are more extensive under the Industrial Relations and Disputes Investigation Act then they are under this legislation because there is no provision that supervisors as supervisors are excluded here.

To come to the point that Mr. Lewis has made, the example I gave before is the example of a supervisor in a hierarchial structure who is supervising a supervisory person at a lower level, designated to deal with a grievance at the first level of the grievance procedure. The second line supervisor is bypassed, and he in turn is responsible to a supervisory type at the regional office, who is responsible for dealing with grievances at the second level of the grievance procedure. In that situation you will have a supervisor who is in between two supervisors—one below and one above him—each one of whom, because of their responsibilities for processing grievances, are excluded under subclause (v). In these circumstances it seems to us that it would be logical and necessary to argue that the intermediate supervisor—

Mr. LEWIS: Certainly, and do you think that the board, if it has any sense at all, is going to leave in the bargaining unit a supervisor who is above one who is not in the bargaining unit? You do not need this to do that. What frightens me about subclause (vii) is that you could have a supervisor who supervises people who have no authority at all other than assigning work—what in outside industry is called a "straw boss" or a "lead hand" or a "charge hand"—and who has no authority. You make an argument that because he or she supervises 300 people, or has the duties of assigning work to 300 people, there is a conflict of interest by reason of those duties. So long as the words are there the person representing the organization would have a tough time persuading the board that there is not something in there. I say to you that no board will leave in a bargaining unit someone above somebody who is excluded from the bargaining unit. You do not need subclause (vii) for that.

Dr. DAVIDSON: Mr. Chairman, could I just ask Mr. Lewis under what clause he would see that person as being excluded?

Mr. LEWIS: Under the general—

Dr DAVIDSON: There is no general provision at all. This is the general provision.

Mr. LEWIS: You are assuming for one thing, Dr. Davidson, that the certification will indicate all the classes that are excluded; that you are going to get a

certificate that will say all the classes above such and such a class are excluded. To answer your question I would have to take a precise look at this matter that is before us.

Dr DAVIDSON: Could I say to Mr. Lewis I sincerely believe that there would be no provision under any of the other subclauses for exclusion of the type of person I used by way of illustration. I fail to see where any other—

Mr. LEWIS: I could certainly put him under subclause (vi).

An hon. MEMBER: Confidential?

Mr. LEWIS: Well, he certainly is if he is the supervisor. I am sure you can find a place for this particular person you have designed in any one of these. You can put him under subclause (v) "who is required by reason of his duties and responsibilities to deal formally with a grievance" because in normal circumstances the supervisor under him might deal with him, but sure as blazes he will be consulting the supervisor above him. "Deal" does not necessarily mean only sitting across the table discussing the grievance. I cannot visualize that the bottom supervisor will take an action without consulting the supervisor above him at some stage. I cannot see any reason for this. I think the example you gave could be dealt with easily, and I think this is such a wide exclusionary clause that it should not be here.

Dr. DAVIDSON: Could I merely draw to Mr. Lewis' attention that as far as subclause (v) is concerned it applies only to those persons required to deal "*formally*" on behalf of the employer with the grievance presented. Certainly the mere fact of the supervisor who is in between the other two supervisors being consulted, or talking to his upper or lower supervisor, would not involve him as a person who is required to deal "formally" with the grievance procedure.

Mr. LEWIS: I am ready to move the deletion of this subclause, but because we have gotten along without this kind of thing I urge Dr. Davidson to consider replacing this clause, despite the fact he said that the board makes these decisions. But the Board makes the decisions on the basis of—let me now argue this point—the precise category set out in subclauses (iii), (iv), (v) and (vi), and if he wants a catch-all the only proper one, in my respectful submission, is one that will say, "or who, in the opinion of the board, should be excluded by reason of his duties and responsibilities to the employer." If you put it that way and you leave it to the board, I have no objection.

Dr. DAVIDSON: Mr. Chairman, could I offer a suggestion here that I think might meet Mr. Lewis' point? I would certainly be prepared to consider something along the line that he suggests if this clause were brought up as subclause (iii) and were to be inserted ahead of lines 20 to 29—

Mr. LEWIS: I have no objection.

Dr. DAVIDSON: —because obviously there is no point in saying the thing twice. Subclause (iii), it seems to me, could be inserted before line 20 and it would simply refer to a person whose membership in a bargaining unit would in the opinion of the board, create a clear conflict of interest by reason of his duties and responsibilities to his employer.

Mr. LEWIS: May I suggest the wording I gave? I honestly do think it is better. It is better from your point of view. It gives the board wider latitude. I

think all it should say is: "a person who, in the opinion of the board, should not be a member of a bargaining unit by reason of his duties and responsibilities to the employer." Any reason would be satisfactory; "conflict of interest" or "his particular position" or anything else. I am prepared to leave to the board the job of developing the jurisprudence out of the experience as to what class is properly within the unit. I do not think we should write that.

Dr. DAVIDSON: I am quite agreeable to bringing back for the consideration of the Committee, Mr. Chairman, a wording that would attempt to meet this.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause (c), then.

The next amendment is to clause 8. We will take the first paragraph (a).

Mr. WALKER: I move that clause 8 of the said Bill be amended (a) by striking out lines 17 and 18 on page 6 and substituting the following:

Employer participation in employee organization.

8. (1) No person who is employed in a managerial *or confidential* capacity, whether or not he is acting on behalf of the em-;

Senator FERGUSSON: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Paragraph (b) is next.

Mr. WALKER: I move that clause 8 of the said Bill be amended (b) by striking out line 15 on page 7 and substituting the following: in a managerial or *confidential* capacity.

Senator FERGUSSON: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment is to clause 9.

Mr. WALKER: I move that clause 9 of the said Bill be amended (a) by striking out line 23 on page 7 and substituting the following: employed in a managerial *or confidential* capacity, whether or not he acts on; and (b) by striking out line 27 on page 7 and substituting the following: to prevent a person employed in a managerial *or confidential* capacity.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Next is the proposed amendment to clause 16.

Mr. BELL (*Carleton*): Are we passing over any sections which have stood previously?

Dr. DAVIDSON: We are still examining clause 7, and I would ask he Committee to recall that we still have something to report back on that.

Mr. WALKER: You are holding clause 7?

Dr. DAVIDSON: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 16.

Mr. KNOWLES: You seem to have met the points we raised on clause 16.

The JOINT CHAIRMAN (*Mr. Richard*): Next is paragraph (a) of the amendment to clause 16.

Mr. WALKER: I move that clause 16 of the said Bill be amended (a) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) at least two other members to be designated by the Chairman *in such a manner as to ensure that the number of members* appointed as being representative of the interests of employees *equals the number of members* appointed as being representative of the interests of the employer.;

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Next is paragraph (b) of the amendment to clause 16.

Mr. BELL (*Carleton*): You contemplate that the chairman and the vice-chairman may attend meetings, but only one vote?

Mr. WALKER: Yes, I move that clause 16 of the said Bill be amended (b) by striking out subclause (3) thereof and substituting the following:

(3) A decision of a majority of those present at any meeting of the Board, or of a division thereof, is a decision of the Board or the division thereof, as the case may be, except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote. Decision of majority.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment is to clause 17.

Mr. WALKER: I move that the said Bill be further amended by striking out clause 17 and substituting the following:

17. (1) The Chairman is the chief executive officer of the Board. Chairman to be chief executive officer.

(2) A Secretary of the Board shall be appointed under the provisions of the *Public Service Employment Act,* who shall under the Chairman have supervision over a direction of the work and staff of the Board. Appointment of Secretary.

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the *Public Service Employment Act.* Other staff.

(4) The Chairman may appoint and, *subject to the approval of the Governor in Council,* fix the remuneration of, conciliators and other experts or persons having technical or special knowledge to assist the Board in an advisory capacity. Appointment of experts and advisers.

Dr. DAVIDSON: Could I say, Mr. Chairman, that here we are endeavouring to meet the concern of the Committee for the overload of responsibility placed on the shoulders of the chairman, and by this redrafting we have provided that the Secretary of the Board shall be capitalized, which is designed to elevate his status somewhat, and that he shall be given the responsibility of supervising and directing the work and staff of the Board.

This is to make it clear that the chairman, while still technically the chief executive officer, has under him a senior official who is capable of taking the responsibility for the day to day operations of the bureaucratic machinery of the board.

Mr. LEWIS: The secretary becomes the administrative officer under the chairman.

Mr. KNOWLES: A kind of deputy minister.

Dr. DAVIDSON: No, this is why the appellation "chief executive officer" remains with the chairman, because he still exercises the functions of a deputy head.

Mr. BELL (*Carleton*): Why do we have this "subject to the approval of the Governor in Council" for the first time?

Dr. DAVIDSON: I am sorry, I forgot to draw this to the attention of the Committee. This is inserted here, Mr. Chairman, because as we reviewed this it was considered rather unusual to have the chairman of the Public Service Staff Relations Board given the responsibility of fixing remuneration when, for example, in the corresponding setting, the Industrial Relations and Disputes Investigation Act, the Minister of Labour has no such authority. This would, in effect, be giving to the chairman of the Public Service Staff Relations Board a prerogative which is not the prerogative of the Minister of Labour, who acts in a corresponding situation.

Mr. BELL (*Carleton*): But, with respect, I do not think that the situations are at all comparable. The situation here is that by indirection you are giving the employer supervision over the appointment of conciliators and the employer can say, "If you appoint conciliator 'A' he may be paid so much, but if you appoint conciliator 'B' he will be paid a lesser amount." I venture to suggest that you are opening a door here to a technique where the Governor in Council, as the employer, can exercise full supervision over the appointment of conciliators.

Dr. DAVIDSON: I cannot seriously believe that this would be the result, Mr. Bell, and it does seem to me that there is a pretty fundamental question at issue here. I do not know any other provision in law that delegates to a chairman of any board under federal administration the right to fix rates of remuneration. This is intended, frankly, to be purely pro forma; that the Governor in council—not the Treasury Board—should set the rates of remuneration. This is already provided elsewhere in clause 80, subclause (7), with respect to conciliation boards.

> The members of a conciliation board are entitled to be paid such per diem or other allowances with respect to the performance of their duties under this Act as may be fixed by the Governor in Council.

I think it is also applicable to the arbitration tribunal. It is the Governor in Council who sets the rate of remuneration of the chairman of the Public Service Staff Relations Board, and in the interests of consistency it seems to me, as well as the other arguments that have been advanced, that it would be rather an exception to the general rule that prevails throughout the legislation if, in the case only of the remuneration of conciliators or persons having expert knowledge, there should be an exception to the general proposition that rates of remuneration are fixed with the approval of the Governor in Council.

Motion agreed to on division.

The JOINT CHAIRMAN (*Mr. Richard*): The next proposed amendment is to subclause (1) of clause 19.

Mr. WALKER: I move that subclause (1) of clause 19 of the said Bill be amended (a) by striking out paragraph (f) and substituting the following:

(f) the rights, privileges and duties that are acquired or retained by an employee organization *in respect of a bargaining unit or any employee included therein* where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations; and

(b) by striking out paragraph (k) and substituting the following:

(k) the authority vested in a council of employee organizations that shall be considered to constitute appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;.

Mr. BELL (*Carleton*): The amendment in paragraph (a) is for the purposes of clarification?

Dr. DAVIDSON: Yes.

Mr. KNOWLES: On paragraph (b), Mr. Chairman, why do you have to repeat yourself? First of all, I see what you are doing, you are cutting down the authority of the Governor in Council to tell the units within a council how they behave toward each other, but I am looking now at the revised draft:

> the authority vested in a council of employee organizations that shall be considered to constitute appropriate authority...

Are you not saying to make regulations respecting the authority that shall really be authority? Why do you have to add these extra words? Would you ever pass a regulation respecting authority that was not considered to be authority?

Dr. DAVIDSON: No, because there is no authority in (k) as it is worded to do that. All the Governor in Council has authority to do under this regulation is to prescribe what shall be appropriate authority. I think "appropriate authority", Mr. Knowles, is picked up from the Ontario Labour Relations Act.

Mr. KNOWLES: You told us the other day you had a Presbyterian background. Well, let your yeas be yea.

Dr. DAVIDSON: Do not accuse me of guilt by association. The "appropriate authority" is referred to in clause 28. There is a new amendment coming up to clause 28, which will refer to each of the employee organizations forming a council. There has to be satisfactory evidence that each employee organization forming a council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent. If that is the requirement of clause 28, then this is authority to the board,—not the Governor in Council, Mr. Knowles,—to make regulations that will deal with—it seems to me that this could be worded differently.

Mr. LEWIS: Yes. What you want to say is that you want to make regulations that will enable them to carry out what...

Dr. DAVIDSON: "What shall be considered to constitute appropriate authority vested in a council of employee organizations within the meaning of paragraph (b) of subsection (2) of Section 28."

Mr. KNOWLES: I think you had better take another look at it.

The JOINT CHAIRMAN: (*Mr. Richard*): Paragraph (b) stands. The amendment in paragraph (a) is agreed to.

By leave of the Committee there is a small amendment to subclause (1) of clause 20.

Mr. WALKER: I move that subclause (1) of clause 20 of the said Bill be amended by striking out line 38 on page 11 and substituting the following:

Complaints. 20. (1) The Board *shall* examine and inquire into

Motion agreed to.

Dr. DAVIDSON: Mr. Chairman, could I just interject for Mr. Bell's benefit that the fact that we have passed clauses 4 and 5 does not mean that we have overlooked the question of the references to the *Canada Gazette*. If you will remind me I will come back to that at a later stage.

The JOINT CHAIRMAN (*Mr. Richard*): The next proposed amendment is to clause 23.

Mr. WALKER: I move that the said Bill be amended by striking out clause 23 and substituting the following:

Questions of law or jurisdiction to be referred to Board. 23. Where any question of law or jurisdiction arises in connection with a matter that has been referred to the Arbitration Tribunal or to an adjudicator pursuant to this Act, the Arbitration Tribunal or adjudicator, as the case may be, shall refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, *but the referral of any such question* to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof.

Mr. LEWIS: Would you consider changing the first word in line 7 from "shall" to "may", thereby leaving it to the arbitration tribunal or the adjudicator to deal with the matter if they feel competent to do so?

It is just a thought that occurred to me, Mr. Chairman. It seems to me to give it a little more flexibility.

Dr. DAVIDSON: One of the concerns that enters into this is that in one particular situation an arbitrator may think that he is dealing with a point that is of no particular consequence or has not arisen before. There may, in fact, have been a precedent for this in a reference to the board which resulted in the board taking a position. The problem is that the second arbitrator in these circumstances could conceivably be moving ahead and dealing with a situation without the knowledge of the board, and arrive at a decision in circumstances which would conflict with a precedent previously established.

Mr. LEWIS: But the opposite creates a greater danger of, may I say, two things: First, you could have a matter of law or jurisdiction decided by the board. That being so, why should a similar matter go back to the board? The arbitrator or the adjudicator should be in a position to say, "This has already been decided by the board. Here is the decision. I do not need to go back."

The second thing that I think we ought to keep in mind is that there will be two parties before the tribunal, and if either the employer or the union wants to say "This is a matter of law or jurisdiction which is not decided; I, therefore, move that it go to the Board", you leave it to them and, if the case is made out, he will. But what this means is that every time a point of law or jurisdiction comes up he has got to go to the Board, even though the matter has already been decided by the Board on a previous occasion. It seems to me to be an unnecessary requirement.

Dr. DAVIDSON: If you look at the last part of this clause, Mr. Lewis, you will see that although the reference to the board is necessary, the proceedings do not go under suspension unless the board considers that the point referred to them is of sufficient importance to justify their directing that the proceedings be suspended.

Mr. LEWIS: I suppose it is the difference between the practitioner and the theoretician. I can tell you, Dr. Davidson, that if a matter of law or jurisdiction comes up and the act says that they must go to the Board, then either side, if it suits its purpose, will say, "I am not really prepared to go on with the rest of this case until I know what the decision on this point of law or jurisdiction is", and your safeguard that he need not suspend will, in practice, mean very little.

I repeat that you will have points of law and jurisdiction decided by the board that will be a guide to your inferior tribunal. Why should he have to go back to the board every time such a point arises? Why can you not just leave it to him, and to the parties to persuade him, to go to the board when necessary; but if he has already got a decision from the board that he can apply, he applies it, and goes on with his adjudication.

That is all. I am not going to take any more time, because this is not an earth-shaking question, but it seems to me to put in a point of inflexibility again where there is no need for it.

Dr. DAVIDSON: We will look at it, Mr. Chairman. I am not yet persuaded that it is safe or advisable to court the inconsistencies that could arise if this were made "may" rather than "shall".

The JOINT CHAIRMAN (*Mr. Richard*): Shall the amendment to clause 23 stand?

Some hon. MEMBERS: Agreed.

On clause 26—*Specification of occupational categories and date of eligibility for collective bargaining.*

Mr. WALKER: I move that the said Bill be further amended by striking out clause 26 and substituting the following:

Specification of occupational groups.

26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Times relating to commencement of collective bargaining during initial certification period.

(5) During the initial certification period, in respect of each occupational category,

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

Other occupational categories.

(6) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purposes of this Act, the Board shall, at the time of making the determination,

(a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 26 (1) is a new clause.

Mr. LEWIS: As I have been so critical many times, may I say that this redraft strikes me as a very intelligent one.

Dr. DAVIDSON: From a practical or a theoretical point of view, Mr. Lewis?

Mr. LEWIS: Both.

Clause 26, as amended, agreed to.

Dr. DAVIDSON: May I say, Mr. Chairman, that our difficulties on second reading are arising in the most unexpected places.

The JOINT CHAIRMAN (*Mr. Richard*): What happens to clause 25, Dr. Davidson?

Dr. DAVIDSON: Yes; I am sorry. Mr. Love has dealt with the Department of Justice officers on this and can perhaps speak on it better than I.

Mr. J. D. LOVE (*Assistant Secretary, Personnel Policy Branch, Treasury Board*): Mr. Chairman, we have taken this up with the legal draftsmen, who are reluctant to effect any change in the clause. They point out that a provision of this kind is very common in statutes relating to administrative boards. They point out that it would be very unusual if the board did not, in fact, give notice to affected parties where a matter of substance was involved; but they are really arguing that the precedents do not call for the type of change that has been suggested.

I recognize that an argument based on precedents may not be regarded as an overly-persuasive one; nonetheless, the legal officers would be concerned about the precedent of making a change that would make notice a statutory requirement.

Mr. LEWIS: I suppose you can drag the board on *certiorari* into court if they do not give you natural justice.

Mr. LOVE: That I think, is right.

Mr. BELL (*Carleton*): We discussed this at some length the other day, and I am not going to repeat the arguments that were made then, Mr. Chairman. I agree that there are plenty of precedents, but I think that all the precedents are bad precedents, and if there should be a requirement of notice to affected parties in this, we would have to carry on division so far as I am concerned.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 25 carry?

Clause 25 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On division.

You will notice, in the papers submitted to you, that there is a further amendment that schedules B and C become schedules C and D, respectively.

Mr. WALKER: I move that the said Bill be further amended by renumbering Schedules B and C respectively as Schedules C and D and adding the following as Schedule B:

SCHEDULE B.

Initial Certification Period.

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agreement may be entered into or arbitral award rendered)	Column III (Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Jan. 31, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969

Mr. KNOWLES: Does this schedule hinge on a date by which the bill has to get through parliament?

Dr. DAVIDSON: Well, it is certainly assumed that the bill will be through before the 31st of January, 1967, and we are...

Mr. WALKER: Do you want to leave yourself an escape hatch?

Dr. DAVIDSON: I do not want to leave you an escape hatch.

Mr. KNOWLES: You are a Presbyterian!

Mr. LEWIS: I differ from my colleague and I agree with Dr. Davidson. At least this will give the House of Commons a date by which it must produce this bill, which may be of some help.

Mr. KNOWLES: Or it may be the very thing that will prevent it from getting through.

Dr. DAVIDSON: That is up to the Members of Parliament; and of course it is open to the House and to the Senate, in the light of the calendar at the moment when the final decisions are being made to confirm or alter this bill. I would be horrified, if I may use that expression, to think that under any circumstances it would be necessary to alter the timetable that has been drawn up.

Some hon. MEMBERS: Hear, hear.

Mr. KNOWLES: I agree, Mr. Chairman, I just thought it should be noted, and I think that it should be clear, that, although this has been drafted by the staff, it is still this Committee that is putting it into the bill.

Mr. WALKER: For submission to Parliament. We are not ordering Parliament to do anything.

Amendment agreed to.

On clause 27—*Application by employee organization*

Mr. WALKER: I move that clause 27 of the said Bill be amended by striking out line 33 on page 14 and substituting the following: ...tive bargaining may, subject to *section 30*, apply...

Dr. DAVIDSON: The amendment to clause 27 is a purely technical amendment, Mr. Chairman, deleting the reference in clause 27 to section 29 which is no longer applicable.

I should add, for Mr. McCleave's benefit, that while we met his point on the managerial or confidential capacity in the earlier definition, we just could not persuade the authorities responsible for drafting that there was anything wrong in the wording, "that it considers constitutes a unit" and, therefore, we have no suggestion to make.

Mr. MCCLEAVE: I am batting .500. I am happy.

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment to clause 27 carry?

Some Hon. MEMBERS: Agreed.

On clause 28—*Application by council of organizations.*

Mr. WALKER: I move that clause 28 of the said Bill be amended (a) by striking out lines 3 and 4 on page 15 thereof and substituting the following: tions, the council so formed may, subject to *section 30*, apply in the manner prescribed to the Board for certi-:

(b) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent; and

(c) by striking out lines 19 and 20 on page 15 and substituting the following:

Council deemed to be employee organization.

29. A council of employee organizations shall, for all purposes of this Act except subsection (2) *of section 28,* be deemed

The JOINT CHAIRMAN (*Mr. Richard*): In considering this clause we will also have to consider an amendment which was proposed by Mr. Émard and seconded by Mr. Lachance.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, could I ask that discussion be delayed on this clause until this afternoon, when Mr. Lachance, who is chairman of the Labour and Employment Committee, can be in attendance?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, could we at least for the time being ask Mr. Davidson to present his own amendment and to explain it?

(*English*)

Mr. WALKER: Mr. Chairman, I do not wish to interfere with your conduct of the meeting, but I think there will be considerable discussion on this clause, and I do not know whether you want to start it now. I have quite a number of things I would like to say about this clause and Mr. Lachance, who is not here, will be wanting to speak, too. Quite frankly, I would like to consult with another person before I make certain statements, and I am wondering if we could not just stand the discussion on this particular clause at this moment?

Mr. LEWIS: What does Mr. Émard ask for?

The JOINT CHAIRMAN (*Mr. Richard*): The proposed amendment to clause 28 stands.

On clause 29—*No application before employees eligible for collective bargaining.*

Mr. WALKER: I move that the said Bill be further amended by striking out clause 29.

Dr. DAVIDSON: This is, again, a deletion of what now is an irrelevant reference to a section.

Mr. KNOWLES: As Mr. Bell would point out, you do not have to move an amendment. You just hold a vote on clause 29 and defeat it.

Amendment agreed to.

On clause 32—*Determination of unit appropriate for collective bargaining..*

Mr. WALKER: I move that clause 32 of the said Bill be amended (a) by striking out line 33 on page 16 and substituting the following: section 27, the Board shall, subject to subsection (4) of; and

(b) by striking out lines 3 to 6 on page 17 and substituting the following: employees in that unit relate.

The JOINT CHAIRMAN (*Mr. Richard):* Subparagraph (a)...

Dr. DAVIDSON: This is a technical change from subclause (3) to subclause (4), Mr. Chairman. In subparagraph (b) we propose to delete half way through

line 3 to the end, so that the words "employees in that unit relate," in line 3, will be the end of the reference.

Amendment agreed to.

On clause 34—*Certification of employee organization as bargaining unit*

Mr. WALKER: I move that clause 34 of the said Bill is amended by striking out paragraph (d) and substituting the following:

(d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to act for the members *in the making of the application*,

Mr. BELL (*Carleton*): Will you refresh my memory on the purpose of this amendment, Dr. Davidson?

Dr. DAVIDSON: It was considered that the wording of clause 34 (d), as it now stands in the printed text, was much too wide in having the board given the authority to satisfy itself that the employee organization making application has been duly authorized to act for the members of the organization in all of the relationships between the employer and such members. All that seems to be required at this point is to have the Board satisfy itself that the employee organization has, in fact been authorized to make the application it is making.

Mr. LEWIS: Is it clear that the authorization can come from an executive instead of from a membership? Or does this require a membership meeting?

Dr. DAVIDSON: I would say, first of all, that it seems clear that the board can be the judge of that; and it would seem to me to be the clear intent of this provision that the board should not need to require that authorization has been given by a full membership meeting.

Mr. LEWIS: Would you consider deleting the words "for the members" and just say "have been duly authorized to act in the making of the application?

Dr. DAVIDSON: To act for the organization.

Mr. LEWIS: Yes. "Have been duly authorized to act for the organization in the making of the application."

Mr. BELL (*Carleton*): Why not just "duly authorized to make the application"?

Mr. LEWIS: "Duly authorized to make the application." I am a little concerned that with the inclusion of the words "for the members," somebody might interpret that to mean that every time they want to make application they have to have a membership meeting. They are all over the country, you know.

Dr. DAVIDSON: That is correct. It seems to me what is intended here is that the board should be satisfied that the persons representing an employee organization have been duly authorized in accordance with the constitutional provisions of the organization.

Mr. LEWIS: Well, that would follow. Why do you not take Mr. Bell's wording, which seems to be very, very good and simple—that they have been "duly authorized to make the application"?

Dr. DAVIDSON: Could I take that, subject to having it examined by the Department of Justice officers? I see no difficulty from our point of view.

Clause 34 stands.

On clause 35—*Powers of Board in relation to certification.*

Mr. WALKER: I move that subclause (1) of clause 35 of the said Bill be amended by striking out lines 9 to 17 on page 18 and substituting the following:

necessary; and

(c) examine documents forming or relating to the constitution or articles of association of the employee organization seeking certification;

Dr. DAVIDSON: This amendment merely deletes subclause (d).

Amendment agreed to.

On clauses 36 and 37.

Dr. DAVIDSON: Could I, at the outset, say a word of explanation on this, Mr. Chairman?

This is, we appreciate, a difficult problem. What we have done, in effect, is to alter the clauses as they appear in the bill and to provide that every bargaining agent is required, following certification, to specify which of the two processes for dispute-settlement he opts for. No time limit is placed in this section on the opting, but later, in clause 49, where notice to bargain is dealt with, it is provided that the option must be exercised and the certification of the option recorded with the board before notice to bargain can begin.

Mr. LEWIS: Well, I guess we argue about the time when we get to clause 49.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 36.

Mr. LEWIS: Just a moment, Mr. Chairman. You know, often there is a fight about these things. Are we doing clause 36 and clause 37 together?

The JOINT CHAIRMAN (*Mr. Richard*): We are dealing with clause 36 now.

On clause 36—*Specification of process for resolution of disputes as condition of certification.*

Mr. WALKER: I move that the said Bill be further amended by striking out clauses 36 and 37 and substituting the following:

Specification of process for resolution of disputes.

36. (1) Subject to subsection (2) of section 37, every bargaining agent for a bargaining unit shall, in such manner as may be prescribed, specify which of either of the processes described in paragraph (w) of section 2 shall be the process for resolution of any dispute to which it may be a party in respect of that bargaining unit.

Employer to furnish statement.

(2) For the purpose of facilitating the specification by *a bargaining agent* of the process for resolution of any dispute to which it may be a party *in respect of a bargaining unit*, the Board shall, upon request in writting to it by the *bargaining agent*, by notice require the employer to furnish to the Board and the *bargaining agent* a statement in writing of the employees or classes of employees in the bargaining unit whom the employer then considers to be designated

employees within the meaning of section 79, and the employer shall, within fourteen days after receipt of such notice, furnish such statement to the Board and the bargaining agent.

Amendment agreed to.

On clause 37—*Certification to record process for resolution of disputes*

Mr. WALKER: I move the amendment of clause 37 as follows:

Process for resolution of disputes to be recorded.

37. (1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified.

Period during which process to apply.

(2) The process for resolution of a dispute specified by a *bargaining agent as provided in subsection (1) of section 36 and recorded by the Board under subsection (1) of this section shall,* notwithstanding that another employee organization may subsequently be certified as bargaining agent for the same bargaining unit, be the process applicable to that bargaining unit for the resolution of all disputes during the period of three years immediately following the *day on which the first notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process,* and thereafter until the process is altered in accordance with section 38.

Mr. LEWIS: As you know, Mr. Chairman, we object to the timing of the specification of the choice, or rather, of the route which a bargaining agent is to follow. But, in any case, why should the bargaining agent be stuck with it for three years? Why should it be for longer than the period of the collective agreement? If it is a three year collective agreement, all right. Why should they be stuck with this for more than one set of negotiations? I cannot follow the reason for that at all.

I can guess that a possible reason is the desire to have two experiences rather than merely one. You are assuming a two-year agreement because of your normal two-year revisions. Why? Why should we, as a parliament, enforce on these people that the choice which they make when they first start as a bargaining agent they must stand by for two sets of negotiations? If they have chosen the conciliation process, for example, and they find in their negotiations that, as a result of it, the strike weapon is not desirable, why should they not, in their next set of negotiations, be able to say, "our experience last time has taught us that it is better to have arbitration", or vice-versa? The first is the more likely one, I think, in practice.

Unless I am persuaded otherwise, we will draft an amendment with an hour later to make the period coincident with the term of the collective agreement.

Dr. DAVIDSON: Mr. Chairman, I appreciate Mr. Lewis' points. This is a matter of judgment.

I would point out that I know of no other legislation at all that gives to the employer organizations coming within the scope of that legislation the choice of two routes. This legislation is, therefore, unique in that respect.

Because the choice of the two routes is offered, it seems to those of us who have been concerned with the preparation of the legislation, rightly or wrongly, that it is desirable to ensure a reasonable element of stability in the processes which follow on from the option once it is exercised by the bargaining agents in each individual case. To ensure a measure of stability it has been the view of those who have worked on this legislation that there should be this provision that would discourage and, indeed, prevent an employee organization, which has made one choice, let us say, for arbitration, from reversing its option merely because its initial experience, or single experience, with an arbitration award has been unsatisfactory.

Likewise, it seems to us that this operates in reverse as well, and we would submit that it would not only be in the interest of the employer to have this degree of stability, but that it would equally be in the interests of the bargaining agents themselves, otherwise, on each occasion when you get an award, either as a result of arbitration, or as a result of a conciliation board that is accepted by a bargaining agent, or imposed on a bargaining agent after he has developed his case as fully as he can. Each bargaining agent will be open to the challenge on each occasion of a dissident group if you have not provided for some degree of stability and continuity. Now, you may say that that is the way it should be, but it does seem to me there should be an element of stability ensured in the bargaining relationship on both sides of the table, and this provision is designed to accomplish that.

Mr. LEWIS: Because of one little step towards stability—you do not have stability if you have it twice. Whether you change it after once or after twice is not surely the difference between stability and instability? You are taking away from the bargaining agent, it seems to me, the very important right that in each set of negotiations—and, Mr. Chairman, speaking of myself, I have been somewhat impressed by conversations about the porbable desirability—the choice be made prior to notice to bargain, so that everybody knows exactly what route they are going in the set of negotiations. I had, as you know, originally thought that the choice should be made later in the day, but there may be, and there probably is, a great deal of logic and justice in the notion that when the two parties sit down at the table they should know exactly what route they are going—that they both be in an equal position.

Now, why can that not just apply across the board? If that is the point you have reached it seems to me, as I have thought about it, a logical point, and that it should be across the board. You should not have a 3 year thing here. What the act should say is that, before notice to bargain is given—at any time—the bargaining agent makes its choice; and both sides know what they are faced with in that set of negotiations, and which route they are going to follow. In that case all this three-year period business can just be removed, because clause 49 will presumably say that before notice to bargain you do that.

I would like to move, with my colleague on anyone else, an amendment to that effect, but I would like to urge a regime which says that, before notice to bargain is given, the bargaining agent must make its choice.

Mr. WALKER: Mr. Chairman, can we stand a clause for the—

Mr. KNOWLES: Mr. Chairman, before you stand the clause may I ask Dr. Davidson to consider this point. It seems to me that there is an inconsistency between a combination of clauses 49 and 36 and clause 37, because you knock that out in clause 37.

I have been reading your new clause 49 which, in effect, says, that notice to bargain can be given, providing, amongst other things, that the process for the resolution of a dispute has been specified as provided in subclause (1) of clause 36. But then, by clause 37, you say to the bargaining agent that he cannot operate as under 36, or as under 49, because he has already made a decision that bans him for three years.

I am supporting Mr. Lewis' position, that if, under clause 49, you say that notice to bargain can be given provided you have given an indication of the route that you are going to follow, why not let that be it in all cases?

Dr. DAVIDSON: I am not persuaded, Mr. Knowles, that there is a technical point at issue here in the drafting, because a specification provided for in subclause (1) of clause 36, which is referred to in clause 49, continues to be a specification until such time as it is replaced by a new, effective specification.

Mr. KNOWLES: But clause 37 gives you no opportunity to replace it in the three-year period.

Dr. DAVIDSON: And therefore it remains a specification, and the wording of clause 49, it seems to me, is technically sound on that score.

May I say, Mr. Chairman, that I have been greatly heartened by the position that Mr. Lewis has taken on the question of the point at which the exercise of the option might be found to be acceptable to him as a member of the Committee. This to us seems to be a pretty crucial point. I am also aware of the arguments of both sides on this three-year-proposition, and I would like to suggest that the Committee give us a little further time to think over this three-year proposal. We can come back to this clause as soon as we have taken a further look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Would you like to speak now, Mr. Émard?

(*Translation*)

Mr. ÉMARD: I only have one word to add and it is my own personal opinion. Personally, I share the opinion of Mr. Lewis. I do not see any sufficient reasons to extend to two terms, the action which should be taken on the arbitration or the strike. Either we give the right to strike or we refuse it. We have decided to give it and therefore, we should not limit it too strictly. One thing that should be considered too, is the union point of view. A negotiating team does not have the right to commit the next bargaining team, because in trade unions you have a Committee which is sitting for one set of negotiations, but the next time it is not the same Committee at all, very often. I, therefore, think that this is a matter of policy for the trade union. It is very important. If they do not have the opportunity of deciding themselves, before undertaking negociations, I think that we can be in great trouble; and there will be very serious trouble in the trade union, at the very start, which will later on have a bearing on the proper conduct of bargaining.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): We will stand the amendment to clause 37.

On clause 38—*Application for alteration of process.*

Mr. WALKER: I move that the said Bill be further amended by striking out subclauses (2), (3), (4) and (5) of clause 38 and substituting the following:

Alteration to be recorded.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 as any notice to bargain collecitvely is given in respect of that a dispute.

Effective date and duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective at such time next after the period of three years referred to in subsection (2) of section 37 as any notice to bargain collectively is given in respect of that bargaining unit, and remains in effect for the same period as is provided in subsection (2) of section 37 in relation to the initial specification of the process for resolution of a dispute.

Dr. DAVIDSON: May we let that stand, too, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): The suggested amendment to Clause 38 stands.

On clause 39—*Where participation by employer in formation of employee organization.*

Mr. WALKER: I move that the said Bill be further amended by striking out subclause (3) of clause 39 and substituting the following:

Where discrimination by reason of race, etc.

(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee by reason of race, creed, colour, *sex*, nationality, ancestry or place of origin.

Dr. DAVIDSON: Here we have made a concession to Mr. Knowles, which I hope will please him.

Mr. BELL (*Carleton*): Except that the word is in the wrong position, is it not? Should not "sex" always come first, Mr. Chairman? We did put it first, Mr. Chairman, in the Public Service Employment Act.

The JOINT CHAIRMAN (*Mr. Richard*): The clerk has just told me that the proper ending was "by reason of sex, race, creed, colour...", and someone has inserted it in the wrong place.

Mr. KNOWLES: Some stenographer did not like it in that place.

Mr. BELL (*Carleton*): Let us keep the two acts consistent.

Dr. DAVIDSON: Does "sex" come first, Mr. Bell?

Mr. BELL (*Carleton*): Yes.

Mr. KNOWLES: It did in the other—

Mr. BELL (*Carleton*): It did in the Public Service Employment Act.

Dr. DAVIDSON: Well in the opinion of this committee does "sex" come first?

Mr. BELL (*Carleton*): Oh, decidedly.

Dr. DAVIDSON: In the order of priority.

Mr. LEWIS: Without sex we do not have a race.

Dr. DAVIDSON: Could I draw the Committee's attention to the fact that we have inserted one three-letter word, but we have also deleted one three-letter word. We had to take out the word "his".

Mr. KNOWLES: I do not have my copy of the Public Service Employment Act on hand here. I wonder if we have "ancestry" in the other one?

Mr. WALKER: I have it sir. What section was it?

An hon. MEMBER: Yes, it was definitely in the other one.

Mr. KNOWLES: Did we?

Mr. WALKER: Well, in subclause (3) of clause 39.

Mr. BELL (*Carleton*): No; I do not think we did.

Mr. KNOWLES: I mean in the Public Service Employment Act?

Mr. FAIRWEATHER: We should have two years to exercise the options on this matter.

Mr. LEWIS: That is only because you are getting old!

The JOINT CHAIRMAN (*Mr. Richard*): Is the amendment to clause 39 agreed to?

Mr. KNOWLES: Just a minute. Did we have that other question answered?

Dr. DAVIDSON: What was the clause?

Mr. BELL: It was section 12 subsection (2) of the Public Service Employment Act.

Mr. LEWIS: There is no "ancestry".

Mr. BELL (*Carleton*): No. It reads now: "by reason of sex, race, national origin, colour or religion".

Mr. ÉMARD: Well, that certainly was in the previous clause 39...

Mr. WALKER: Yes, in this bill; but not in the Public Service Employment Act.

Mr. BELL (*Carleton*): I think the two acts should be consistent.

Mr. KNOWLES: Yes; but call it "religion" in one place and "creed" in the other.

Mr. WALKER: And "place of origin" in this one?

Mr. KNOWLES: That is no criticism of this one. Perhaps it is the other one we have to look at again.

The JOINT CHAIRMAN (*Mr. Richard*): Is the amendment carried?

Dr. DAVIDSON: Before carrying, Mr. Chairman, I certainly would agree that there is some question of inconsistency here, but is it the view of the Committee that the policy to be imposed by the board on a certified bargaining agent should

be identical with the policy of the Public Service Employment Commission in regard to these matters. If it is, then the case for complete consistency is clear. But I think that the Committee should ask itself this question first: Are the issues precisely the same in both situations?

Mr. BELL (*Carleton*): Is there any reason why they should not be?

Dr. DAVIDSON: Well, I do not know, but—

Mr. BELL (*Carleton*): I would say at once that I think they should be exactly consistent.

Dr. DAVIDSON: But you are saying here that you will not certify any bargaining unit unless its policies with respect to its own membership are identical with those that in public employment policies are being prescribed for the government of Canada.

Mr. BELL (*Carleton*): I would say, most emphatically, yes.

Mr. LEWIS: Right.

Mr. KNOWLES: In that case, we must look at the clause in the other bill again before we finally pass—

The JOINT CHAIRMAN (*Mr. Richard*): That does not affect this clause.

Dr. DAVIDSON: I would think, then, Mr. Chairman that it is a matter for the Committee to determine, after we have reported on it, which of these two wordings they prefer.

The JOINT CHAIRMAN (*Mr. Richard*): All right; the suggested amendment to Clause 39 stands.

On clause 43—*Certification obtained by fraud.*

Mr. WALKER: I move that subclause (1) of clause 43 of the said Bill be amended by striking out line 3 on page 23 and substituting the following:

Certification obtained by fraud.

43. (1) Where the Board *is satisfied*

Dr. DAVIDSON: This was a small change that was proposed earlier as we proceeded with the first reading, Mr. Chairman, and which we have incorporated now in the bill. The board has to be satisfied that there was fraud, rather than keep the wording "Where...it appears to the Board".

Amendment agreed to.

On clause 49—*Notice to bargain collectively.*

Mr. WALKER: I move that subclause (1) of clause 49 of the said Bill be amended by striking out lines 26 to 28 on page 24 and substituting the following:

Notice to bargain collectively.

49. (1) Where the Board has certified an employee organization as bargaining agent for a bargaining unit and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36,

Dr. DAVIDSON: Incidentally, Mr. Chairman, clause 49 was not stood when the committee previously dealt with it, and I would ask their permission...

The JOINT CHAIRMAN: By leave of the Committee, because we had passed clause 49. Is that agreed?

Some hon. MEMBERS: Agreed.

Dr. DAVIDSON: This is the clause, Mr. Chairman, in which it is provided that the process for resolution of a dispute must be indicated by the bargaining unit before notice to bargain can be given.

Mr. LEWIS: The two are connected, but I would like to be sure about the three-year thing before... Well, what is involved is whether this applies only to the first time a bargaining unit is certified, or whether it is intended to apply to all negotiations of that bargaining unit with the employer.

Dr. DAVIDSON: Mr. Chairman, it seems to me that, quite apart from whether the employee organization has the option on each occasion, or on each second occasion, this clearly means that on each occasion when notice to bargain is being given, under circumstances which offer the option to the bargaining unit to alter its choice, it must on that occasion specify which process it is going to follow before notice to bargain can commence.

Mr. LEWIS: I really do not want to be difficult, but I have this problem, Mr. Chairman, and I, therefore, ask the Committee if it would be good enough to stand this.

If Dr. Davidson and his advisers insist on—and the Committee supports—the three-year situation, then, I am not personally prepared to agree that they have to make the choice without any experience in negotiation at all. What Clause 49 means, if I read it correctly—and I think I do—is that before they start negotiating at all—because the present regime means that you get certain units determined and certain dates determined and so on, according to the schedules which we have passed—before they have had any experience in negotiation, the union has got to make its choice. I was impressed by the argument that it is good for both sides to know where they are going before they start negotiating, and, therefore, I would be prepared now—speaking for myself—to accept this proposition, if they can do that in each set of negotiations; so that in the second set of negotiations they will have had the experience of the first set of negotiations. But if you ask me to support this so that it binds them for two sets of negotiations without any experience, I am not prepared to do it.

Mr. BELL (*Carleton*): Well, I think, Mr. Chairman that this section should stand. I am impressed by what Mr. Lewis says. I think the combined effect of the three years and this section might easily lead to unholy confusion.

The JOINT CHAIRMAN (*Mr. Richard*): The suggested amendment to Clause 49 stands.

On clause 51—*Continuation in force of terms and conditions of employment.*

Mr. WALKER: I move that clause 51 of the said Bill be amended (a) by striking out lines 25 to 27 on page 25 and substituting the following:

referral thereof to arbitration, and

(b) by striking out line 41 on page 25 and substituting the following:

Act and a collective agreement has been entered into or an arbitral award has been

An hon. MEMBER: This is another clause that was carried.

Mr. BELL (*Carleton*): What is the point of this amendment?

Dr. DAVIDSON: Mr. Love could deal with this one.

Mr. LEWIS: Was this a negotiating relationship—

Mr. LOVE: This, Mr. Chairman, is a change consequent upon the earlier decision of the committee to get rid of the references to the termination of the negotiating relationship. It is simply a technical change that is consistent with the position the committee has taken.

Mr. LEWIS: Do you feel it follows on the deletion of the next clause, 52?

Mr. LOVE: That is right, sir.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 52 is struck out.

Mr. WALKER: I so move, that the said Bill be further amended (a) by striking out clause 52 thereof; and

(b) by renumbering clauses 53 and 54 as clauses 52 and 53, respectively.

Some hon. MEMBERS: Hear, hear.

The JOINT CHAIRMAN (*Mr. Richard*): And clauses 53 and 54 will be re-numbered as clauses 52 and 53.

Mr. OLLIVIER: You deleted another one before. Would not that—?

Mr. LOVE: It will be picked up.

Mr. LEWIS: I think there will be some renumbering required.

Mr. BELL (*Carleton*): We pick it up in the next one.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 55.

On clause 55—*Authority of Minister to enter into collective agreement.*

Mr. WALKER: I so move, that clause 55 of the said Bill be amended (a) by striking out lines 37 to 39 on page 26 and substituting the following:

Authority of Treasury Board to enter into collective agreement.

54. The Treasury Board may, *in such manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the Financial Administration Act,* enter into a; and

(b) by renumbering subclause (2) thereof as clause 55.

Mr. WALKER: Excuse me, Mr. Chairman; did we pass clause 53 previously? I show it as standing.

The JOINT CHAIRMAN (*Mr. Richard*): Yes; it was carried.

Mr. BELL (*Carleton*): I do not have with me the Financial Administration Act. What is the effect of section (3)...

Dr. DAVIDSON: Section (3) of the Financial Administration Act is the new section (3) that has been approved by parliament as part of the Government Organization Act. In effect, it provides that the Treasury Board may develop its own rules and procedures. "Subject to this Act and any directions of the governor in council the Treasury Board may determine its own rules and procedures." That is section (3) subsection (4).

Have you got it, Mr. Bell?

Mr. BELL (*Carleton*): Well it is not in Bill No. 182. There is no amendment to—

Dr. DAVIDSON: No. We are talking about the Government Organization Act.

Mr. BELL (*Carleton*): Oh, the Government Organization Act, yes.

Dr. DAVIDSON: Yes; that was approved on the 16th of June, 1966.

The Government Organization Act, you may recall, amends the Financial Administration Act by re-enacting sections (3) and (4) of the Financial Administration Act. In the re-enactment of section (3) it is provided that there shall be a committee of the Queen's Privy Council of Canada, called the Treasury Board, that the committee shall consist of such and such ministers and members of the Queen's Privy Council, that the governor in council may nominate additional members to serve as alternates, and that, subject to this act—that is, the Financial Administration Act—and any directions of the Governor in Council, the Treasury Board may determine its own rules and procedures.

In accordance with this, and in accordance with the further provision which says that:

> The President of the Treasury Board shall hold office during pleasure and shall preside over meetings of the Board and shall in the intervals between meetings of the Board exercise or perform such of the powers, duties or functions of the Board as the Board may, with the approval of the Governor in Council, determine

it is contemplated that the Treasury Board, in accordance with the authorities already given to it by these provisions, shall determine, in its own rules and procedures, the mechanism by which it will itself, or through the President of the Treasury Board, authorize the entry into effect of these agreements.

Therefore, if the present law, as approved by Parliament, authorizes the Treasury Board to give a signing authority to the President of the Treasury Board, or to an officer of the Board, it may, by providing for this in its rules and procedures, and by obtaining the approval of the Governor in Council to make that provision in its rules, cover this situation.

What we wish to avoid, first of all, is any derogation from the authority of the Board. At the same time, we do not wish to be in a position where, in a negotiating situation which may be taking place in Halifax, or in Vancouver or in Montreal or in any place as well as Ottawa, when we have reached a point of agreement with the bargaining agent that we are dealing with, we will have to say "We are so sorry, but we will now have to take this back to get the signature of the President of the Treasury Board, or of the Treasury Board, before we can say that we will agree to the terms that we have negotiated".

We contemplate a formal procedure which is laid down in the Treasury Board's rules of procedure, which is consistent with the other procedures by which the Treasury Board delegates, or authorizes its authority to be used by a minister or an officer; and we would contemplate also a formal instrument of authority being issued, which would make it clear that the person who is signing the agreement has been authorized by a formal instrument to do so on behalf of the Treasury Board.

Mr. BELL (*Carleton*): Mr. Chairman, the Heeney Report and the bill as originally drafted made all agreements subject to the approval of the Governor in Council. That approval is now no longer necessary. I think that there is some incongruity in what we decided earlier this morning, that in order to fix the remuneration of a conciliator—a small matter such as that—the Governor in Council must be consulted. But in the main agreement the Governor in Council is totally abandoned.

Mr. KNOWLES: Conciliators do not enjoy collective bargaining!

Amendment agreed to.

On clause 56—*Time within which agreement to be implemented.*

Mr. WALKER: I move that subclause (2) of clause 56 of the said Bill be amended by striking out line 38 on page 27 and substituting the following: Schedule C.

Amendment agreed to.

On clause 57—*When agreement effective.*

Mr. WALKER: I move that clause 57 of the said Bill be amended (a) by striking out line 4 on page 28 and substituting the following: the collective agreement shall, subject to *subsection (5) of section 26*, be;

(b) by striking out subclauses (3) and (4) thereof; and

(c) by striking out line 24 on page 28 and substituting the following:

Saving provision where agreement provides for amendment.

(3) Nothing in subsection (2) shall be

Mr. LEWIS: What is subsection (5) of section 26, to remind us?

Dr. DAVIDSON: That has to do with the times specified for the commencement of collective bargaining during the initial certification period.

Could I, Mr. Chairman, pass over (a) competely and draw the committee's attention to the fact that (b) is to be deleted from the amendment. This has been taken care of by clause 26. I am sorry. May I correct myself? Subparagraph (b) stands, but the reason for the deletions of subclauses (3) and (4) is that these matters are picked up and taken care of in clause 26.

Amendment agreed to.

On clause 58—*Binding effect of agreement.*

Mr. WALKER: I so move that clause 58 of the said Bill be amended by striking out lines 31 and 32 on page 28 and substituting the following: purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the em—

Mr. BELL (*Carleton*): What was the point of this amendment? Would you refresh my memory.

Mr. LEWIS: This is the constituent unions of a council. Why they do not say that, I do not know.

Mr. BELL (*Carleton*): I am concerned whether it may say something more than Mr. Lewis has just mentioned.

Mr. LEWIS: I think that is what is intended, and I think the wording is awkward, with great respect.

Dr. DAVIDSON:

> A collective agreement is, subject to and for the purposes of this Act, binding on the employer and the bargaining agent that is a party thereto...

Mr. LEWIS: You have picked up the language which sets up the council, and in the case of a council—

Mr. WALKER: "Subject to and for the purposes of this Act, binding on the employer". You take out lines 31 and 32.

Mr. LEWIS: Which is the clause which deals with the council?

Dr. DAVIDSON: I must say that I am not familiar with the reasons why it was considered that a reference to the employee organizations was not considered to be in order here.

Mr. BELL (*Carleton*): I am just concerned that this may say more than is intended.

Mr. LEWIS: You have departments, divisions and so on. Why could you not just simply say "and in the case where a council of employee organizations is the bargaining agent".

Dr. DAVIDSON: Could I ask the Committee's view of a question? I am not certain that this entered into this consideration at all, but where a bargaining agent is bound, are the local units of the bargaining agents bound by that fact?

Mr. BELL (*Carleton*): I would have thought so.

Dr. DAVIDSON: I just do not know, and I am trying to examine myself why these words were chosen. Could we stand this, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): The suggested amendment to Clause 58 stands.

On clause 60—*Public Service Arbitration Tribunal established.*

Mr. BELL (*Carleton*): I think the question here was this matter of the "unanimous" recommendation of the Board in subclause (2).

Mr. WALKER: We did not know—

Mr. BELL (*Carleton*): And, in relation to quorum, what does "unanimous" mean. That was our query.

Mr. RODDICK: Mr. Chairman, in my discussion with the draftsman he indicated that in his view there was no doubt that it applied to a meeting of the board upon which it was qualified to make a decision; and that no other interpretation could be put upon the word "unanimous". It did not mean all the members who are appointed to the board.

Amendment to subclause (2) of clause 60 agreed to.

On clause 63—*Request for Arbitration.*

Mr. WALKER: I so move that subclause (1) of clause 63 of the said Bill be amended (a) by striking out line 39 on page 30 and substituting the following: writing to the *Secretary of the Board* given; and

(b) by striking out paragraph (a) thereof and substituting the following:

> (a) at any time, where *no collective* agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or

Dr. DAVIDSON: Could I ask Mr. Love to take over from here?

Mr. LOVE: Mr. Chairman, clause (a) represents one of the functions that was previously allocated to the chairman of the board. This is a relatively minor function—it is really a post office function—which, on review, at the request of the Committee, we felt could be transferred from the chairman of the board to the secretary of the board.

There will be a number of other suggestions of a similar kind incorporated in later proposed amendments. This clause contemplates a situation in which either party is, by notice in writing, requesting arbitration. It is proposed that the notice should now be directed to the secretary rather than the Chairman.

(Translation)

The JOINT CHAIRMAN (*Mr. Richard*): I am not very qualified, but somebody made a suggestion to me in regard to 63—1 in the French text, where we used the expression "aucune". We should perhaps be sure as to the legal terminology because it does not seem to resemble "any" in English.

(English)

Dr. DAVIDSON: This is being checked, Mr. Chairman. We will have to report back on that.

The JOINT CHAIRMAN (*Mr. Richard*): On the French text we will have a further report.

Mr. KNOWLES: What about (b) of the proposed amendment to clause 63.

Mr. LEWIS: That follows the deletion of the words "negotiation..."

Mr. KNOWLES: Right.

Amendment agreed to.

On clause 64—*Request for arbitration by other party.*

Mr. WALKER: I so move that clause 64 of the said Bill be amended by striking out subclause (1) and substituting the following:

Request for arbitration by other party.

64. (1) Where notice under section 63 is received by the Secretary of the Board from any party requesting arbitration, the Secretary shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Secretary, by notice in writing of any matter, additional to the matters specified in the notice under section 63, that was a subject of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect

of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration.

Mr. LOVE: Mr. Chairman, this is really a companion piece to the one we have just discussed: it would place on the secretary the responsibility for receiving notice from the other party in a situation where the first party had requested arbitration. It also gets rid of the phrase "termination of the negotiating relationship".

Amendment agreed to.

Mr. WALKER: What about clause 65? We carried it, but they were going to do some renumbering.

Mr. LOVE: Mr. Chairman, the draftsman has found it unnecessary to add an additional clause after 65. This is picked up later, I believe. It is picked up in clause 67.

The JOINT CHAIRMAN (*Mr. Richard*): On clause 67—*Matters constituting terms of reference*

Mr. WALKER: I move that clause 67 of the said Bill be amended by adding thereto the following subclause:

Where agreement subsequently reached.

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof.

Mr. WALKER: What about the renumbering? I have a note here that we had to do some renumbering in clause 65. We were making reference to clauses 63 and 64. I do not recall the circumstances—

Mr. LEWIS: I think we stood it because we were looking again at clauses 63 and 64.

The JOINT CHAIRMAN (*Mr. Richard*): It was carried. We are now dealing with clause 67.

Mr. BELL (*Carleton*): Would you refresh my memory, Mr. Love on what the problem was here?

Mr. LOVE: Mr. Chairman, the way the bill was originally drafted it would be impossible for the parties to enter into a collective agreement, or a supplementary collective agreement, after a request for arbitration had been made.

This clause is designed to make it clear that the parties are free to enter into a collective agreement after the application has been made, but before the arbitral award is rendered.

Mr. LEWIS: This is settlement in judge's chambers.

Amendment agreed to.

On clause 68—*Factors to be taken into account by Arbitration Tribunal.*

Mr. WALKER: I move that clause 68 of the said Bill be amended by striking out line 20 on page 32 and substituting the following: the Arbitration Tribunal shall consider

Amendment agreed to.

On Clause 70—*Subject matter of arbitral award*

Mr. WALKER: I move that clause 70 of the said Bill be amended (a) by striking out lines 24 to 26 on page 33 and substituting the following: employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof: and (b) by striking out subclause (4) thereof and substituting the following:

Award to be limited to bargaining unit.

(4) An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

Mr. LEWIS: Here I go again, Mr. Chairman. I am still worried about subclause (3). I had a thought on this, too, which I want to come to in a moment. May I know why "lay-off" is in there as one of the matters excluded from bargaining? What do you mean by "lay-off as distinct from "release of employees"?

Mr. LOVE: Mr. Chairman, "lay-off" means what it does in the normal industrial context, but in the public service the conditions governing lay-off are dealt with under the Public Service Employment Act; and the order of lay-off and recall is governed, as I understand it, by the merit system.

In the case of release, we are talking here about a release on grounds of incompetence or incapacity that is subject to the authority of the public service commission rather than a release resulting from disciplinary action which, in this package of legislation, is referred to as a discharge.

Mr. LEWIS: Why should not the lay-off procedures be subject to bargaining as distinct from promotion, demotion and transfer? If you have a base that is closed down somewhere, or something is closed down, and you have people laid off, why can not the order which people are to be laid off and recalled, and so on be subject to normal bargaining?

Mr. LOVE: Mr. Chairman, I think the answer is a fairly simple one. The conditions governing lay-off are placed, and have traditionally been placed, within the authority of the public service commission; in this designation the matter is dealt with in clause 29 of Bill No. C-181. I think that is the answer, that this has been regarded, and is in Bill No. C-181 regarded, as part of the merit system.

Mr. LEWIS: Mr. Chairman, I am still very unhappy about this large area of normal collective bargaining being taken out, but again this is the value of Committee work as distinct from speeches in the other place and I mean my place, Senator Fergusson.

I am impressed by the desire to retain the merit system and to have it retained in one set of hands, namely, the Public Service Commission.

Therefore, forgive me if I appear to be out of order.

I would like to ask you, Mr. Chairman, whether—because I was away on a number of occasions—we have passed clause 12 of Bill No. C-181? Briefly, what I have in mind, Mr. Chairman if the Committee will indulge me for a moment is what I think is an appropriate compromise on this issue, and that is to include in the present Bill No. C-181 a variant of section 7 of the old Civil Service Act. If the Committee could agree to reopen clause 12 of Bill No. C-181—and I raise it here because it deals with this matter of promotion and demotion—I would at that time suggest and I want to test this with Dr. Davidson and Mr. Love and the others a new subsection (3) to clause 12 of Bill No. C-181, which is an adaptation of section 7 of the old Civil Service Act which would read something like this: "The Commission shall from time to time consult with representatives of bargaining agents certified under the Public Service Staff Relations Act with respect to selection standards and with respect to standards governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or whenever, in the opinion of the Commission, such consultation is necessary or desirable."

What I have in mind, Mr. Chairman, is that if we take this area out of collective bargaining let us put something in the Public Service Employment Act which makes it obligatory on the Public Service Commission, at the request of the bargaining agent, to consult with it on the standards which it sets up and employs. Now, I mean only consult. I am not saying that they can negotiate. As I say, this is merely an adaptation of section 7 of the old Civil Service Act, so that it is not introducing anything revolutionary; but I think that at least the bargaining agents would be given statutory right to talk with the Public Service Commission about the standards affecting the merit system at any of its steps.

While I would still feel that I could make a long speech about the desirability of leaving these matters in bargaining subject in some way to the Public Service Commission, I think, if the other can be done, perhaps we can let two or three years of experience tell us whether it works, or what should be done. What does Dr. Davidson think about that?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, I do not know whether you were here when we discussed clause 12 of Bill No. C-181, but those very points were brought up at that time. It is not a new suggestion.

Mr. WALKER: Mr. Chairman, Mr. Lewis is asking for a printed affirmation of an informal procedure that goes on now, if I remember Mr. Cloutier's testimony before the Committee.

Mr. LEWIS: What I am saying is that this exclusion in subclause (3) of clause 70 is unpalatable to me, and I am sure it is unpalatable to the organizations, because all of them, if my memory serves me right, objected to it. I do not mind saying to the Committee that I have consulted some of them about whether the suggestion that I have just made to the Committee would meet some of their objections and they have informed me that it would and that it would be a step in the right direction.

Therefore, if Dr. Davidson sees no objection to that kind of approach, then, at the appropriate time, I, or somebody, could move that amendment to the other Bill.

Mr. BELL (*Carleton*): Perhaps it would be a good idea to have Dr. Davidson meditate on this over the lunch hour.

The JOINT CHAIRMAN (*Mr. Richard*): Would it not be better for Dr. Davidson to refrain from expressing his own opinion on this point until after he has talked to Mr. Cloutier and the Civil Service Commission?

Dr. DAVIDSON: I will be glad to have a word with them and report—what I think is more important in the circumstances—their reaction to this suggestion.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, as a point of personal information, I would like to know if, in case of the lay-off, according to the merit system, you would be able to supply to the trade union or employee organization a recall list based on the qualifications of the employees so as to eliminate any discrimination?

(*English*)

Dr. DAVIDSON: Mr. Chairman, this would be governed entirely by the procedures established by the Public Service Commission under the Public Service Employment Act.

(*Translation*)

Mr. ÉMARD: Yes, I understand that quite well. But what I would like to know is, according to the merit system, would it be possible to do this in a plant or an industry? In the case of a lay-off, there is always a recall list which is established according to seniority. If the employee organizations were to ask for this during the course of negotiation, would it be possible, under the present merit system to establish a list of this type, based on qualifications of the employees in one particular position, for instance. I am thinking of sweepers. If you had twenty-five sweepers who were laid off, could you establish a recall list to indicate which ones would be recalled, based on their qualifications, because the merit system is based on the qualifications of employees?

(*English*)

Dr. DAVIDSON: Mr. Chairman, I am sorry; I will have to find out from the Civil Service Commission what their policy is.

(*Translation*)

Mr. LEWIS: There is a list of this type at all times.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment to clause 70 carry?

Amendment agreed to.

On clause 71—*Award to be signed by chairman*

Mr. WALKER: I move that clause 71 of the said Bill be amended by striking out subclause (2) and substituting the following:

Decision.

(2) A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof, the decision of the chairman of the Arbitration Tribunal, shall be the arbitral award in respect of the matters in dispute.

Mr. LOVE: Mr. Chairman, this represents an attempt to deal with the concern of the Committee about the manner in which the arbitration tribunal would arrive at a decision. The intent of the proposed amendment is to ensure that majority rule would apply; except, of course, where there was no majority, in which case the decision of the chairman would be the decision of the tribunal.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We stand adjourned until—

Mr. KNOWLES: Before we adjourn had we not better face the difficulties that confront us about meeting later today? In other words, I am suggesting that we go on a bit longer, because both this afternoon and this evening some amendments are going to be moved and there are going to be votes in the House without bells ringing. I do not mind if the Liberals are away, but they probably want to be there.

The JOINT CHAIRMAN (*Mr. Richard*): You are going to find some members moving out of this meeting pretty soon. As far as I am concerned, I am willing to sit longer.

Mr. LEWIS: Whether or not we sit longer it will not be possible, surely, to have a meeting this afternoon.

The JOINT CHAIRMAN (*Mr. Richard*): Or in the evening?

Mr. KNOWLES: It may well be. We are on the medicare bill. We are in committee of the whole. There are amendments being moved, and votes are being taken without the bells ringing.

Mr. LANGLOIS: Let us try to finish it, Mr. Chairman.

Mr. KNOWLES: Can we give it another 15 minutes?

The JOINT CHAIRMAN (*Mr. Richard*): Yes; I am willing.

On clause 72—*Binding effect of arbitral award*

Mr. WALKER: I move that clause 72 of the said Bill be amended (a) by striking out lines 16 and 17 on page 34 and substituting the following: purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the employees; and (b) by striking out lines 27 and 28 on page 34 and substituting the following:

on the parties but not before,

(a) in the case of an arbitral award rendered during the initial certification period, a day four months before the day specified in Column I of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) *in any other case*, the day on which notice to bargain collectively was given by either party.

Mr. LOVE: Mr. Chairman, subparagraph (a) is comparable to the proposed amendment to clause 58, which has been stood over again for further examination. I assume this one would also stand.

Subparagraph (a) of clause 72 stands.

Mr. LOVE: In item (b), Mr. Chairman, the wording of the original text of the bill made it clear that an arbitral award could not call for retroactivity beyond the date on which notice to bargain was given.

On review of this, we felt that it should be possible, during the initial certification period, for an award to have retroactivity four months before the date specified in column 1 of Schedule B on which notice to bargain may be given. The purpose of the change would be to protect the capacity of the parties, and particularly the capacity of the government, to carry out undertakings already given with respect to protection of the normal pay review date as a date on which pay increases may be made effective.

Mr. LEWIS: And the four months applies in each one of those?

Mr. LOVE: That is right.

Mr. LEWIS: That covers the gap between the pay review date and the date of the collective agreement.

Mr. LOVE: That is right, Mr. Chairman. In the case of the Operational Category, for example, this would make it possible for an award to call for retroactive payment to October 1, 1966.

Amendment to subparagraph (b) of clause 72 agreed to.

On clause 73—*Terms of arbitral award.*

Mr. WALKER: I move that clause 73 of the said Bill be amended by striking out subclauses (2) and (3) and substituting the following:

Limitation on term of award.

(2) *Subject to subsection (5) of section 26,* no arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (a) or (b) of subsection (1), shall be for a term of less than one year *or more than two years* from the day on and from which it becomes binding on the parties.

Mr. LOVE: Mr. Chairman, this is a proposed amendment on which there was a good deal of consensus in the Committee the last time round.

In effect it says that, where the parties have not specified a term of an agreement, and where the arbitration tribunal has no means of guidance in the form of a collective agreement to which the arbitral award would relate, the term shall be for a period no less than one year or more than two years. The original bill contained the standard clause referring to a period not less than one year, which is the normal provision in collective bargaining legislation, but I believe that one or more of the employee organizations appearing before the Committee said that in those circumstances there should be a restriction the other way as well.

Amendment agreed to.

On clause 75—*Reference back to Arbitration Tribunal*

Mr. WALKER: I move that the said Bill be further amended by striking out clause 75 and substituting the following:

Reference back to Arbitration Tribunal.

75. Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the

matter back to the Arbitration Tribunal, and the Arbitration Tribunal shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 65.

Mr. LOVE: This is a provision for reference back to the arbitration tribunal in circumstances where it appears to one of the parties that the tribunal has failed to deal with one of the matters referred to it.

Mr. LEWIS: It is up to the parties rather than to the chairman?

Mr. LOVE: That is right.

Amendment agreed to.

On clause 78—*Establishment of conciliation board where requested by either party.*

Mr. WALKER: I move that clause 78 of the said Bill be amended (a) by striking out line 22 on page 36 and substituting the following: under section 52 has made a final report to the ; and

(b) by striking out line 40 on page 36 and substituting the following: parties are unlikely to reach agreement, but before establishing such a board the Chairman shall notify the parties of his intention to do so.

Amendment agreed to.

On clause 79—*Designated employees.*

Mr. WALKER: I move that subclause (5) of clause 79 of the said Bill be amended by striking out line 41 on page 37 and substituting the following: so informed by the *Board.*

Amendment agreed to.

On clause 83—*Terms of reference of conciliation board.*

Mr. WALKER: I move that clause 83 of the said Bill be amended by striking out line 3 on page 39 and substituting the following: tion a statement setting forth the

Mr. LOVE: Mr. Chairman, this has the effect of taking out the words "prepared by him" when, in effect, the terms of reference of a conciliation board are being referred to the board.

It was proposed under the original wording that the terms of reference should be prepared by the chairman. This takes out the words "prepared by him," and makes the provision more consistent with provisions of this kind in labour law.

Amendment agreed to.

On clause 94—*Notice to specify whether named adjudicator, etc.*

Mr. WALKER: I move that clause 94 of the said Bill be amended (a) by striking out line 2 on page 43 and substituting the following: adjudication, the aggrieved employee shall, in the manner pre- ;

(b) by striking out line 10 on page 43 and substituting the following: adjudication and the aggrieved employee has notified the chief ; and

(c) by striking out line 19 on page 43 and substituting the following: tion has been requested by the aggrieved employee

Mr. LOVE: Mr. Chairman, the amendment to clause 94 is simply a matter of substituting the word "employee" where the word "person" had inadvertantly appeared in the original bill.

Members will recall that the word "employee" is defined, for purposes of the grievance sections, as including a person who, but for the fact that he has been excluded as a person employed in a managerial capacity, would be an employee. These are really technical amendments.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, what happened to clause 92? I think it was just about the wording "unanimous recommendation of the Board". Now that that has been settled I suppose we should pass clause 92.

Dr. DAVIDSON: This is the same issue as on the previous—

The JOINT CHAIRMAN (*Mr. Richard*): Yes; the word "unanimous."

Does clause 92 carry?

Some hon. MEMBERS: Agreed.

Mr. WALKER: Excuse me; what did we do with clauses 95 and 96? I understood that we stood clauses 95 and 96.

The JOINT CHAIRMAN (*Mr. Richard*): Yes; clauses 95, 96, 97 and 99.

Dr. DAVIDSON: The question here, Mr. Chairman, as I recall it, was whether or not certain steps in the negotiation procedure could be skipped by mutual agreement.

Mr. WALKER: Yes; that is right.

Mr. LOVE: Mr. Chairman, we have taken—

The JOINT CHAIRMAN (*Mr. Richard*): What clause are you talking about?

Dr. DAVIDSON: Clause 95.

Mr. LOVE: This point has been taken up with the legal officers, who have pointed out that clause 99 authorizes the board to make regulations relating to the circumstances in which any level below the final level may be eliminated.

The legal officers felt that this provided for the kind of flexibility that the Committee was concerned about.

Mr. WALKER: Clause 95 (1) is a very binding and mandatory sentence. Perhaps the problem is covered in clause 99. Do these two clauses stand alone?

Mr. RODDICK: Mr. Chairman, the need to retain the final level in all circumstances before a grievance may be referred to adjudication is there, in effect, to permit the final authority, who acts for the employer, perhaps to agree and therefore resolve the problem. For a party below the final level of the grievance procedure to be able to deny the grievance and to force the employee to take his grievance to the adjudicator, is to fail to use the highest court within the employer.

Mr. LEWIS: With great respect to the law officers who advised the officers here, I just do not like two contradictory provisions in a law. If clause 95 (1) says that no grievance shall be referred to adjudication unless the entire grievance procedure is followed, I say, with great respect, that you cannot say that you can in clause 99 (1) (d).

If that is what you have in mind, may I suggest a very simple amendment, saying: "subject to clause 99 (1) (d), no grievance shall be referred to adjudication..."

Mr. LOVE: I shall be happy to take that up, Mr. Chairman, as a suggestion.

Mr. LEWIS: You might tie the two in, so that you do not have two contradictory clauses.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clauses 95 and 99.

Mr. KNOWLES: With regard to clause 96, we were questioning the phrase "employee organization" where it appears in lines 24, 25 and 26. The suggestion was made the other day that perhaps it should be changed to "bargaining agent."

The JOINT CHAIRMAN (*Mr. Richard*): That has been done by amendment.

Mr. KNOWLES: It was done last time?

Mr. LEWIS: Subclause (5)?

The JOINT CHAIRMAN (*Mr. Richard*): In subclause (5) the word "employee" should be replaced by the words "bargaining agent."

Mr. LEWIS: You mean the words "employee organization."

Mr. LOVE: Mr. Chairman, I am sorry; I now recall the discussion. Members may remember that a number of questions were raised with respect to clause 96 (1). The point here is that under the provisions of clauses 96 (1) and 96 (3) the decision of an adjudicator must be filed with the board even before it goes to the parties. The only purpose we had in mind, I think, was that it would be desirable to have a source of reference material under the jurisdiction of the board to which the parties could have access; and I think there was a suggestion that clause 96 (3), particularly, should be changed in such a way that the adjudication decision would be sent directly to the parties, with a copy to the Board. The law officers are still considering that, and when they have worked it out we will be coming forward with a proposed amendment to clause 96. We do not have it this morning.

The JOINT CHAIRMAN (*Mr. Richard*): What about clause 97?

Mr. LEWIS: The point there, as I remember it, was about placing on the aggrieved employee—

Mr. LOVE: Mr. Chairman, once again this is a matter which is still under consideration. We do not have a proposed amendment at this time, but we think we will have one shortly.

Mr. LEWIS: What about clause 99?

Mr. LOVE: The same thing is true of clause 99, Mr. Chairman.

On clause 103—*Application for declaration of strike as unlawful.*

Mr. WALKER: I move that clause 103 of the said Bill be amended (a) by striking out line 44 on page 4 and substituting the following: lawful and the Board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration. ; and

(b) by striking out line 8 on page 48 and substituting the following: Board, after affording an opportunity to the employer to be heard on the application, may make such a declaration.

Mr. LOVE: Mr. Chairman, the proposed amendment to clause 103 would simply provide the other party with an opportunity to be heard on an application to the board to declare a strike illegal or legal.

Mr. LEWIS: This comes only from the employer in this case.

Mr. LOVE: There are two sections, Mr. Chairman.

Mr. LEWIS: What about subclause (1)?

Mr. LOVE: You are quite right; it is subclause (1).

Mr. LEWIS: And then you have subclause (2).

Amendment agreed to.

On clause 109—*Oath or affirmation to be taken.*

Mr. WALKER: I move that clause 109 of the said Bill be amended by striking out line 11 on page 49 and substituting the following: "form prescribed in Schedule D before any person authorized."

Mr. LOVE: Mr. Chairman, the proposed amendment to clause 109 is simply to change the designation of the schedule.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Next we have the proposed amendment to Schedule C.

Mr. LEWIS: What happened to clause 110?

Mr. LOVE: Mr. Chairman, this matter is still being considered, although the advice we have to date suggests that it would be desirable to retain the provision simply to ensure that somebody has a clear-cut responsibility to provide these third-party instruments with quarters and staff.

There is a similar provision in the Industrial Relations and Disputes Investigation Act, section 66, which places this obligation on the Minister.

Mr. KNOWLES: The board shall do it whether the Board has any quarters or not.

Mr. LOVE: This really means that the board would have the responsibility of doing battle with the Treasury Board and the Department of Public Works and the other elements of the bureaucracy, in order to insure—

Mr. LEWIS: I think that anybody who is going to do battle with them should be kept!

Mr. WALKER: What did you do with clause 113?

Mr. LOVE: Mr. Chairman, the legal officers are still struggling with clause 113.

The JOINT CHAIRMAN (*Mr. Richard*): The last suggested amendment is to Schedule C.

Mr. WALKER: I move that the said Bill be further amended by striking out Schedule C and substituting the following:

"SCHEDULE C.

(Section 56)

Government Employees Compensation Act

Government Vessels Discipline Act

Public Service Employment Act

Public Service Superannuation Act"

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, when do we meet?

Mr. LEWIS: We have made real progress, Mr. Chairman. Why do we not adjourn until Thursday morning?

The JOINT CHAIRMAN (*Mr. Richard*): Let us adjourn till Thursday morning at ten o'clock.

Mr. LEWIS: Do we have very much left?

Dr. DAVIDSON: We still have Bill No. C-182 left.

Mr. LEWIS: Mr. Chairman, may I suggest that you keep in touch with Mr. Béchard. There are several of us on both Committees, and on mornings when the other committee is not meeting we can meet at 10 o'clock; but when that committee is meeting perhaps you would delay it a bit.

The JOINT CHAIRMAN (*Mr. Richard*): All right.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

Copies and complete sets are available to the public by subscription to the Queen's Printer. Cost varies according to Committees.

Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 23

THURSDAY, DECEMBER 1, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, *Treasury Board;* Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service; Mr. J. J. Carson, Chairman, Civil Service Commission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25389—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:
Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Crossman,	Mr. Patterson,
Mr. Deschatelets,	Mr. Émard,	Mr. Rochon,
Mrs. Fergusson,	Mr. Éthier,	Mr. Sherman,
Mr. Hastings,	Mr. Fairweather,	Mr. Simard,
Mr. MacKenzie,	[1]Mr. Hymmen,	Mr. Tardif,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Isabelle,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

[1] Replaced Mr. Chatwood on November 29, 1966.

ORDER OF REFERENCE

(House of Commons)

TUESDAY, November 29, 1966.

Ordered,—That the name of Mr. Hymmen be substituted for that of Mr. Chatwood on the Special Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,

The Clerk of the House of Commons.

25389—1½

MINUTES OF PROCEEDINGS

THURSDAY, December 1, 1966.
(41)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.47 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Deschatelets, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Chatterton, Émard, Hymmen, Knowles, Lewis, Madill, McCleave, Patterson, Richard, Tardif, Walker (11).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service; Messrs. J. J. Carson, Chairman, J. Charron, Secretary, Civil Service Commission.

The Committee considered clauses of Bill C-170 allowed to stand at previous meetings as follows:

Clause 1, stand; Paragraph 2(o), carried as amended (see motion below); sub-paragraph 2 (u) (iv), carried as amended (see motion below); Sub-paragraph 2(u) (vii), carried as amended (see motion below); Clause 5, carried as amended (see motion below); Clause 7, carried as amended (see motion below); Clause 13 in French version, carried as amended (see motion below); Clause 18, stand; Paragraph 19(1) (k), carried as amended (see motion below); Clause 23, carried as amended (see motion below); Clause 28, stand; Clause 34, carried as amended (see motion below); Clause 37, carried as amended (see motion below); Clause 38, carried as amended (see motion below); Sub-clause 39(2), stand; Sub-clause 39(3), carried as amended (see motion below); Clause 44, carried in original words (see motion below); Sub-clause 49(1), carried as amended (see motion below); Clause 58, carried as amended (see motion below); Clause 63 in French version, carried as amended (see motion below); Sub-clause 72(1), carried; Clause 95, carried as amended (see motion below); Clause 96, carried as amended (see motion below); Clause 97, carried as amended (see motion below); Clause 99, stand; Sub-clause 113(2), carried as amended (see motion below); Clause 114, carried as amended (see motion below).

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 2 of the said Bill be amended by striking out paragraph (o) and substituting the following therefor:

"(o) "employer" means Her Majesty in right of Canada as represented by,

(i) in the case of any portion of the public service of Canada specified in Part I of Schedule A, the Treasury Board, and

(ii) in the case of any portion of the public service of Canada specified in Part II of Schedule A, the separate employer concerned;".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-paragraph 2(u)(iv) be amended by striking out line 33 and substituting the following therefor:

"administrator or who has duties that cause him to".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-paragraph 2(u)(vii) be amended by striking out lines 45 to 49 inclusive and substituting the following therefor:

"paragraph (iii), (iv), (v) or (vi), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;".

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 5 and marginal note be struck out and the following substituted therefor:

"Authority to transfer within Schedule A.

5. (1) The Governor in Council may by order delete the name of any portion of the public service of Canada specified from time to time in Schedule A from Part I or Part II thereof, and shall thereupon add the name of that portion to the other part of Schedule A, except that where that portion

(a) no longer has any employees, or

(b) is a corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*,

he is not required to add the name of that portion to the other part of Schedule A.

Where corporation deleted from one part of Schedule A and not added to other part.

(2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act* and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 7 be struck out and the following substituted therefor:

"7. Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service and to assign duties to and classify positions therein."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 13(1) in the French version of Bill C-170 be amended by striking out lines 9 and 10 and substituting the following therefor:

"13. (1) Une personne n'est pas admissible à occuper un poste de membre de la Commission si".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That paragraph 19(1)(k) be amended by striking out lines 24 to 29 inclusive and substituting the following therefor:

"(k) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28; and".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 23 be struck out and the following substituted therefor:

"23. Where any question of law or jurisdiction arises in connection with a matter that has been referred to the Arbitration Tribunal or to an adjudicator pursuant to this Act, the Arbitration Tribunal or adjudicator, as the case may be, or either of the parties may refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That paragraph 34(d) be struck out and the following substituted therefor:

"(d) is satisfied that the persons representing the employees organization in the making of the application have been duly authorized to make the application,".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 37 together with marginal notes be struck out and the following substituted therefor:

"Process for resolution of disputes to be recorded."

37. (1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified.

"Period during which process to apply."

(2) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) of section 36 and recorded by the Board under subsection (1) of this section shall be the process applicable to that bargaining unit for the resolution of all disputes

from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process, and thereafter until the process is altered in accordance with section 38."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clauses 38(2), (3), (4) and (5) together with marginal notes be struck out and the following substituted therefor:

"Alteration to be recorded.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute.

Effective date and duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2)."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 39(3) be struck out and the following substituted therefor:

"(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee by reason of sex, race, national origin, colour or religion."

By leave, the Committee agreed unanimously to the withdrawal of the amendment to Clause 44 carried at meeting (36) November 22, 1966, thereby restoring the clause to its original text.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 49(1) be amended by striking out lines 26 to 28 inclusive and substituting the following therefor:

"(49) (1) Where the Board has certified an employee organization as bargaining agent for a bargaining unit and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36,".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 58 be amended by striking out lines 31 and 32 and substituting the following therefor:

"purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the em-".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 63(1) in the French version be amended by deleting the word "aucune" line 39 and substituting the word "une" therefor.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 95(1) be amended by striking out line 26 and substituting the following therefor:

"95. (1) Subject to any regulation made by the Board under paragraph (d) of subsection (1) of section 99, no grievance shall be referred to adjudica-".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clauses 96(1) to (3) inclusive and marginal notes be struck out and the following substituted therefor;

"Hearing of grievance.

96. (1) Where a grievance is referred to adjudication the adjudicator shall give both parties to the grievance an opportunity of being heard.

Decision on grievance.

(2) After considering the grievance the adjudicator shall render a decision thereon and

(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board.

Decision of board of adjudication.

(3) In the case of a board of adjudication, a decision of the majority of the members on a grievance is a decision of the board thereon, and the decision shall be signed by the chairman of the board."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That the marginal note to sub-clause 96(5) be struck out and the following substituted therefor:

"Action to be taken by employee or bargaining agent."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 97(2) be struck out and the following substituted therefor:

"(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, and the employee whose grievance it is is represented in the adjudication procedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent is liable to pay and shall remit to the Board such part of the costs of the adjudication as may be determined by the Secretary of the Board with the approval of the Board, except that where the grievance is referred to a board of adjudication, the remuneration and expenses of the nominee of each party shall be borne by each respectively."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That new sub-clause 97(3) and marginal note be added:

"Recovery. (3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 113(2) be struck out and the following substituted therefor:

"(2) Where the Governor in Council excludes any corporation from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*, he shall, by order, add the name of that corporation to Part I or Part II of Schedule A."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 114(2) together with marginal note be deleted.

By leave of the Committee, it was moved by Mr. Walker, seconded by Hon. Senator Fergusson and

Resolved,—That Clause 12 of Bill C-181 be amended by adding a new sub-clause with marginal note as follows:

"Consultation. (3) The Commission shall from time to time consult with representatives of any employee organization certified as a bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that Act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable."

At 11.30 a.m., the meeting adjourned to 9.30 a.m. the next day following.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, December 1, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I see we have a quorum. We will now start what I hope will be a final disposition of the remaining amendments to a certain number of clauses, beginning with clause 2. Have they been distributed?

On Clause 2—*Definitions.*

Dr. DAVIDSON: Mr. Chairman, has everyone a set of these new amendments?

The JOINT CHAIRMAN (*Mr. Richard*): Has everyone a set of these new amendments?

The amendment reads as follows: That clause 2 of the said Bill be further amended by striking out paragraph (o) and substituting the following:

(o) "employer" means Her Majesty in right of Canada as repre- "Employer."
sented by,

(i) in the case of any portion of the *public service of Canada specified in Part I of Schedule A*, the Treasury Board, and

(ii) in the case of any portion of the public service of Canada specified in Part II of Schedule A, the separate employer concerned;

Dr. DAVIDSON: This is a technical change for clarification purposes that we have picked up on our own initiative, Mr. Chairman. It is simply designed to make it clear that the employer in the case of the Public Service generally is the Treasury Board, and in the case of separate employers is the separate employer.

Mr. EMARD: I so move.

Senator DESCHATELETS: I second the motion.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 2, paragraph (u) is next. The amendment reads:

That paragraph (u) of clause (2) of the said bill be amended (a) by striking out line 9 on page 4 and substituting the following:

(u) "person employed in a managerial or confidential capacity", "Person employed in a managerial or confidential capacity."

(b) by striking out lines 14 to 16 on page 4 and substituting the following:

chequer Court of Canada, the deputy head of a department or the chief executive officer of any other portion of the;

(c) by striking out line 33 on page 4 and substituting the following:
administrator or who has duties that cause him to; and

(d) by striking out lines 45 to 49 on page 4 and substituting the following:
paragraph (iii), (iv), (v) or (vi), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

Dr. DAVIDSON: (a) and (b) here, Mr. Chairman, represent no change, they were approved the day before yesterday. We agreed to look at the question raised by Mr. Lewis under sub-heading (c), and we agreed also to look at an other point under sub-heading (d). We have not, after careful consideration, concluded that we should make any change in the sub-heading (c) which refers to the exclusion of persons whose duties include those of a personnel officer or who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer. Under sub-heading (d), however, we have endeavoured to meet Mr. Lewis's concern and that of other members with respect to sub-heading (VII) under sub-paragraph (u) on page 4 of the printed Bill, and we now provide in this catch-all clause that a person employed in a managerial capacity means any person who is not other-wise described in the previous sub-paragraphs (III) (IV) (V) and (VI), but who in the opinion of the board should not be included in the bargaining unit by reason of his duties and responsibilities to the employer.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 5.

On Clause 5—*Authority to transfer within Schedule A.*

The amendment reads:

That the said Bill be further amended by striking out clause 5 and substituting the following:

Authority to transfer within Schedule A.

5. (1) The Governor in Council may by order delete the name of any portion of the public service of Canada specified from time to time in Schedule A from Part I or Part II thereof, and shall thereupon add the name of that portion to the other part of Schedule A, except that where that portion

(a) no longer has any employees, or

(b) is a corporation that has been excluded from the provisions of Part I of the Industrial Relations and Disputes Investigation Act,

he is not required to add the name of that portion to the other part of Schedule A.

Where corporation deleted from one part of Schedule A and not added to other part.

(2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the Industrial Relations and Disputes Investigation Act and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect.

Dr. DAVIDSON: Clause 5 is a clarification and improvement of wording that I think will commend itself to the members of the Committee. It provides that the Governor in Council may delete the name of any portion of the public service from either Part I or Part II of Schedule A and it provides also that when he does so, he must transfer it to the other Part of the Schedule, with two exceptions. If the portion of the public service that is being deleted has no employees and has become a dead letter on the books, that name is simply dropped. If it is a corporation that has previously been excluded from the provisions of Part I of the Industrial Relations Disputes Investigation Act, the Governor in Council is not required to add the name of that corporation to the other part of the schedule A, but then section 2 takes over, and provides that the Governor in Council must either add it to Schedule A, Part I, or he must put it under the provision of the I.R.D.I. Act. This clause taken together with the change in clause 113 which is in the amendments that are now before the Committee, gives complete assurance that any portion of the public service must either on transfer be transferred from one Part of the Schedule to another Part of the Schedule or, if not retained under the Public Service Staff Relations Act, be placed under the Industrial Relations and Disputes Investigation Act.

Mr. LEWIS: What you are saying in subsection 2 is that if he does transfer anything excluded from the Industrial Relations and Disputes Investigation Act, if he does not put it in one of the schedules of this act, then the exclusion from the other act is wiped out.

Dr. DAVIDSON: Wiped out and it therefore reverts to being covered by that other act.

The JOINT CHAIRMAN (*Mr. Richard*): Carried?

Mr. MCCLEAVE: Mr. Chairman, the other day we had a discussion on an attempt to transfer the employees of the Printing Bureau from one section to another, so I take it that under the new provisions, they should take their complaint or their request yearly to the Governor in Council and put the pressure there. Is that right, Dr. Davidson.

Dr. DAVIDSON: It is open to the Governor in Council to transfer from Part I of Schedule A to Part II of Schedule A.

The JOINT CHAIRMAN (*Mr. Richard*): Carried.

Amendment agreed to.

Dr. DAVIDSON: Could I just add one further point, Mr. Chairman. Mr. Bell suggested that there was need to provide in clauses 4 and 5 that any orders made by the Governor in Council affecting the transfer of a portion of the public service from one Part of Schedule A to another Part should be published in the Canada *Gazette*. We have taken this up with the legal officers; they assure us that the requirement to publish orders of the Governor in Council in the Canada *Gazette* is already provided for in the Regulations Act, section 6(1). It is true that there is in 9(2) of the same Regulations Act provision that the Governor in Council may by regulation make certain exceptions, but where that is done, the Governor in Council must publish the order in which the exceptions are specified, and it is clearly the intention and the requirement, unless that exception is made, to publish these in the Canada *Gazette*.

Mr. McCLEAVE: Thank you, Dr. Davidson.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 5 carried.

Clause, as amended, agreed to.

On clause 7—*Right of employer.*

The amendment reads:

That the said Bill be further amended by striking out clause 7 and substituting the following:

Right of employer.

7. Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service and to assign duties to and classify positions therein.

Dr. DAVIDSON: Clause 7 is, Mr. Chairman, our attempt to meet the concern of a number of the members of the Committee with respect to this provision that reserves to the employer certain rights and authorities to act in certain fields. The words which caused the Committee concern were the final words "and to assign duties to employees". You will see from our text that we have struck out any reference to assigning duties to employees. We have provided rather that the duties referred to are duties to be assigned to positions, and this provides that nothing shall affect the right or authority of the employer to: (1) determine the organization of the public service—that was not at issue; (2) to assign duties to or to classify positions, and that is of course reserved for the employer.

Amendment agreed to.

Clause, as amended agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment is in the French version Bill C-170 clause 13 (1). The amendment reads:

That the French version of Bill C-170, An Act respecting employer and employee relations in the Public Service of Canada be amended by striking out lines 9 and 10 on page 9 thereof and substituting the following:

Qualités requises.

13. (1) Une personne n'est pas admissible à occuper un poste de membre de la Commission si

Dr. DAVIDSON: The essence of this change, Mr. Chairman, applies to the French text only. There was previously a discrepancy between the French and English text, under which it was open to interpretation that the French text provided that a person could not be nominated under certain conditions. This provides that a person may be nominated, but he cannot occupy the post if he is disqualified on certain grounds.

The JOINT CHAIRMAN (*Mr. Richard*): That has to do with the word "aucune".

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 19—*Authority of board to make regulations.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads: That subclause (1) of clause 19 of the said Bill be amended (a) by striking out paragraph (f) and substituting the following:

(f) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations; and

(b) by striking out paragraph (k) and substituting the following:

(k) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;

Dr. DAVIDSON: There is no change in (a), Mr. Chairman. We have looked at the wording of (b) and we have made a minor change in the wording by deleting the words "to constitute" which previously appeared between 'considered' and 'appropriate authority'.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 23—*Questions of law or jurisdiction to be referred to board.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That the said Bill be amended by striking out clause 23 and substituting the following:

Questions of law or jurisdiction to be referred to Board.

23. Where any question of law or jurisdiction arises in connection with a matter that has been referred to the Arbitration Tribunal or to an adjudicator pursuant to this Act, the Arbitration Tribunal or adjudicator, as the case may be or either of the parties may refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof.

Dr. DAVIDSON: Clause 23, as we had it at Tuesday's meeting, Mr. Chairman, provided that where any question of law and jurisdiction arises in an arbitration or adjudication, the arbitrator or the adjudicator, "shall refer" the said question to the board,—the Public Service Staff Relations Board,—for a hearing, and determination, but that the proceedings will continue unless the board otherwise orders. It was questioned whether this should be mandatory upon the arbitrator or the adjudicator in all cases to refer a question of law or jurisdiction. We have altered the wording to provide that the adjudicator may refer it or either of the parties may refer it. If there is general agreement that there is no need to refer it, the matter can proceed and be dealt with there.

amendment agreed to.

Clause, as amended agreed to.

On clause 28—*Application by Council Organizations.*

Dr. DAVIDSON: Clause 28 is the question, Mr. Chairman, that has not yet been resolved arising out of certain proposals that have been put forward for consideration by Mr. Émard and Mr. Lachance.

Mr. WALKER: Mr. Chairman, I have to ask the indulgence—

The JOINT CHAIRMAN (*Mr. Richard*): Just a moment please. Are we on clause 28 now?

Dr. DAVIDSON: I think so. There is nothing in here, but I was just bringing it to the attention of the Committee.

Mr. WALKER: Mr. Chairman, I have to ask the indulgence of the Committee, if they will. If you remember at the last Committee meeting I asked if we could stand this because there was somebody I wanted to speak to about it. I was unable to speak to him until Monday and I wondered if you could stay with me and just stand this for the time being.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Clause 28 stands.

On clause 34—*Certification of employee organization as bargaining unit.*

The amendment reads:

That clause 34 of the said Bill is amended by striking out paragraph (d) and substituting the following:

> (d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to make the application,

Dr. DAVIDSON: In clause 34, Mr. Chairman, there is a very small technical amendment to simplify the wording of 34 (d). We want to be sure that the employee organization has been duly authorized to make the application. This, I think, was Mr. Bell's suggestion and there is no reference now "to act for the members of the organization". That is assumed. If it is duly authorized, then it is duly authorized.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Carried.

On clause 37—*Certification to record process for resolution of disputes.*

The amendment reads:

Process for resolution of disputes to be recorded.

37. (1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified.

Period during which process to apply.

(2) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) of section 36 and recorded by the Board under subsection (1) of this section shall be the process applicable to that bargaining unit for the resolution of all disputes from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process, and thereafter until the process is altered in accordance with section 38.

Dr. DAVIDSON: The change in Clause 37, Mr. Chairman, can be stated briefly by saying to the Committee that if, and I say "if," Mr. Lewis is still willing to accept the change that he said he was willing to accept if we did something last day, if that willingness still persists, we are willing to make this change.

Mr. LEWIS: Like all collective bargaining carried on in good faith, we have arrived at the sensible conclusion.

Dr. DAVIDSON: Thank you.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 38—*Application for alteration process.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That the said Bill be further amended by striking out subclauses (2), (3), (4) and (5) of clause 38 and substituting the following:

Alteration to be recorded.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute.

Effective date and duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2).

Mr. LEWIS: I am reading this right that the choice of the route is from notice to bargain to notice to bargain?

Dr. DAVIDSON: That is right. No bargaining session can commence unless the rules of the game, one way or the other, have been specified by the bargaining unit ahead of time.

Mr. LEWIS: As I read it, what you have provided is that if the bargaining agent makes a choice in the year 1967, then that is the choice that prevails until such time as he makes another choice prior to notice to bargain.

Dr. DAVIDSON: That is correct. So, if he fails to file a choice with his first notice to bargain, he is not allowed to give notice to bargain. He must file a choice with his first notice to bargain. That remains the choice of that bargaining agent until such time as at the point of giving a subsequent notice to bargain, he files an alternative choice.

Mr. LEWIS: Or really in between at any time between the two notices.

Dr. DAVIDSON: Yes.

Mr. LEWIS: And it is then that the new choice will apply to the next following notice.

Dr. DAVIDSON: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 38.

Dr. DAVIDSON: It follows on from 37.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 38 carried.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 39—*Where participation by employer in formation of employee organization.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That the said Bill be further amended by striking out subclause (3) of clause 39 and substituting the following:

Where discrimination by reason of race, etc.

(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discrimnates against any employee by reason of sex, race, national origin, colour or religion.

Dr. DAVIDSON: In clause 39, there are two points, Mr. Chairman. We have co-ordinated our references to sex, race, national origin, colour or religion to the wording that is contained in the Public Service Employment bill.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Carried. Clause 72.

Dr. DAVIDSON: Before we go on, Mr. Chairman, 39, I think I should reserve on behalf of the Committee, sub-section 2 which will have to be dealt with again in the light of the Committee's decision on political activity of the members of the public service. Stand 39(2).

Clause 39(2) stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 72.

Dr. DAVIDSON: I am sorry again, Mr. Chairman. Clause 44—we are catching up to a few points here that are not in the package. On my suggestion at an earlier stage the opening words of clause 44 of the printed bill were deleted. I am told by our legal advisors now that I did a wrong thing and that they should be put back, otherwise, it could be interpreted that the provision of 44 and 44 alone apply to an employee council.

The JOINT CHAIRMAN (*Mr. Richard*): Is that another amendment?

Dr. DAVIDSON: Well, it is a proposal to restore the original wording of clause 44.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 44 restored as in the original bill. Carried. Have you anything else before 72 now?

Dr. DAVIDSON: No, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 72.

On clause 58—*Binding effect of agreement.*

Dr. DAVIDSON: I apologize again, Mr. Chairman, 58. We were proposing to add some words to 58 such as "council of employee organizations" or "constituent elements" but after reflecting further we have decided to suggest to the Committee that no change be made in 58; that it remain exactly as printed. It will be assumed that the reference to the bargaining unit and to the bargaining agent binds the respective employee organizations as well as the council itself in cases where the bargaining agent is a council of employee organizations.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 58 carried as originally printed. Anything else now before we get to 72?

On clause 49—*Notice to bargain collectively.*

Dr. DAVIDSON: The amendment to clause 49 was the change that we made that Mr. Lewis conditionally agreed to last day which I think the Committee should pronounce upon. It provides that the bargaining agent must specify the process for the settlement of the dispute before he can give notice to bargain. This is the second half of clause 49.

The JOINT CHAIRMAN (*Mr. Richard*): Oh.

Mr. LEWIS: Did we have the amendment last time?

Dr. DAVIDSON: Yes, sir, it was in your package.

Mr. LEWIS: We stood it until we were sure about 37 and 38.

The JOINT CHAIRMAN (*Mr. Richard*): That is right. Clause 49 carried.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 72—*Binding effect of arbitral award.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That clause 72 of the said Bill be amended by striking out lines 27 and 28 on page 34 and substituting the following:

on the parties but not before,

(a) in the case of an arbitral award rendered during the initial certification period, a day four months before the day specified in Column I of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case, the day on which notice to bargain collectively was given by either party.

Dr. DAVIDSON: Could Mr. Roddick speak on 72, Mr. Chairman?

Mr. RODDICK: Mr. Chairman, this is the comparable clause that we have just dealt with in 58. There were two changes in the amendment that was given to you last day. The first one included this phrase "constituent elements". We are therefore proposing to remove that element of last day's amendment and to leave only the second part which also was included in your amendment of last day. I believe this second part was passed; it was only the first part that was reserved and in the first part, we are asking that that amendment be deleted and the original clause in the bill be restored.

Senator DESCHATELETS: Mr. Chairman, what does "a day four months" mean?

Mr. LOVE: Mr. Chairman, as I recall it, we did in fact deal with this at the last meeting. The members of the Committee will recall that the explanation for (a) is that we want to make it possible for an arbitral award during the initial certification period to go back beyond the day on which notice to bargain was given to the normal pay review date. In the case of the Operational Category, for example, this would be October 1, 1966. Except for the initial certification

period, the arbitral award may go back only to the point in time when notice to bargain was given. I do not think there was really any discussion or any disagreement on (a) and (b) as they are stated here, but in the previous amendment relating to clause 72, there was a further amendment, which is not referred to here and which said in effect that an arbitral award for the purpose of the act was binding on the employer, the bargaining agent and its constituent elements, and the employees. We are saying now that that part is no longer appropriate in view of the decision reached by the Committee this morning.

Mr. LEWIS: Would you take a moment to look at the printed 72 and the present amendment which excludes the part of the earlier amendment and indicate exactly how 72 would now read. I think that would help the Senator and all of us.

Mr. LOVE: Mr. Chairman, as I understand it, 72(1) would stand as originally printed in the bill.

Mr. LEWIS: Right.

Mr. LOVE: You then go down to lines 27 and 28 to pick up the amendment that is now before you.

Mr. LEWIS: In other words it now reads: "The arbitral award becomes binding on the parties" and from there on you read the present amendment but not before (a) and (b).

Dr. DAVIDSON: Correct.

Mr. LOVE: That is right.

Mr. LEWIS: And then (3) remains as it is in the printed version.

Mr. LOVE: Yes, that is right. Sub-section (3) remains.

Mr. LEWIS: The (1) and (3) remain as they were and (2) is amended by the addition really of the new amendment.

Mr. LOVE: Yes, that is right.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 83—*Terms of reference of conciliation board.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That clause 83 of the said Bill be amended by striking out line 3 on page 39 and substituting the following:

tion board a statement setting forth the

Dr. DAVIDSON: This is a purely technical correction, Mr. Chairman, making certain that the third line in 83 is read without the words "prepared by him" in it.

The JOINT CHAIRMAN (*Mr. Richard*): I thought that was agreed last time?

Mr. RODDICK: Mr. Chairman, could I make an observation? It was agreed last time that the word 'board' was inadvertently omitted from the printed amendment and has been restored in this version.

Amendment agreed to.

Clause, as amended, agreed to.

Dr. DAVIDSON: Clause 94, Mr. Chairman, is for the purpose of substituting at three places in this clause the word 'employee' for the word 'person' which was—

The JOINT CHAIRMAN (*Mr. Richard*): That was agreed.

Dr. DAVIDSON: Sorry. I was not listening; I must have missed part of the discussion last time.

On clause 95—*Compliance with procedures in grievance process.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That subclause (1) of clause 95 of the said Bill be amended by striking out line 26 on page 43 and substituting the following:

95. (1) Subject to any regulation made by the Board under paragraph (d) of subsection (1) of section 99, no grievance shall be referred to adjudica— Compliance with procedures in grievance process.

Mr. LOVE: Mr. Chairman, I think in the previous discussion the members felt that there might be some inconsistency between 95 and paragraph (d) of subclause 1 of clause 99, and I believe it was Mr. Lewis who suggested that 95 should therefore start out with the phrase indicated in the amendment, that is "Subject to any regulation made by the board under paragraph (d) of subsection 1 of 99".

The JOINT CHAIRMAN (*Mr. Richard*): Agreed.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 96—*Decisions of adjudicator.*

The amendment reads:

That clause 96 of the said Bill be amended (a) by striking out subclauses (1) to (3) and substituting the following:

96. (1) Where a grievance is referred to adjudication the adjudicator shall give both parties to the grievance an oppurtunity of being heard. Hearing of grievance.

(2) After considering the grievance the adjudicator shall render a decision thereon and Decision on grievance.

(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board.

(3) In the case of a board of adjudication and decision of the majority of the members on a grievance is a decision of the board thereon, and the decision shall be signed by the chairman of the board.; and Decision of board of adjudication.

(b) by striking out subclause (5) and substituting the following:

(5) Where a decision on any grievance requires any action by or on the part of an employee or a bargaining agent or both of them, the employee or bargaining agent, or both, as the case may be, shall take such action. Action to be taken by employee or bargaining agent.

Mr. LOVE: Mr. Chairman, I think the committee has more or less agreed in previous discussions that sub-clause 5 of 96 should be amended to substitute the phrase "bargaining agent" for "employee organization" in the two places in which that phrase occurs. It was stood the last time because we wanted as well to be in a position to bring in amendments to subclauses (1), (2) and (3) in order to do away with the requirement that an adjudication award should be sent to the board before being sent to the parties. The effect of this amendment is to provide that an adjudication award is sent to the parties, with a copy to the board. A copy is sent to the board so that a central reference service may be provided.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed.

On clause 97—*Where adjudicator named in collective agreement.*

The amendment reads:

That clause 97 of the said Bill be amended by striking out subclause (2) and substituting the following:

Where no adjudicator named in agreement.

(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, and the employee whose grievance it is is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent is liable to pay and shall remit to the Board such part of the costs of the adjudication as may be determined by the Secretary of the Board with the approval of the Board, except that where the grievance is referred to a board of adjudication, the remuneration and expenses of the nominee of each party shall be borne by each respectively.

Recovery.

(3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person.

Mr. LOVE: Mr. Chairman, Clause 97 is concerned with the expenses of adjudication. Committee members will recall there was concern expressed, I believe by Mr. Bell and others, about the provision which suggested that an individual employee not supported by a bargaining agent might be assessed charges for the costs of adjudication. The effect of the amendment now before you is to retain provision for the assessment of costs in so far as bargaining agents are concerned, but to remove any reference to individual employees. What this means is that, if a case is taken to adjudication on a matter arising out of an agreement, or otherwise with the support of the bargaining agent, the bargaining agent will be responsible for a share of the costs.

Mr. LEWIS: Certified by the secretary!

Mr. LOVE: That is right.

Dr. DAVIDSON: The secretary of the board, not of the Treasury Board.

Mr. ÉMARD: Are there going to be any cases where the bargaining agent will not be responsible for his share of the costs for grievances presented by some employees.

Mr. LOVE: Yes, Mr. Chairman; under the bill it will be possible for an individual employee to carry a case to adjudication on a matter arising out of a disciplinary action resulting in discharge, suspension, or financial penalty. I think the origin of that provision lies in the fact that individual employees now have the right to carry these matters to appeal under the provisions of the Civil Service Act—So this is really the protection of rights of the individual employee that have been more or less traditional.

Mr. LEWIS: You said 'yes' to Mr. Émard's question, Mr. Love. May I suggest that with respect that the 'yes' is not accurate. What it seems to me you provide is that in every case where the employee is represented by a bargaining agent, whether or not the employee is a member of the baragining unit, but if the bargaining agent is there, the bargaining agent shares in the cost. If the employee is alone, and is not represented by the bargaining agent, then the bargaining agent does not share in the costs, nor does the employee. Is that not right? Is that not the effect of it?

Mr. LOVE: Yes.

Mr. LEWIS: If the employee is not represented by a bargaining agent, then he does not have to share the cost.

Mr. LOVE: That is right.

Mr. LEWIS: But whenever a bargaining agent is present, then the bargaining agent is assessed some costs.

Mr. LOVE: That is right.

Mr. ÉMARD: In other words, if the employee is taking up his grievance with the consent of the union, the union will pay for a part of it; but if the employee should go and take his grievance without the consent of the union, then he has to pay for whatever costs there may he.

Mr. LEWIS: Neither he nor the bargaining agent pays, the poor Treasury Board pays.

Mr. ÉMARD: No one pays for his case?

Mr. LOVE: That is right; but the only cases in which this will be possible will as I understand it, be cases arising out of discharge, suspension, or financial penalty. In all other cases the bargaining agent must support the adjudication.

Mr. RODDICK: Mr. Chairman, if I can add what I am afraid is a further complexity to Mr. Love's statement, if these matters have been dealt with in a collective agreement, if they are the subject of a collective agreement, then the employee would not be permitted to take them to adjudication without the support and representation of his bargaining agent.

The JOINT CHAIRMAN (*Mr. Richard*): Carried.

Mr. LOVE: Mr. Chairman, I am sorry to interrupt but I feel I should speak to the proposed 3, which picks up—

Mr. LEWIS: I am sorry to do it at this late date, you have this awkward phrase throughout 'the employee whose grievance it is'. There is one single word for that—the griever.

An hon. MEMBER: The squawker.

Mr. LEWIS: Well, is there any reason why you cannot use the single word the "griever" instead of the employee whose grievance it is.

Mr. RODDICK: Mr. Chairman, if I could, I hope make a diplomatic response to Mr. Lewis' proposal, we who worked originally on the legislation found this a very appropriate word to cover this rather awkward situation. We were not able to convince our legislative draftsmen that it was quite appropriate enough.

Mr. LEWIS: Every time I listen to comments on my profession I think I should have chosen my first desire, which was to be a professor.

The JOINT CHAIRMAN (*Mr. Richard*): Order.

Mr. LOVE: Mr. Chairman, I would draw to the attention of the members that subclause 3 of Clause 97 picks up the present provision in the second part of 114. The draftsman felt that this was really a more appropriate place to put this particular provision.

Mr. RODDICK: Mr. Chairman, it must also be added that I think the original 114 (-2) referred to a person, because, the way the legislation was drafted, it presumed that only employees would have a liability placed on them. The proposals of the Committee have shifted this liability from a person to an employee organization and it is therefore necessary to make an employee organization a person in law for this limited and particular reason.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 99—*Authority of board to make regulations respecting grievances.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That clause 99 of the said Bill be amended (a) by striking out line 26 on page 45 and substituting the following:

Authority of Board to make regulations respecting grievances.

99. (1) The Board may make regulations of *general application* in relation

(b) by striking out line 10 on page 46 and substituting the following: tween employee organizations in respect of the; and

(c) by striking out paragraph (j) of subclause (1) and renumbering paragraphs (k) and (l) as (j) and (k), respectively.

Mr. LOVE: Mr. Chairman, it is now proposed that the regulation-making powers of the board with respect to grievances should be restricted by the introduction of the phrase "of general application". To begin with, I might say that this change would be in line with the original intent, which from the beginning has been that the board would lay down regulations that would have the effect of minimum standards relating to all grievance procedures in all

government departments and agencies. We think the words "of general application," help to make this clear.

In other words, the board would not be able under this clause, with the addition of these words, to make regulations governing the details of a grievance procedure relating to a particular bargaining unit. The details of the grievance procedure relating to a particular bargaining unit would be open to discussion between the parties and to agreement if they could agree.

I might say that we feel fairly strongly that for the foreseeable future at least there should be a reasonable degree of consistency in the grievance procedures applying in all government departments and agencies.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 99; does it carry?

Mr. LEWIS: I do not want to be quoted, Mr. Chairman, as still objecting and voting against it. I do not think the addition of the words "of general application" make the present proposed clause any the less undesirable. I do not know why the officials, or the minister or whoever it is, insists that the Staff Relations Board is to have the authority to make regulations of general application, when all that that means is that it applies to everyone, as far as I understand English. It applies to every collective agreement; that is all the addition of the words "of general application" conveys to me. What we are doing is setting out in the act the grievance procedure that ought to be a matter of collective bargaining. Now, as I said last time, I personally would have no objection if this authority to set out grievance procedure is intended to cover the initial period, the hiatus, between now and the time when collective agreements are negotiated. I do not want to make another speech on it. One does these things once; ten times is enough; it just takes up the time of the Committee, but I think I just—forgive me for saying so—it is official obstinacy in wanting to dot every 'i' and cross every 't'; to have in the act, I was going to say bureaucratic obstinacy, Dr. Davidson. I just do not understand why you need legislation to provide for a matter which is a common matter of collective bargaining and about which you are not going to have any difficulty.

Mr. LOVE: I am sorry, Mr. Chairman; I think it is important to recognise that the aim here is to establish a grievance procedure in all government departments that would be applicable both to occupational groups in which there is a bargaining agent and to occupational groups in which there is not. Furthermore, the clear intent is that the grievance procedures should be available to individuals as individuals in circumstances where we are dealing with questions of discharge, suspension and financial penalty. The intent is that there be grievance procedure reflecting minimum standards available to all public servants.

Mr. LEWIS: Mr. Chairman, I want to move an amendment. I have asked my colleague to draft it.

Mr. MCCLEAVE: Could I ask just one question. Is it the intent to use this to fill any vacuum that may be created; that is, assume that the collective bargaining does not set up the procedures that Mr. Lewis refers to, will there be enough flexibility that any regulations will apply, say in the absence of procedures agreed upon by the two bargaining sides, or does this just impose actually regulations and a code of procedure that must be followed in all cases?

Mr. LOVE: I think the operative words are 'may make regulations'

Mr. McCLEAVE: Well, assume that they do make regulations as a result of this power, are they imposed upon everyone willy-nilly, or can the bargaining units collectively bargain a different form of procedure?

Mr. LOVE: It would be open to the board to provide this kind of flexibility if it so wished.

Mr. LEWIS: Mr. Chairman, I want to bring this to a head and I would like to move, seconded by Mr. Knowles, the following amendment:

> "That clause 99, subclause 1, be amended by inserting at the beginning of the subclause the following words: 'except in cases where a collective agreement provides a grievance procedure, the board may make regulations of general application' "

The JOINT CHAIRMAN (*Mr. Richard):* Would you read that again, Mr. Lewis. Can I have a copy?

Mr. Lewis moves, seconded by Mr. Knowles, that Clause 99 (1) be amended by inserting at the beginning of the subclause, the following words:

> "except in cases where a collective agreement provides a grievance procedure,"

Mr. LEWIS: Actually, this is what Mr. McCleave was in effect suggesting.

Mr. McCLEAVE: I was wondering if it were possible that the grievance procedure that was reached would cover all the points that are set forth in 99.

Mr. LEWIS: That might well be so.

Mr. McCLEAVE: For that reason I would certainly support the spirit of Mr. Lewis' amendment, but I wonder whether it should not perhaps lie over until next Monday so that the legal counsel for the department will have a chance to check it.

Mr. LEWIS: I have no objection to this being considered by the officials and the legal officers, I have no objection to that.

The JOINT CHAIRMAN: Stand clause 99 and the proposed amendment.

Clause 99 and the proposed amendment stands.

Mr. DAVIDSON: I assure Mr. Lewis that we will show the same degree of flexibility and patience on this point that he has shown.

Mr. LEWIS: In relation to all other points.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 113.

On clause 113—*Exclusion of corporations from Part I of Industrial Relations and Disputes Investigation Act.*

The amendment reads:

That clause 113 of the said Bill be amended by striking out subclause (2) and substituting the following:

Idem. (2) Where the Governor in Council excludes any corporation from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act,* he shall, by order, add the name of that corporation to Part I or Part II of Schedule A.

Mr. LOVE: Mr. Chairman, this has already been discussed in connection with the earlier clauses dealing with transfers from the I.R.D.I. Act jurisdiction to the Public Service Staff Relations Act jurisdiction.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 113 carried.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 114 agreed to.

Mr. LEWIS: You just passed the essence of it in another clause.

The JOINT CHAIRMAN (*Mr. Richard*): Schedule A, Part I—carried.

On Schedule A—Part I

The schedule reads:

That Part I of Schedule A to the said Bill be amended by substituting for the expression "Royal Canadian Mounted Police (except the positions therein of members of the force)", the expression "Royal Canadian Mounted Police".

Mr. LEWIS: What is the inference of this?

Mr. LOVE: Mr. Chairman, we have already carried an amendment to the definition of employees which excludes the uniformed members of the force. This is a consequential amendment in the schedule.

Schedule A agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, at the present time, we have stood clauses 28, 39 (2) and 99, clause 1, of course, clause 28, 39 (2), 99 (1). Now, Mr. Lewis had indicated the other day that—this has nothing to do with this bill, but with the other bill, Bill No. C-181—we should consider clause 12.

Mr. LEWIS: Clause 12 of Bill No. C-181.

The JOINT CHAIRMAN (*Mr. Richard*): We must have leave of the committee to reopen clause 12.

Mr. LEWIS: Do you need a formal motion?

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed?

Some hon. MEMBERS: Agreed.

On Clause 12—*Selection standards.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That section 12 of Bill C-181 be amended by adding thereto the following subsection:

(3) The Commission shall from time to time consult with representatives of any employee organization certified as a bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable. Consultation.

Mr. Love and Mr. Carson are here today.

Mr. LEWIS: Have copies of this been distributed? I have mine. Mr. Carson was advised to rewrite the amendment I suggested the other day. It seems all right with me.

The JOINT CHAIRMAN (*Mr. Richard*): It seems all right?

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There is one more bill—

Mr. LEWIS: To change standards to principles, but that is O.K. with me.

The JOINT CHAIRMAN (*Mr. Richard*): Are we ready to go on with the Treasury bill? Tomorrow morning we will go on with the Treasury bill.

Mr. LEWIS: The Financial Administration Act?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: Mr. Chairman, with respect to Bill No. C-181, have we finished it all but for one clause and the political section?

The JOINT CHAIRMAN (*Mr. Richard*): This is right.

Mr. KNOWLES: Now, I was thinking of the other bill, 181.

The JOINT CHAIRMAN (*Mr. Richard*): Bill 181 is finished only for the political—

Mr. LEWIS: Clause 32 and clause 1.

Mr. KNOWLES: Can the clerk give us that?

The JOINT CHAIRMAN (*Mr. Richard*): And 34(1): Whichever other clause relates to political activity.

Mr. KNOWLES: There are just the two clauses, No. 1 and the political one.

The JOINT CHAIRMAN (*Mr. Richard*): That is right—34(1)(c) and 32.

Mr. KNOWLES: 34-1(c); it refers to section 32.

Mr. WALKER: What time tomorrow morning?

The JOINT CHAIRMAN (*Mr. Richard*): Nine thirty.

Mr. WALKER: The Financial Administration Act.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. LEWIS: This is just clearing up; 73, subclause 3 of clause 70, of 170 was stood, clause 70, subclause 3—

The JOINT CHAIRMAN (*Mr. Richard*): It was carried.

Mr. LEWIS: No, it was not, with great respect, it was stood until we were sure that the amendment to 12 of 181 would be acceptable.

The JOINT CHAIRMAN (*Mr. Richard*): When was this?

Mr. LEWIS: Last session.

Mr. KNOWLES: When you were here.

The JOINT CHAIRMAN (*Mr. Richard*): No, no, no, when we were on bill C-170?

Mr. LEWIS: Yes, last time, Tuesday.

The JOINT CHAIRMAN (*Mr. Richard*): Anyway my secretary tells me it was carried; in any event it is carried now. What I mean is, with your consent, but we had passed it.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 24

FRIDAY, DECEMBER 2, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board.*

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25391—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Langlois (*Chicoutimi*),
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. Madill,
Mr. Denis,	Mr. Crossman,	Mr. McCleave,
Mr. Deschatelets,	Mr. Émard,	Mr. Patterson,
Mrs. Fergusson,	Mr. Éthier,	Mr. Rochon,
Mr. Hastings,	Mr. Fairweather,	Mr. Sherman,
Mr. MacKenzie,	Mr. Hymmen,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Isabelle,	Mr. Tardif,
Mrs. Quart—12.	Mr. Knowles,	Mrs. Wadds,
		Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

FRIDAY, December 2, 1966.
(42)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.49 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson (2).

Representing the House of Commons: Messrs. Chatterton, Éthier, Hymmen, Knowles, Langlois (*Chicoutimi*), Lewis, Patterson, Richard, Tardif, Walker (10).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The Committee studied Bill C-182 clause by clause as follows:

Clause 1, stand; Clause 2, carried; Sub-clause 3(1), stand; Sub-clauses 3(2) to (6) inclusive, carried; Sub-clause 3(7), stand; Sub-clauses 3(8) and 9, carried; Clause 4, carried; Clause 5, carried; Clause 6, carried; Clause 7, carried; Clause 8, carried; Clause 9, carried; Clause 10, carried.

Discussion on Clause 11 continuing, the meeting adjourned at 11.00 a.m. to 12.30 p.m. this same day.

AFTERNOON SITTING
(43)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 12.38 p.m. this day, the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senator Fergusson (1).

Representing the House of Commons: Messrs. Berger, Chatterton, Hymmen, Isabelle, Knowles, Lachance, Langlois (*Chicoutimi*), Richard, Rochon, Walker (10).

In attendance: (As for morning sitting).

25391—1½

The Committee continued the clause by clause study of Bill C-182 as follows:

Clause 11, 12 and 13, carried subject to further consideration; Clauses 14 to 18 inclusive, carried.

At 12.50 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

FRIDAY, December 2, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I see we have a quorum. We have before us this morning Bill No. C-182, an act to amend the Financial Administration Act. This is a rather short bill and I hope that we can complete it this morning. I call clause 1. Have you any comments on clause 1?

On clause 1—*Responsibilities of Treasury Board.*

Dr. DAVIDSON: Clause 1, sir, is a replacement of Section 5(1) of the present Financial Administration Act, with a number of changes which are indicated in the underlined portions, for the most part. We have removed from old 5(1) the reference to Treasury Board having the responsibility for all matters relating to finance and revenues, because in the separation of the Treasury Board from the Finance Department, the reference to finance generally does not seem appropriate, that being at least in large part left as the responsibility of the Finance Department. The reference to revenues never has been appropriate really and we have therefore limited the reference to revenues in the new subheading (c) to revenues from the disposition of property. The other changes as underlined are I think self-evident. I might merely point out that what we are trying to do here is to bring the role of the Treasury Board in the financial and personnel management fields generally into line with the recommendations contained in the report of the Royal Commission on Government Organization. It is this that explains the new references to the fields of financial management and personnel management as well as the reference in subparagraph (d) to the review of annual and longer term expenditure plans and programs.

Mr. LEWIS: Before we do that, if I may, through you, Mr. Chairman, Dr. Davidson, just have a little thought—I do not know really how important it is—arising out of other references and other parts of the act. I think it would be of value from the point of view of the better understanding of the staff organizations if you added a power which I appreciate is contained in section 55 of the C-170. Would there be any harm in repeating it here, namely, that the Treasury Board has the power to enter into collective agreements. I appreciate that that is given you by the other act, but because this talks about your having the right to determine the terms and conditions of employment, and other things in other sections, it just occurred to me that a psychological difficulty could be overcome if there was a cross-reference in this section to the powers given you under C-170.

Dr. DAVIDSON: Probably under subheading (e).

Mr. LEWIS: That is right; you could add it.

Dr. DAVIDSON: I think if we are going to do it, it would be preferable to include it within that subheading rather than create a separate new subheading for it.

Mr. LEWIS: I would like to suggest that. I do not think it will do any violence to sort of logic in the act, and it would be a useful cross-reference.

Dr. DAVIDSON: Could I take that under advisement, Mr. Chairman, with a view to checking with the Department of Justice on the legal implications of it as distinct from the substantive merit of the proposal?

Mr. LEWIS: I venture to think, unless they are very sticky, and they are not, there would not be any legal implications if the cross-reference is clear. You do not make it a separate power but merely repeat in this act the power granted in the other act.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 1 carried subject to consideration of the addition of the clause as suggested by Mr. Lewis. Clause 1 agreed to subject to reservation mentioned.

On clause 2—*Regulations.*

Dr. DAVIDSON: Clause 2, Mr. Chairman, is the clause in which we provide the Treasury Board with authority to make regulations. Some of these regulations under subhead (c), (d) and (e) are precisely the same as are in the present Financial Administration Act, section 7. There are some new regulation making powers added in subheadings (a) and (b) which are designed again to pick up and carry forward as part of the role of the Treasury Board the recommendations of the Glassco Commission having to do with the responsibilities of the Treasury Board, as the central management agency of the government, to establish administrative standards and to monitor the performance of those standards, as well as to co-ordinate the functions and services with, in and between departments. You will notice, however, that we have made one important change in the leading words of this new section 6. If you compare with section 7, as it stands in fine print on the right hand page you will find that the reference "subject to any other act" appears in present clause 7 only with respect to subheads (c) and (e). We have thought it advisable in the new section 6 to bring that phrase forward to be the leading words of the new clause so that it will apply to all of these subheads (a), (b), (c), (d), and (e). This makes it clear that the power of the Treasury Board to make regulations under this new clause is subject to the provisions of any other act in so far as the powers given in that other act are concerned.

Mr. CHATTERTON: The first few words of Clause 1(2) read: "the Treasury Board is authorised"; does that mean authorised to pass regulations also?

Dr. DAVIDSON: I would say not, sir. It is authorized to exercise the powers of the Governor in Council but its regulation making powers are limited to those set up in 6.

Mr. CHATTERTON: Is not that ambiguous, when in (1) you say that Treasury Board is authorised to exercise the powers of the Governor in Council?

Dr. DAVIDSON: Can I take that under advisement, Mr. Chatterton, I am not clear on it now.

The JOINT CHAIRMAN (*Mr. Richard*): Where are we now?

Dr. DAVIDSON: This is going back to section 1, subclause 2.

Mr. CHATTERTON: To erase the question in my mind, really.

Dr. DAVIDSON: Yes. I think certainly it would depend considerably on what are the powers of the Governor in Council under these enactments.

Mr. CHATTERTON: Normally those powers include the making of regulations.

Dr. DAVIDSON: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Well, is there anything more to do on clause 1?

Dr. DAVIDSON: Well, I would have to check on this point that Mr. Chatterton raised as well as the point raised by Mr. Lewis.

The JOINT CHAIRMAN (*Mr. Richard*): That means that clause 1 stands.

Mr. CHATTERTON: Well, subject to checking on these two points.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. WALKER: Mr. Chairman, it might be better to stand the whole clause.

Clause 1 stands.

Clause 2 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 3.

On clause 3—*Powers and functions of Treasury Board in relation to personnel management.*

Dr. DAVIDSON: Clause 3, Mr. Chairman, is the most important part of this amending legislation so far as its relationship to the other two bills that have been before the committee is concerned. The purpose of clause 3 is really to gather together and to vest in the Treasury Board as the employer in the public service, apart from separate employers, all of the authority that it is necessary for the employer to have in order to discharge his commitments in the personnel management field. The employer's commitments so far as the central administration in the public service is concerned will relate not only to the responsibilities that the employer assumes in collective bargaining; but it will also have to extend to the personnel management responsibilities of the employer in those areas of the public service that for one reason or another remain outside of the collective bargaining area.

It may very well be that there will be some occupational groups where some time will elapse before a bargaining unit is established. It is also true that for a certain limited number of the employees in the public service, no collective bargaining provisions will become applicable. Because of these facts, it is considered necessary to have the Treasury Board given these responsibilities—responsibilities which, as my staff has established, are now scattered throughout no less than 75 different enactments on the statute books. In order to ensure that these authorities and responsibilities are effectively vested in one authority so that we can discharge the responsibilities that are incumbent upon an employer in matters relating to collective bargaining—it is for this purpose that this new section 7 has been drafted in the way that it has.

Mr. LEWIS: I am still worried, as I read the various subsections, about the words, "notwithstanding any other provision contained in any enactment" and the absolute way in which it is stated that the Treasury Board has authority to do certain things which are necessarily part of collective bargaining.

Dr. DAVIDSON: Could I venture at this time, Mr. Chairman, to put forward for Mr. Lewis and the other members of the Committee the position taken by the authorities in the Department of Justice whom we have consulted specifically on this point. The Justice Department officers point to the fact that in the Public Service Staff Relations Act, section 55, states that the Treasury Board may enter into an agreement, and while we made some changes in the wording, that is basically what that section 55 still says. The Treasury Board may enter into a collective agreement. In order to ensure that the Treasury Board has the authority to implement the provisions of the collective agreement which that other law authorizes it to enter into, the provisions of section 7 are designed to vest the necessary authorities in the Treasury Board. Because of the fact that the present authorities to establish certain conditions of employment are scattered as widely as they are throughout the 75 pieces of legislation that I have referred to earlier it is necessary in the view of the Department of Justice to include here these words that are of concern to the members of the committee, as contained in line 42 on page 2 of this present bill: "notwithstanding any other provision contained in any enactment." Those words are designed to ensure that the authorities which are now written in to these various pieces of legislation, some vested in the Minister of Fisheries, some vested in other ministers of the crown, some vested in individual boards and commissions whose employees will now come within the central bargaining machinery, some vested in the Governor in Council—that all these authorities which are now scattered will henceforth be vested in the Treasury Board which is the agency that is going to be authorized under the other legislation to enter into collective agreements. What these words are designed to do is to confer the powers on the Treasury Board which it needs to have before it can effectively discharge the obligations which it incurs in entering into collective agreements under the other legislation.

Mr. LEWIS: In spite of that explanation, may I ask, Mr. Chairman, that Dr. Davidson look into the possibility of something like this being added. I am not being sticky; I just do not like a provision in one act that seems to give absolute authority; whereas some other act says you are going to discuss and bargain. Would it be possible to say something to the effect that the Treasury Board may in the exercise of its responsibilities in relation to personnel management in the public service and in relation to the provisions of the—what is C-170 called? I want to say C-170, you can put in the name to that, and without limiting the generally of, etc. do such and such. I appreciate the law officers may say it is not necessary; that C-170 gives you that authority, but nonetheless, I am still uneasy about the broad statement that the Treasury Board may in the exercise of its responsibilities do all the things that are then set out; and unless there is very great objection, I think it would clarify it, if you added, what I have suggested so that what you would be saying is that the Treasury Board may in the exercise of its responsibilities in relation to personnel management in the public service and in relation to its responsibilities under the Public Service Staff Relations Act, but without limiting the generality of sections 5 and 6—

Dr. DAVIDSON: Mr. Lewis, would you allow me to put this question to you? In the event that the wording which you have suggested in 5 (e) is included, personnel management in the public service is then defined in such a way as to embrace—

Mr. LEWIS: Right, I agree.

Dr. DAVIDSON: —the functions of entering into collective agreements and therefore if we so define personnel management and continue to use personnel management of the public service here, it seems to me that it embraces what is contained in 5 (e).

Mr. LEWIS: Right. If you put it in 5(e) I think it would not be necessary here.

Mr. CHATTERTON: I am confused. It was my impression from the Public Service Employment Act that the commission itself will be in effect performing a management function.

Dr. DAVIDSON: I think the answer is no, Mr. Chatterton, if I may say so. It will perform what we call the staffing function, all of the staffing actions that are related to selection, appointment, promotions, transfers, and so forth, which have to do with the safeguarding of the merit system, so that there will be no untoward influence on the operation of the merit system. But the responsibility for personnel management, as distinct from the selection process and the staffing function generally will be vested in the Treasury Board and/or the department.

Mr. CHATTERTON: Would not, for instance, training be more or less part and parcel of this staffing function that you refer to?

Dr. DAVIDSON: I draw your attention Mr. Chatterton, to the five words on page 3(b). It is significant I think, the way we have it worded, that it is the role of the Treasury Board to determine the requirements for the training and to fix the terms under which such training may be carried out, but the significance of those words is that the Treasury Board will not itself or need not itself carry out the training program. In fact it is the intention to continue to have the Civil Service Commission, in broad general areas, and the departments themselves in specific departmental areas carry out the training program. You might say that the Treasury Board is responsible for ensuring that adequate statements of requirements are made; that the training needs are made known; by arrangement with the commission the latter will be acting as the agencies selected to set up the training program, and carry them through.

Mr. CHATTERTON: The commission or the deputy heads?

Dr. DAVIDSON: The deputy heads of departments in situations where the training requirement is limited to one particular group of employees in a given department, but where you have a general need throughout the service, it is more likely that the Civil Service Commission would be setting up those training programs.

Mr. CHATTERTON: Well, in paragraph 3(2), it says that Treasury Board may authorise the deputy head of a department to exercise any of its functions. It does not authorize the commission.

Dr. DAVIDSON: Well, could I repeat that 3(b) does not give the Treasury Board the authority to operate training programs.

Mr. CHATTERTON: Does the commission have the right to operate training programs?

Dr. DAVIDSON: Yes. That is written into the bill 181. But this is really to prescribe the requirements, to ascertain the requirements and then to fix the terms under which they would be carried out.

Mr. CHATTERTON: Would that not be more properly the function of the commission, since it is so closely connected with staffing, to set the training requirements?

Dr. DAVIDSON: It is the responsibility of management, it seems to me, to ensure that the work force that management is maintaining is adequately equipped to carry out the job. It can determine the requirement for training. It then calls upon the Civil Service Commission as the agency that is set up and equipped to carry out the training function, but the prescription of training needs, the kinds of shortages we have and the training requirements to update skills for example, and to prepare people for the jobs that they are taking in the public service—this prescription as distinct from the carrying out of the training program, is surely the function of management.

Mr. CHATTERTON: The commission now, which actually makes the appointments, the staffing, is most closely associated with the whole problem of staff, staffing, appointment promotions, and so.

Mr. LOVE: Not only staffing but requirements as expressed by the treasury Board. I think, Mr. Chairman, one can draw a parallel to the distinction between determining manpower requirements. In other words, the board has traditionally had the responsibility for determining the departmental establishments, in determining how many people are needed in what types of occupations and so on, and the commission has the responsibility then for meeting the requirements, and I think the same thing may be said of the training field. The board would have the responsibility for determining the requirement, but then the commission to the extent that the requirement calls for a centralized training program, the commission would have the responsibility for meeting that requirement. I think one can draw a parallel between these two areas.

Mr. CHATTERTON: Would the Treasury Board also authorise the deputy heads to determine the establishment?

Dr. DAVIDSON: No; within the manpower budget, the deputy head could be given under this provision for delegation, that we come to in a moment, a considerable measure of responsibility for varying and altering the structure of his establishment. It would not be the intention certainly, for the Treasury Board to delegate unreservedly to the department the entire determination of its own establishment.

Mr. CHATTERTON: The Treasury Board can authorize almost completely the deputy head to determine the standard of training, the requirements of training.

Dr. DAVIDSON: Yes, unless the Treasury Board had reason to feel from the monitoring function which it is required to carry out under 6(b) on page 2 that is should not do so, or unless it were concerned as to the inadequacy of the performance of a given department in a certain field. In that event, I think the Treasury Board might well have something to say as to the needs of the

department, even if the department itself did not recognise the need to set up a training program and to update the performance capacity of its personnel.

Mr. LOVE: Particularly if it is a national training program for a certain class of employee.

Dr. DAVIDSON: I think that is much easier to recognize, because clearly if there is a shortage as, for example, there may well be, of cost accountants within the government service or personnel officers within the government service—if there is a service-wide shortage that we are trying to meet, it is relatively easy to see the central management agency coming to that conclusion, determining the requirements and then requesting the Civil Service Commission, which obviously would be the only agency that you could conceive of it asking, to develop a training program that will meet the supply requirement.

Mr. CHATTERTON: That I think is the answer I have been looking for because rather than authorize the deputy head to establish the training requirements, the Treasury Board may lay down certain conditions or set general standards.

Dr. DAVIDSON: Vis-à-vis the departmental situation, Mr. Chatterton, two situations could arise. In one case the department itself may have an isolated requirement related to the functions of that department and that department alone. Let us take lighthouse keepers as an example. The Department of Transport would be the only department that would be concerned with the supply and the qualifications of lighthouse keepers, or meteorological communicators or air traffic controllers. The department, recognizing a need, could undertake as part of its departmental responsibilities that training requirement. The Treasury Board if it saw a situation—

Mr. CHATTERTON: The actual training would be carried out by the commission, the actual operational training program.

Dr. DAVIDSON: Not necessarily, the department could be authorized and is now very frequently authorized, to bring in outside experts to provide training in a special field. The commission's role is essentially the common service role in the training field, where there is a training need that extends beyond the boundaries of one department. But where there is an isolated need, the department itself is usually given the responsibility for setting up the training arrangements and meeting that training requirement.

Mr. HYMMEN: One question regarding sub-paragraph (g). The reason I ask this is that several members of this Committee have been sitting on another committee currently considering Bill No. S-35 which is another bill providing safety in the public service. Now I see that subparagraph (g) clause says "establish and provide for the application of standards", and I know that Bill No. S-35 has a clause "notwithstanding any other act," and I do not think there is a particular problem. I assume that this will complement what the government is trying to provide in the other bill.

Dr. DAVIDSON: The wordings of these two provisions, Mr. Chairman, have been closely co-ordinated between ourselves and Department of Labour. I might just mention that the relationship here is exactly the same as the relationship in respect of the earlier Canada Labour Standards Code. The government, while not coming under that legislation with respect to its own employees, has made a public announcement that it will be its policy to apply in the public service the

standards that are set out in the Canada Labour Standards Code for private industries coming under federal jurisdiction. In the same manner here, it is intended, and it either has been so stated or will be so stated, that the government in terms of policy will conform under this provision here to the requirements that are set out in the Labour Standards Safety Code for industries coming under federal jurisdiction.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 3—Carried?

Mr. LEWIS: No, we do not.

The JOINT CHAIRMAN (*Mr. Richard*): Pardon me.

Mr. LEWIS: No, I wish to say something on (7) on page 4, Mr. Chairman. Unless I am mistaken, this provision giving the Governor in Council the right in the interests of the safety or security of Canada, and so forth, to suspend or dismiss any person employed in the public service is the equivalent of section 50 in the old Civil Service Act, was it 50? I think it was 50, and was the section you will remember, Mr. Chairman, which was involved in the unhappy Victor Spencer case. I objected and Mr. Douglas and I both spoke on a number of occasions to the fact that this authority in the Governor in Council is absolute and that the person affected by the suspension or dismissal has no right of a hearing by any independent body.

The JOINT CHAIRMAN (*Mr. Richard*): Did not we have a similar discussion on another bill?

Mr. LEWIS: No, I do not think it is in 170, is it?

Dr. DAVIDSON: There is a corresponding provision in 170, namely section 112, it is not precisely the same.

Mr. LEWIS: Well, I must have skipped it.

Dr. DAVIDSON: It does not relate to the question of discharge.

Mr. LEWIS: As I was saying, this is the equivalent of section 50 of the old Civil Service Act, and is subject to the same objection, namely the fact that a person suspended or dismissed under this section, a person employed in the public service, suspended or dismissed under this section, has no right of a hearing in his defence before some independent body.

Now, Mr. Chairman, it seems to me clear that in practice and in logic you would have two sets of circumstances: you would have one set of circumstances where the person concerned was charged and brought to trial. In that case he of course has his hearing in court. Another set of circumstances, which was exemplified by the Victor Spencer case, is a situation where the person affected is not brought to trial, for whatever reason. I am not questioning the common sense of that, but because he is not brought to trial, he really has no hearing at all in his defence. Therefore, Mr. Chairman, I would like to suggest, unless someone can pursuade me that this is in some way dangerous to the state, and I cannot see it, that there be added to this section, and I am deliberately not moving it, because I think it would require careful drafting by people much more experienced in drafting than I can claim to be, that we make a comma at the end of the present section and add to it words something to this effect:

> Subject to the right of such person to be heard in his defence before a special commissioner appointed by the Governor in Council, and the

commissioner may hold such hearings in camera and receive such evidence in such manner as he in his absolute discretion decides.

Now, I have drafted it, or I have drafted my suggestion in such a way that it seems to me it cannot possibly be objectionable in principle. I am not asking that the person who is being suspended or dismissed for security reasons have a public hearing which is obviously impossible. I am not asking that he necessarily be confronted with his accusers, which may be impossible; but what I am asking is that he have the right to demand that the Governor in Council then appoint a special commissioner; that the commissioner then has complete authority to deal with the matter as he sees fit, to hold his hearings in camera, to receive any evidence he desires in such a way as he desires.

Now, Mr. Chairman, I gave this example on the floor of the house. Forgive me if I take a minute to repeat it, because it is an actual experience that helps in these situations. Some years ago an employee of the Canadian Broadcasting Corporation was refused promotion. He exercised his rights under the collective agreement that governed him to file a grievance. I represented his union and him in that case. We came before a board of arbitration. The board of arbitration said, we cannot tell you the reason why he is not being promoted, or rather the C.B.C. said to the board of arbitration, we cannot tell you reason why he was not promoted because it is in the field of security. After some steps, the details of which are irrelevant, we persuaded the then Minister of Justice, the chairman of the arbitration board and I saw him, persuaded the then Minister of Justice to appoint a special commissioner by a special order in council. Mr. Fulton was the minister. He did so. He appointed Dean Curtis of the Law School of University of British Columbia. Dean Curtis had a hearing, he heard the person accused of being a security risk, separately; he listened to evidence on the other side, I imagine the R.C.M.P. and other certain people, I cannot tell you who, I was not there. I was there with the person affected. He did not tell us what evidence he obtained from the other side, but he obviously based his questions to us on what he had learned from the other side. As a result, he issued a report completely clearing this person, and the person received his promotion.

The situation was the usual rather silly situation that, if I may say so without insulting a very useful police force, the R.C.M.P. gets itself into in political matters. This young man had written some articles in the *Cartier Latin*, the paper at the University of Montreal, when he was an undergraduate, which the R.C.M.P. thought smacked of something or other, and that damned him for life.

These things happen in this imperfect world, and they can happen in the public service as well as in the C.B.C. and they will not happen often. I do not imagine there will be many suspensions or dismissals without a charge which is taken to court, I imagine it will occur very infrequently, but when it occurs, it is contrary to every sense of justice, in our system of rights of individuals, that he should not have his day in some court. I, therefore, make the suggestion, that Dr. Davidson undertake to look into it—I will give him what I have scribbled—and bring back a report. I will not move anything today because I think it would not be very helpful; but if he objects to the suggestion, which of course he has a right to do, then I will try to draft an amendment.

Mr. TARDIF: Mr. Chairman, I am not too impressed, actually, by the reasons brought out by Mr. Lewis in cases like this because he absolutely destroys his own argument in most cases by saying that this can be a very rare case.

Mr. LEWIS: How does that destroy the argument?

Mr. TARDIF: I did not interrupt you, Mr. Lewis, and I would thank you not to interrupt me.

Mr. LEWIS: You are in a cantankerous mood, this morning.

Mr. TARDIF: It is my usual mood.

Mr. LEWIS: It is your usual mood?

Mr. TARDIF: That is right.

Mr. LEWIS: All right. I will learn to know you and ignore it.

Mr. TARDIF: That is right. If you do, I will appreciate it.

Mr. Lewis destroys his own argument by saying that these cases are very rare. I have no objection to the individual being protected; I think that every Canadian citizen wants the individual to be protected, but I think the state is entitled to a certain amount of protection, too, because the state is the remainder of the population of Canada, except for this one individual. I do not think we should do him any injustices but if, to convince me that this needs to be added to that clause you talk about the Spencer case which cost the country a great deal of money and which ended up by finding out that this man was guilty of treason and to prove he was guilty of treason, after his death he left his money to a communistic organization, then if that is what is going to convince me that we need to put in additional protection to help somebody who may be guilty of treason which may expose Canada to a lot of problems, then this does not impress me very much nor does it convince me.

I do not think that anybody who is under the cloud of suspicion of being guilty of treason is not given his day in court; and I think that before the Spencer case there was quite a sufficient amount of evidence to convince anybody in Canada that this man had been guilty of selling secrets, even if they were not important secrets, to other countries that may, at some time, become our enemies even if they are not our enemies now. I think the additional political kudos that might have been obtained by somebody insisting that Canada give Spencer a complete investigation after an investigation had already been made, certainly did not serve the country well.

I think this clause covers everything. I do not think that any Canadian organization wants to condemn or accuse anybody of anything that might be considered as treason without giving them their day in court. I think in the case of Spencer, the investigation had been made before and it had been proven, and the additional costs that the country incurred in giving him a second trial and making this a public affair, just merely added to the cost of the taxpayers and came to exactly the same conclusion as had been arrived at by private investigation earlier.

Mr. CHATTERTON: Mr. Chairman, it seems to me that it would be the government of all people who would welcome a provision such as this. It would take it right off the hook. I would say that if there had been such a provision in the previous Civil Service Act, the Spencer case would never have arisen, and

apart from the rights to the employees, I think it should be the government who would welcome a suggestion such as Mr. Lewis has made.

Mr. LEWIS: I do not think Mr. Tardif's remarks should go without comment. I say to him that his cantankerousness goes beyond being merely ill tempered. To put a price—the question of cost—on the matter of the pretty important principle involved is to me a shocking thing, and to say that because this thing may happen very rarely, therefore, the occasional individual affected is of no importance is equally shocking. Let me tell Mr. Tardif, Mr. Chairman, through you, that his sitting in judgment on Mr. Spencer now in the extreme way in which he has done, is also to me rather unlimited liberty. I objected, personally and publicly to Mr. Justice Wells, for whom I have the greatest possible respect as a jurist and as a person whom I have the pleasure of knowing, continuing the investigation once Mr. Spencer was dead. The fact is that the unfortunate death of Mr. Spencer resulted in an investigation without the man affected being able to produce his evidence. But it is utterly irrelevant as to whether or not the special commissioner would, in fact, find that the action of the Treasury Board or the Governor in Council was justified. I would expect that that would be the case in 75 per cent of the cases. I would have much less respect of and confidence in the authorities in Canada if I thought that every time their judgment would be upset. I would assume that a thorough investigation would be made. I would assume that officers in various departments of government and the Governor in Council himself would not act without what they consider to be very valid grounds. I am not suggesting that anybody is going to make accusations idly because that is not the point. The fact, in our administration of justice, Mr. Chairman, is that even if there is not the slightest doubt in the world that a person has committed a crime, even if every one of us sees Mr. Tardif commit murder, of which I am sure he is incapable, even if everyone in this room saw him commit murder he would still be entitled to go into court to be charged, to have his rights, to be represented by counsel, to plead not guilty if that was his decision, to be heard before a jury of his peers if he has any peers, and a decision given under those circumstances. What he argued was that all of this should be wiped out in the case of a person who is being disciplined, suspended or dismissed, because of an accusation relating to safety or security.

Mr. TARDIF: That is not what I said at all.

Mr. LEWIS: This is exactly what you said.

Mr. TARDIF: It is not exactly what I said.

Mr. LEWIS: Let me finish.

Mr. TARDIF: Just a moment; this is on a point of order. You have quoted me as having said something that I have not said.

Mr. LEWIS: I did not quote you.

Mr. TARDIF: I wish to advise the honourable member that he does not have to worry about my having peers, because that is something that can be proven, too. This is not what I said.

I said when a man is fired, let us say, because he has had some activities that impeaches the security of the country—and I am sure this is never done without an investigation—and he has been found guilty of that, there is no necessity, for political purposes or political kudos, to make the number of representations that

you made, for instance, in connection with Spencer just to prove the man was guilty of what he had been accused of. Not only that, you say that they continued the investigation after the man was dead. After the man was dead his will convinced the people of Canada that he was guilty of what he had been accused.

Mr. LEWIS: It convinced the people of Canada of whatever my friend wants to convince them, and I object most strenuously to this cheap remark of Mr. Tardif's about political kudos and political advantage. Let me tell him that I am not even going to try to compete with him in that sphere in which I am sure he is a master.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Let us get back on the track.

Mr. LEWIS: I am getting back on the track.

The JOINT CHAIRMAN (*Mr. Richard*): I quite appreciate there is an argument to be made on subclause 7 whether it should be enlarged to provide certain limited rights by the appointment of a commissioner. I hope you do not mind my interrupting because I have only nice things to say.

Mr. LEWIS: That is no reason for an interruption but go ahead.

The JOINT CHAIRMAN (*Mr. Richard*): At this time there is a royal commission on security investigating this very point and I am sure there will be some strong recommendations. I just want to suggest that we will not settle very much this morning unless we stand subclause 7 and let Dr. Davidson consult the authorities who are able to guide him on the acceptance of any amendment that may apply.

Mr. LEWIS: Nevertheless, I want to complete the point I was going to make. It is precisely because I have as much concern as a citizen of Canada, not any more but just as much concern as anyone about the safety and security of the state, that my suggestion was worded in the way it was worded. If members of the Committee had listened to it as Mr. Chatterton so kindly did, they would have noticed that the protection for the security and safety of the state is contained in my suggestion. There is no suggestion that the security or safety of the state be affected in any way because I emphasized that the Commissioner may hold his hearings in camera and he may receive his evidence in any way he likes, taking into account the security and safety of the state. That is precisely why my suggestion was worded in that way.

Since you referred to it, Mr. Chairman, let me say just one word about the commission which has been set up to investigate security procedures. I appreciate that and I am, of course, aware of that. I do not know how long that commission will take. I suggest to you that if the commission comes down with recommendations that affect this particular provision, including the amendment I suggest, the necessary changes can be made in this law as they will, undoubtedly, be made in all other laws that will be affected by the recommendations of the security commission.

Therefore, I would very strongly urge that the appointment of that commission is no reason for not providing in this act the kind of hearing delimited, and if the officers of the crown have some stronger language to protect the security and safety of the state for the amendment I suggested, there will not be any quarrel about that. I do not think we should delay doing this. I would urge that the amendment I have suggested be considered. If not, I will move it.

Is Dr. Davidson prepared to take it to the law officers and give it consideration?

Dr. DAVIDSON: Mr. Chairman, I would be very glad to have a copy of the text which Mr. Lewis read because I was not able to copy it down completely. I would like to say, as I am sure he will appreciate, that this matter is of sufficient importance as a high question of principle that it will not be a question of my studying it and saying whether or not I have any objection to it, nor will it be a question of my taking it to a law officer of the crown to see if the wording corresponds to what they think might be technically required in the circumstances; this is a matter on which only the government can speak as to whether it is prepared to agree to the inclusion of a provision of this kind in the law. I will undertake to get my instructions and to indicate at the appropriate time to the Committee what the position is.

The only other thing I would say by way of reminding the Committee of the position is that this bill was drafted in its present form and presented to parliament on the 12th day of May, 1966, at a time when the date on which the Royal Commission on Security would be appointed and the program of study that it would have to carry out was still in the future. Therefore, this clause which we are now discussing should not be taken as being the position that the government is taking as a matter of permanent, continuing policy. This was merely a reminder to parliament, if you like, and to members of parliament, that some provision of this kind was in the judgment of the government necessary, that there was a royal commission looming up in the future that was going to study this whole question and that in due course, presumably, the royal commission would make its report and at that time it would be hoped that a permanent arrangement for the conduct of these difficult procedures could be mapped out that would meet with the general approval of parliament. With that, as a statement of the circumstances under which this provision found its way into the bill, I would merely repeat that I will be glad to get direction on this with respect to the informal suggestion Mr. Lewis has advanced for consideration and to report back to the Committee later.

Senator FERGUSSON: I am quite impressed with Mr. Lewis' argument. I think it is very reasonable. I am not at all impressed by the argument that this might affect only a few people. I do not think in Canada it is our policy to override the rights of individuals, and if it only affects one person I think that is a reason it should be inserted in the act.

Mr. LEWIS: Hear, hear.

Senator FERGUSSON: I just want to say, before we have it referred, that I am very much in favour of Mr. Lewis' suggested amendment being included if the proper wording can be worked out by the law officers. If not, if Mr. Lewis brings in such an amendment, I certainly would support it.

Mr. TARDIF: Mr. Chairman, just in case what I said was misconstrued, I did not say that I was in favour of the rights of individuals being superseded by anything. I said that after an investigation already has been made that I do not believe, in the case where any employees of the public service are fired for taking some action that might endanger the security of the country, that it is necessary to give them two or three trials. I am sure that nobody is either fired or relieved of his duties without, first of all, having had some kind of an

investigation to find out whether he was right or not. In the Spencer case there had been a police investigation and a complete report made about that, so the necessity of giving the man a second trial is more than I can see, after he has been found guilty.

Mr. PATTERSON: Mr. Chairman, there is only one thing that I would like to express this morning in connection with this suggestion. I am not at the moment taking objection to the suggestion that was made by Mr. Lewis, but it seems to me that in a case of possibly a very minor infraction or misdemeanor that the government would be almost obligated to throw the book at that person, no matter what the consequences; but if they were allowed some discretion, they could just ease the person out and it would not prejudice his position or the possibility of his securing employment elsewhere. Now, that is just an idea that came to me and I think possibly it might have some merit. Otherwise, if you immediately get him into court and there is an investigation and so on, then it pretty well brands the person no matter how minor the misdemeanor may be.

Dr. DAVIDSON: Mr. Chairman, before the discussion proceeds to the next point could I just complete the record by pointing out, as I did on a previous occasion, that while this does correspond, as Mr. Lewis has indicated, to Section 50 of the Civil Service Act as it now stands, it corresponds in a much more restricted and limited fashion. It is well to remind the Committee that Section 50 in its present form places no restriction on the Governor in Council to dismiss, for any reason whatsoever and without stating any reason. This is a very significant restriction even in its present form in that the clause as now drafted provides that nothing in this act shall affect the right or the power of the Governor in Council to dismiss in the interest of the safety or security of Canada or any state allied thereto. I think this is a significant restriction, even in its present form.

Mr. LEWIS: Not really Dr. Davidson, with respect to significant as you make it. It is very significant in terms of the language but everyone in the House of Commons at the time of the discussions on the Spencer case emphasized the fact that even the previous broad wording was intended to be limited to security and safety of the state and was never intended to be used, and never was used, in any other context. I am not disagreeing with Dr. Davidson but the present wording makes that explicit and to that extent it certainly is more acceptable. But, in practice, the change is not significant because the Prime Minister, the Rt. Hon. Leader of the Opposition, who I think was in power when Section 50 was put in in 1961, and everyone agreed that it was intended to be limited to the security and safety of the state.

Dr. DAVIDSON: I would still suggest to the Committee that the principle that is reflected in this change, quite apart from the practice, is important. It is one thing as a matter of principle to give the Governor in Council power to dismiss absolutely and for any reason, or without any reason at all, under any circumstances, as the law now does. It is quite another matter of principle to state in the law that this power can only be used where the safety and the security of the state is at stake. Even though the practice may not change one iota, I suggest, with respect, the principle has changed in a very important and material regard.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 3, Sections 7(1) and 7(7) stands.

Mr. LEWIS: We passed clause 3 except for subsection 7?

The JOINT CHAIRMAN (*Mr. Richard*): That is correct.

On clause 4—*Management.*

Dr. DAVIDSON: Mr. Chairman, with clause 4 we come to a miscellaneous array of clauses, all of which have as their purpose the purely technical objective of separating out the functions which seem to be appropriate for the Treasury Board or the President of the Treasury Board rather than for the Minister of Finance now that these two departments and Ministers have become separated under the Government Organization Act. Because of the fact that since Confederation the Minister of Finance was always the chairman of the Treasury Board, the present Financial Administration Act never found it necessary to give precision to those duties and responsibilities set out in the Financial Administration Act which were the responsibilities of the Minister of Finance *qua* Minister of Finance and those which were his responsibilities *qua* the Chairman of the Treasury Board. With the separation of these two ministries we now have to decide which of those detailed duties and responsibilities that are lumped together as the responsibilities of the Minister under the present legislation, have to be separated out and vested in the President of the Treasury Board or in the Treasury Board. The line that we have followed generally in making this distinction is that what you might call the detailed housekeeping responsibilities in terms of expenditure control, expenditure policy in budgeting and estimates and so on, become the responsibility of the Treasury Board and of the President of the Treasury Board; whereas what you might call the economic policy, the fiscal and other responsibilities that are part and parcel of the total package of responsibility the Department of Finance has carried up to the present time remain with the Minister of Finance. We are, therefore, defining the responsibility of the Minister of Finance in clause 4 by stating that he has:

> —the management and direction of the Department of Finance, the management of the Consolidated Revenue Fund and the supervision, control and direction of all matters relating to the financial affairs of Canada not by law assigned to *the Treasury Board or to* any other Minister.

Mr. LEWIS: What you have added is "Treasury Board".

Dr. DAVIDSON: That is all.

Clause 4 agreed to.

Clauses 5 to 10 inclusive, agreed to.

On Clause 11—*Inquiry and report.*

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, would you refer to a letter which Mr. Hales wrote on October 17 to Senator Bourget and myself with reference to clauses 11, 12 and 13?

Dr. DAVIDSON: Yes, sir.

The JOINT CHAIRMAN (*Mr. Richard*): As a matter of fact Mr. Hales is not in town. I had written him. You are aware of his representations because that was placed on the record at page 598 of the Minutes of Proceedings and Evidence.

Mr. LEWIS: Perhaps Dr. Davidson could remind us of its content.

Dr. DAVIDSON: Mr. Chairman, I believe the letter is on the record from Mr. Hales to Senator Bourget; it relates to clauses 11, 12 and 13 with which we are now concerned. The letter expresses Mr. Hales' concern as to the effect of the changes proposed here in these three clauses on the position of the Auditor General. Mr. Chairman, I think it might be wise to use the actual words by quoting from Mr. Hales' letter because I would not wish to risk interpreting him wrongly in this connection.

OCTOBER 17, 1966.

Dear Mr. Bourget:

I understand that the Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service of Canada is about to consider in detail Bill C-182, an Act to amend the Financial Administration Act. I am writing to you, as Chairman of the Public Accounts Committee, to advise you of my serious concern about the provisions of Sections 11, 12 and 13 of the Bill, each of which affects the Office of the Auditor General.

I believe it to be fundamental that for effective Parliamentary control of public funds, it is absolutely essential that the integrity and independence of the Office of the Auditor General be zealously guarded. It is my view, and I am sure it is yours as well, that nothing must be permitted to exist which would have the effect of subjecting or appearing to subject the Auditor General to the direction or control of the Executive. He is the servant of Parliament.

In accordance with tradition and the law, all reports of the Auditor General, whether to Parliament, the Governor in Council or the Treasury Board, are made through the Minister of Finance. The Minister of Finance is the link between the Auditor General and those to whom his reports are required to be made. By reason of the provisions of Sections 11, 12 and 13 of Bill C-182, however, this link would be severed and the Auditor General would be brought into a direct relationship with the Governor in Council and the Treasury Board. Further, the right of the Minister of Finance to request information from the Auditor General is removed. This I consider is to be an encroachment on the independence of the Auditor General.

It is my understanding that one of the prime purposes of Bill C-182 is to consolidate in the Treasury Board the detail of expenditure of the public revenues authorized by Parliament. One of the prime functions of the Auditor General is to ascertain whether expenditure of the public revenues authorized by Parliament has been applied to the purposes for which it has been so authorized. The effect of Sections 11, 12 and 13 of Bill C-182 is to require the Auditor General to report directly to those responsible for the acts into which it is the Auditor General's duty to inquire. The anomalous nature of such a situation is obvious. Indeed, such a situation defeats the very purpose for which the Office of the Auditor General exists.

Accordingly, I strongly urge that Sections 11, 12 and 13 of Bill C-182 be deleted and the relevant provisions of the Financial Administration Act be continued.

Yours sincerely,
Alfred D. Hales, M.P.
Chairman,
Public Accounts Committee.

Mr. Chairman, in the light of this matter we have re-examined the proposals contained in clauses 11, 12 and 13 of this bill. I confess that I have not been able to confirm the view expressed in Mr. Hales' letter that this undermines, as he has suggested, the position of the Auditor General in any way whatsoever. I note that the statement is made that "it is absolutely essential that the integrity and independence of the Auditor General be zealously guarded." I have examined these three clauses to see, if I could, the extent which it might be properly considered that the changes did affect the position of the Auditor General in any way.

Let us look at clause 11, for example. The new section 71 replaces the old section 71, which is set out in fine print on the right hand side of the page. Section 71 in its present form provides that the Auditor General must at the direction of either the Governor in Council, the Treasury Board or the Minister of Finance report on any matter relating to the financial affairs of Canada or to public property and so on, as set out there. What has happened is that our amending provision has reduced by one the persons for whom the Auditor General must accept direction in this regard. I must say, with respect, that this change does not impress me as being an encroachment upon the rights and independence of the Auditor General to have the authorities from whom he must accept direction in this matter reduced rather than extended.

Mr. LEWIS: Dr. Davidson, it seems to me that the real difference—and I would suggest, perhaps, you might direct your discussion to that—between what you proposed and what Mr. Hales is talking about in his letter is his conviction that the Minister of Finance must be there; that he is the link between expenditures and so on. I am not saying that I necessarily agree with that. I really do not have enough experience to have a view. It seems to be clear from Mr. Hales' letter that his fears derive from the fact that the role of the Minister of Finance has been removed and it is his opinion that the Minister of Finance is necessary in order to achieve the purposes for which the Auditor General is appointed. Is that not basically the difference, because the only thing you have done in all of these amendments is to remove the Minister of Finance.

Dr. DAVIDSON: The simple reason we have removed the Minister of Finance is that the responsibility for the monitoring of the expenditure program of the government has been shifted to another Minister and to the Treasury Board as a committee of the Queen's Privy Council. It did not therefore seem to us reasonable to have the Minister of Finance, who continues to be ex officio a member of the Treasury Board, continue to carry the line of communication,—a responsibility which he has previously carried,—now that the line of communication and the responsibility is to be channelled through another minister and through the Board as such. Perhaps that could shortcut the explanations I was

going to give on a detailed basis on these three provisions. They all hang together in that sense.

Mr. CHATTERTON: In your proposed Section 71 have you included the President of the Treasury Board. Perhaps that would place it in exactly the same position as before.

Dr. DAVIDSON: No, sir. I think, if I may say so, my interpretation of Mr. Hales' letter is that that would add to his objections. We have deliberately left any reference to an individual minister out of Section 71 and it is now only possible for direction to be given to the Auditor General, who is a servant of Parliament, under this section when the Governor in Council or the Treasury Board as a whole decides that the situation warrants giving a direction to the Auditor General to investigate a certain matter.

Mr. LEWIS: The Treasury Board invariably includes the Minister of Finance.

Dr. DAVIDSON: The Treasury Board by law must include the Minister of Finance.

Mr. TARDIF: Mr. Chairman, is that letter based on the fact that Mr. Hales is worried that the Auditor General may be influenced. The Auditor General is a man of great integrity and I do not think he would be influenced.

The JOINT CHAIRMAN (*Mr. Richard*): Is the Committee satisfied with the explanation of clauses 11, 12 and 13?

Mr. CHATTERTON: Mr. Chairman, the only reason that I can see for Mr. Hales' letter is the removal of the right of the minister to refer the matter to the Auditor General. What is the objection then to including not only the Governor in Council and the Treasury Board but also the President of the Treasury Board? By taking away the minister and not substituting the President of the Treasury Board, you are, in effect, diminishing the chances of the matter being referred to the Auditor General.

Mr. DAVIDSON: Well, sir, that may be an argument but it certainly does not seem to be the argument, Mr. Hales is using.

Mr. CHATTERTON: The only difference between the old section and the new one is the deletion of the minister. I do not know if Mr. Hales was aware of that but that is the way it appears to me. What is the objection to including the right to the President of the Treasury Board, in himself, as it previously was in the case of the minister to refer the matter to the Auditor General?

Dr. DAVIDSON: Sir, that is a matter of judgment but I think I could argue that the Auditor General, as a servant of Parliament, should not be subject to the direction of an individual minister. If this had been the argument that had been advanced I could have understood the force of that argument. I myself would be reluctant to go so far as to say that the Auditor General should be required to carry out an investigation at the direction of the President of the Treasury Board, even if it were only a replacement of the present reference to the Minister of Finance.

Mr. CHATTERTON: The direction is merely that he should investigate, is it not?

Dr. DAVIDSON: That is correct, and of course he can doing that anyway.

Mr. CHATTERTON: Can he do that without the direction of the Governor in Council and the Treasury Board?

Dr. DAVIDSON: Yes.

Mr. WALKER: Mr. Chairman, I do not see that clauses, 11, 12 and 13 take away any of the present powers of the Auditor General.

Mr. CHATTERTON: May I just ask under what authority the Auditor General investigates, in any case?

Dr. DAVIDSON: Under the authority accorded to the Auditor General in the Financial Administration Act, as it now stands.

Mr. CHATTERTON: I see.

Clause 11 agreed to.

Clauses 12 and 13 agreed to.

Mr. LEWIS: I think we should be in the house at this time. We could return for a half an hour this afternoon.

The JOINT CHAIRMAN (*Mr. Richard*): We could return this afternoon.

Mr. LEWIS: I would be prepared to return after Orders of the Day.

The JOINT CHAIRMAN (*Mr. Richard*): What about this morning after Orders of the Day?

Mr. LEWIS: All right. Shall we return at 12.30?

The JOINT CHAIRMAN (*Mr. Richard*): A half an hour should finish this bill.

Mr. LEWIS: A half an hour will finish it.

The JOINT CHAIRMAN (*Mr. Richard*): We shall return at 12.30 p.m. to finish this bill.

AFTERNOON SITTING

The JOINT CHAIRMAN (*Mr. Richard*): We were on clauses 11, 12 and 13. Although discussion had been completed, I think Mr. Hales should be invited to state his own views at the next meeting of this Committee. It may only be a short discussion, but I think we should give him that privilege.

Mr. WALKER: Mr. Chairman, I do not want to interfere with any arrangements you may or may not have made but there are members of the Committee who have expressed their viewpoint already who may not be here when Mr. Hales comes. It is like running out of butter and bread; you never get them together. We have Mr. Hales' representations in the letter. Those members who heard the letter appeared to be satisfied with the passing of clauses 11, 12 and 13. If there are any of the members here who feel that enough consideration was not given to Mr. Hales' letter, that is another thing. The point I am making is that there are members here who have taken it into consideration who may not be here when Mr. Hales comes.

Mr. CHATTERTON: I am satisfied that the only difference between the old section and the new one is the removal of one person. Furthermore, Dr. Davidson

explained to us that under the other piece of legislation, the Auditor General has the right in any event, without direction from anyone.

Mr. KNOWLES: I suggest you discuss it with Mr. Hales. I think out of courtesy we should have him, unless he is satisfied having heard what has been said here. If he wants to come, I think we should hear him.

The JOINT CHAIRMAN (*Mr. Richard*): We have carried the clauses. We can allow him to come, and if we decide to reopen it at that date, that will be all right.

Senator FERGUSSON: We are not holding up the bill because there are other clauses that are being stood.

The JOINT CHAIRMAN (*Mr. Richard*): Are you coming back to my suggestion in the first place, that we should stand the clauses.

Mr. WALKER: Mr. Chairman, having very thoroughly discussed the letter and the points raised in Mr. Hales' letter, I believe that the members of the Committee who did hear the letter and seriously considered the proposals should have the opportunity of registering their decision, because they may not be here when Mr. Hales comes. Certainly, we have reopened other clauses that had been passed in other bills and we might do the same with this, but I do think the decision of the Committee, as it is now composed, should be registered in the passing of this clause. If some subsequent appearance leads us to reopen it, that is different. I think the decision of the Committee should be registered by the passing of the clauses now.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clauses 11, 12 and 13 carry?

Some hon. MEMBERS: Agreed.

An hon. MEMBER: Will the Chairman undertake to consult with Mr. Hales?

The JOINT CHAIRMAN (*Mr. Richard*): Oh, yes.

Some hon. MEMBERS: Carried.

On clause 14—*Budgets.*

Dr. DAVIDSON: This is a pretty technical change, Mr. Chairman. The operating budget is referred to here, and since this is, in the case of agency corporations frequently the budget that requires an appropriation to be made by Parliament in order to meet in part or in whole the deficit of the agency corporation, it is considered appropriate that the operating budget should carry the approval of the minister responsible for reporting to parliament on the affairs of the corporation and also the President of the Treasury Board. On the other hand, if you look over the next page, you will see that the Minister of Finance is still kept in the picture so far as the capital budget is concerned because the capital budget may have to be financed by loans or by other means for which the Minister of Finance takes the basic responsibility. It is for that reason that both the President of the Treasury Board and the Minister of Finance are referred to in subsection (2).

Clause 14 agreed to.

Clause 15 agreed to.

On clause 16—*Statement of accounts.*

The JOINT CHAIRMAN (*Mr. Richard*): Are there any changes here?

Dr. DAVIDSON: Merely the underlined portions.

Clause 16 agreed to.

On Clause 17—*Proof of Treasury Board records.*

Dr. DAVIDSON: This, Mr. Chairman, is a purely legal provision and merely provides that a document that purports to be an entry in the records of the Treasury Board if it is certified by the secretary or the assistant secretary, is taken at its face value in court without the requirement being made that the secretary must appear in person to prove the document and prove the signature.

Mr. KNOWLES: What was the case before we had this or what is the case now?

Dr. DAVIDSON: Frankly I cannot answer that question with any accuracy, Mr. Chairman. The situation has never arisen except in one case that I can recall within the last year. In this case we had to send either one or two officers down to Montreal to deposit the document and to give personal testimony as to the document.

Mr. WALKER: I have just one question, Mr. Chairman. Are these documents sworn documents?

Dr. DAVIDSON: This would be a certified document. On the basis contemplated in this clause it would be a certified copy.

The JOINT CHAIRMAN (*Mr. Richard*): That is done on many special occasions when you deposit certain certified documents under the seal of the department attested to by an officer of the department.

Mr. KNOWLES: Anything that Dr. Davidson certifies is true.

The JOINT CHAIRMAN (*Mr. Richard*): Certified that it is a copy.

Dr. DAVIDSON: If a document with my signature on it and the designation, Secretary of the Treasury Board, is filed in court as a copy of an entry in the records of the Treasury Board, that document is taken as probative evidence of the original document's existence and that is all.

Clause 17 agreed to.

Clause 18 agreed to.

Mr. CHATTERTON: Mr. Chairman, I have one more question. Clause 1 was stood.

The JOINT CHAIRMAN (*Mr. Richard*): We will come back to clause 1 later.

Mr. CHATTERTON: All right.

The JOINT CHAIRMAN (*Mr. Richard*): That completes it for this morning, this week and for some time to come.

Mr. CHATTERTON: Mr. Chairman, may I just ask a general question of Dr. Davidson? Does a public employee have a statutory right to his wages?

Dr. DAVIDSON: Yes, sir. That was put into the Civil Service Act in 1961. I am very glad you referred to that, Mr. Chatterton, because if you will look at page 3

of this bill, subheading (d), you will note that we have carried forward the wording for the purpose of maintaining this point. The Treasury Board, under this, has the authority to determine and regulate the pay to which persons employed in the public service are entitled for services rendered. The reason for putting that wording in in the way it is, is to maintain the principle carried forward from the Civil Service Act, that employees are entitled to the wages they have earned.

Mr. CHATTERTON: Then under what instrument can a public employee's wages not be garnisheed?

Dr. DAVIDSON: This is a technical legal point about which I am not sure I am best qualified to answer. I think it is really that the crown is not obligated to receive a garnishee order.

Mr. CHATTERTON: I know that public employees, generally speaking, would like to be treated the same as other employees, particularly with regard to garnisheeing too; can that, somehow, be brought about in any of these pieces of legislation?

Dr. DAVIDSON: It certainly would not be possible by regulation to change the present provisions. I think it would require, if I am right, Mr. Chairman, specific legislation.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think it would be a popular move.

Mr. CHATTERTON: No, I disagree with you. I think the public employees want it provided they have legal rights to their pay.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think you will find much support.

I do not think it would be a very popular move.

Mr. CHATTERTON: I think it would be a very proper move.

The JOINT CHAIRMAN (*Mr. Richard*): That is a matter of opinion, and whether you believe in garnishees in the first place.

Dr. DAVIDSON: It might interest the members of the Committee to know that in the Financial Administration Act, section 88 (c), there is a provision that refers to the assignment of crown debts and so on and this section goes on to state: "Notwithstanding subsection (1), any amount due or becoming due by the crown as or on account of salary, wages, pay or pay and allowances, is not assignable, and no transaction purporting to be an assignment of any such amount is effective so as to confer on any person any rights or remedies in respect of that amount." That covers assignments; it does not cover garnishees. I do not think garnishees are referred to in the Financial Administration Act.

Mr. KNOWLES: If a civil servant owes the crown in any other respect, that can be recovered?

Dr. DAVIDSON: Yes, under section 95, I think it is, of the Financial Administration Act.

The JOINT CHAIRMAN (*Mr. Richard*): That is a different situation. It does not require interference from courts. This is submitting the crown to the action of the courts in the disposition of the compensation to be paid to an employee according to the terms set by a court.

Mr. WALKER: Mr. Chairman, is the next meeting at the call of the Chair?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. The meeting is adjourned.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 25

FRIDAY, DECEMBER 16, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Mr. A. D. Hales, M.P., Chairman, Public Accounts Committee; Dr. G. F. Davidson, Secretary, Treasury Board; Dr. P. M. Ollivier, Parliamentary Counsel and Law Clerk, House of Commons.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25454—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	[1]Mr. Chatwood,	[2]Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Éthier,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Tardif,
	Mr. Hymmen,	Mrs. Wadds,
Mr. MacKenzie,	Mr. Knowles,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Lachance,	

(Quorum 10)

[1] Replaced Mr. Rochon on December 7, 1966.

[2] Replaced Mr. Isabelle on December 15, 1966.

Edouard Thomas,

Clerk of the Committee.

ORDERS OF REFERENCE

(House of Commons)

WEDNESDAY, December 7, 1966.

Ordered—That the name of Mr. Chatwood be substituted for that of Mr. Rochon on the Special Joint Committee on the Public Service of Canada.

THURSDAY, December 15, 1966.

Ordered,—That the name of Mr. Orange be substituted for that of Mr. Isabelle on the Special Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

25454—1½

MINUTES OF PROCEEDINGS

FRIDAY, December 16, 1966.

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.45 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Deschatelets, Fergusson (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Hymmen, Knowles, Lewis, Madill, McCleave, Orange, Richard, Richard, Walker (11).

In attendance: Mr. A. D. Hales, M.P., Chairman, Public Accounts Committee; Dr. G. F. Davidson, Secretary, Treasury Board; Dr. P. M. Ollivier, Parliamentary Counsel and Law Clerk, House of Commons.

Also in attendance: Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service; Mr. W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The Committee questioned the Chairman of the Public Accounts Committee on his statement concerning Clauses 11, 12 and 13 of Bill C-182.

A proposed amendment to Clause 32 of Bill C-181 was referred to a Sub-committee comprising the Joint Chairmen, one senator and a representative of each political party for study and report to the Committee.

At the request of Mr. Bell, the Committee agreed to accept as an appendix a bibliography of *Political Participation of Public Servants*. (*See Appendix W*)

Moved by Mr. Walker, seconded by Hon. Senator Denis, and resolved

That Clause 3 of Bill C-182 be amended by striking out lines 45 and 46 on page 2 and substituting the following therefor:

> personnel management including its responsibilities in relation to employer and employee relations in the public service, and without limiting the generality of sections 5 and 6,

Clause 18 of Bill C-170 carried.

The meeting adjourned at 10.50 a.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

EVIDENCE

(Recorded by Electronic Apparatus)

FRIDAY, December 16, 1966

The JOINT CHAIRMAN (*Mr. Richard*): Order. I see a quorum. Members of the committee will recall that Mr. Hales indicated some time ago that he would like to speak to clause 11 of Bill No. C-182. This clause was passed at the last meeting of the committee but it was agreed that we would re-open it at the next meeting and hear Mr. Hales.

Mr. HALES: Thank you, Mr. Chairman. I can assure you it is quite a switch for me this morning to be in the witness' position and not in the Chairman's position, but I think it is a good practice that everybody has their turn at both. I shall be very brief, Mr. Chairman. I have prepared a very short presentation and I will proceed with it immediately. I am sorry that it was not possible for me to appear before the committee at its last meeting when Bill No. C-182, An Act to amend the Financial Administration Act, was under discussion.

I appreciate the opportunity to speak to this because any amendments or changes to the Financial Administration Act are of considerable interest and importance to the Public Accounts Committee. This is because the Committee is charged each year by the House with examining the Public Accounts of Canada and the Reports of the Auditor General and reporting to the House of Commons thereon. It is the provisions of the Financial Administration Act which govern the preparation of the Public Accounts and which defines the duties and responsibilities of the Auditor General. Consequently the members of the Public Accounts Committee and I have a very special interest in this Act which is the foundation upon which the accounts of Canada are maintained.

On October 17th last I wrote to your Joint Chairman with regard to clauses 11, 12 and 13 of Bill C-182. It is my view—and I am sure it is yours—that nothing must be permitted to exist that would have the effect of subjecting or appearing to subject the Auditor General to the direction or control of the executive.

He is, after all, the servant of Parliament.

I feel that I owe the members of this Committee a further explanation of the circumstances surrounding and underlying my request. The fact that I did not include all the explanations in my letter of October 17, which was read and commented upon at your December 2nd meeting, I would, Mr. Chairman, with your permission, like to enlarge on two or three points.

Bill C-182 was given first reading in the House on May 12, 1966 and second reading on June 6, 1966, when the Bill was made public and thus first came to my attention and to the attention of the Auditor General.

The Public Accounts Committee started its present session of meetings on March 1, 1966 although it was not until April 5, 1966, that we were able to commence our work with the Auditor General. As we moved into our examination of his 1964 and 1965 Reports to the House, considerable discussion ensued in the Committee respecting the Office of the Auditor General, his position, duties and responsibilities which as you know have for the past several years been the subject of specific recommendations to the House and which we have been hoping to see implemented by the introduction of appropriate amendments to the Financial Administration Act.

I do not propose to burden the members of this Committee with a recital of these except—and because it is basic and pertinent to our discussion today—to quote part of an important statement made to our Committee by Mr. G. W. Baldwin, past Chairman of the Public Accounts Committee, on May 19, 1966, in which he said:

> I think that the Office of the Auditor General should be under separate legislation and not combined with that of the provisions of the Financial Administration Act. All of his characteristics, his duties, his functions should be set out in an Audit Act or an Act of the Auditor General and, therefore, his position is derived directly from statute rather than from a statute of which he is only a subsidiary in his duties as far as legislation is concerned.

This suggestion was given close study by the Committee to the point where it reached a unanimous decision when it wrote its Third Report which appeared in Votes and Proceedings, June 28, 1966. In that report, along with a number of other recommendations involving, as I said, amendments we think should be made to the Financial Administration Act, the following statement appeared. This was our fifth point in that report.

> The Committee is of the opinion that all of the characteristics, duties and functions of the Office of the Auditor General, including the foregoing recommendation, should be set out in a separate Act of Parliament governing this Office instead of being a part of the Financial Administration Act.
>
> The Committee is requesting the Auditor General to consult his legal advisers and to co-operate with them in drafting such an Act for submission to the Committee and to the Government.

The Auditor General, as you probably know, has his own legal advisers and, in accordance with our request, he has proceeded to co-operate with his legal advisers. They have now completed drafting a new Act as we recommended and I am advised by the Auditor General that he expects to submit this to the Committee and to the Goverment when he submits his next Report to the House which will be after we return from our Christmas recess.

As Chairman of the Committee, I met with the Auditor General and his legal advisers in October to discuss the progress being made in carrying out this assignment. At that meeting my attention was drawn to the changes proposed in Bill C-182 affecting Part VII of the Financial Administration Act which defines the position and responsibilities of the Auditor General.

The legal advisers to the Auditor General argued that no changes should be made in Part VII until consideration could be given to the new legislation being prepared for study by the Committee and, we hope, acceptable to the Government and, although fully appreciating the need of the Government to have the present Act conform to the new organization of the Treasury Board, they took the view that the changes proposed in clauses 11, 12 and 13 should be set aside until new legislation could be considered.

The reasons for this view are set out in my letter of October 17th to your Joint Chairman and I assume the members of this Committee are familiar with it.

In the circumstances, therefore, I would express the hope that this Committee in its Report to the House will recommend that clauses 11, 12 and 13 of Bill C-182 be deleted and the matter referred to the Public Accounts Committee of the House to consider early in the New Year when it deals with the proposed Auditor General's Act.

Mr. Chairman, that is the brief with respect to those three sections of the act with which you are now dealing. I would accept any questions.

Mr. LEWIS: Mr. Hales, am I correct in thinking that even if these amendments are not made the Financial Administration Act would still have to be amended in various ways if the suggestion of a separate Auditor General's Act is accepted by the government and by Parliament?

Mr. HALES: You have reference to these three; clauses 11, 12 and 13 in particular.

Mr. LEWIS: And other sections. The present Financial Administration Act contains references to the Auditor General, which I assume from your statement would have to come out and all of them gathered together in a separate act governing the Auditor General.

Mr. HALES: Yes, to make it entire in its viewpoint.

Mr. LEWIS: Yes. What is the difference then if you eventually will have to amend the Financial Administration Act anyway in order to make room for the separate statute which, by the way, appeals to me as a very sensible suggestion. I do not know enough about it, but logically it seems to me a very sensible suggestion. If that is the case, why in the meantime should the Financial Administration Act not be brought into line with the reorganization. Then when the new act is introduced the amended Financial Administration Act is amended in the same way you would have to amend the unamended one, if you follow me.

Mr. HALES: Yes. Well, I am glad to hear you say that you think it is a good suggestion, and by that I think you were referring to a separate act, call it the Audit Act, or whatever it is called.

Mr. LEWIS: That is right. I think that is a very good suggestion.

Mr. HALES: I might say this is the basis on which the Australian government operate. In Australia they have an Auditor General's Act which is separate from their Financial Administration Act.

Mr. LEWIS: My point is that if your suggestion is followed, then you would have a period of time during which the Financial Administration Act would not

fit the new situation. It would not coincide with the reorganizaion. I do not see why you need that. I do not see why you cannot later make all the amendments that have to be made, some of which would have to made in any case.

Mr. HALES: I am not sure that I follow you. I think you are suggesting this be allowed to go through with all its changes and then change it later on after the Audit Act comes in.

Mr. LEWIS: Yes. It may be a year before the new Audit Act is passed. In the meantime you would have a Financial Administration Act which in some respects would not coincide with the reorganization.

Mr. HALES: Well, with respect to these clauses 11, 12 and 13, if they were not changed and left as they are, it simply means that the Auditor General deals with the Minister of Finance. If they were not changed the Minister of Finance would continue to be the liaison for the Auditor General.

Mr. LEWIS: But in fact in the re-organization it is the President of the Treasury Board and the Treasury Board—

Mr. HALES: That is right.

Mr. LEWIS: —that would be carrying out the functions which were formerly carried out by the Minister of Finance.

Mr. HALES: Our suggestion is do not change these, leave them and leave the Minister of Finance in these three clauses as they were.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Ollivier, have you any opinion on this?

Dr. OLLIVIER: Well, I agree with Mr. Lewis. I do not think it makes any difference. If you are going to transfer those sections to the Auditor General's Act it is better to have them amended and transferred in a better form than they are at the moment. If it is the idea of the committee that the Auditor General should deal not only with the Governor in Council but also with the Treasury Board, why not do it now? It makes no difference. When we consolidate the act it will be consolidated with the sections which this committee wants to have in unless there is objection to those sections themselves. It is not because they are going to be transferred that you should take them out of the bill.

Mr. ORANGE: Mr. Chairman, I would like to ask Mr. Hales a question with regard to the proposed legislation of our Auditor General's Act. In reading this I gather it has been a recommendation of your committee—

Mr. HALES: Right.

Mr. ORANGE: —to the Auditor General that he prepare legislation which would meet the objectives you set out here, but does the committee have any assurance that the government is prepared to accept legislation of this type?

Mr. HALES: No, we have no assurance of that. We can only recommend.

Mr. ORANGE: Yes. Have you had the opportunity to discuss this with the government? I am curious about this. In line with what Mr. Lewis has to say, if we leave it as it is, without any assurance that there will be an Auditor General's Act, we will put ourselves, I think, in the position of not amending the legislation and there is alway the possibility that the government, for reasons of its own,

may decide not to accept your recommendations. Then we are back where we were before we started and it is intended that the President of the Treasury Board will carry out this function.

Mr. HALES: Well, in answer to your question, we have not proposed this to any members of the government. It is still in committee stage. May I elaborate on that. Section 7 of the Financial Administration Act, which deals with the Auditor General and his work, seems to be working reasonably well as far as the Auditor General is concerned from what I know of it. The question I would ask is why change that around—everything seems to be running quite smoothly—until such time as this proposed act comes into being?

Mr. ORANGE: My point is that it is a recommendation of the committee and we have no assurance that there will be an act come into being, and this is the difficulty I see ourselves in at the moment. We are talking about something that is in someone's mind, but there is no assurance that the government will accept your recommendations, desirable though they may be. This is where I find myself a little confused on the whole issue.

Mr. HALES: Could I, Mr. Chairman, just clear it up? The only change that you are making in this is substituting the President of the Treasury Board for the Minister, and the Minister that the Auditor General now reports to and deals through is the Minister of Finance. What harm would there be in allowing this to continue if you go ahead and adopt your bill, leaving clause 7 as it is?

Mr. ORANGE: Is there a change in substance by moving the Auditor General's liaison to the President of the Treasury Board from the Minister of Finance?

Mr. HALES: Yes, we think there is. In the committee we feel that it is taking the Auditor General out of the realm of a servant of Parliament, and we are most anxious that he remain in that position. As I said, nothing should be done to subject the Auditor General to the direction or control of the executive. This is for Parliament.

Mr. LEWIS: Mr. Hales, you have me really confused. You say what harm is there in leaving this alone. The harm is found in the new clause 5 of Bill No. C-182, which gives to the Treasury Board the authority to act for the Queen's Privy Council. I could do it in a number of places, but I draw your attention to (c) "financial management, including estimates, expenditures" and so on. So, what you have by the new act is that the Treasury Board, not the Minister of Finance, is in charge of the general supervision of financial management including estimates, expenditures, and so on. All the things with which the Auditor General deals are now to be supervised—somebody correct me if I am wrong but I think I have it right—by the Treasury Board instead of the Minister of Finance. All the amendments to clauses 11, 12 and 13 do is to bring that in line with the re-organization. Now, if you give the Treasury Board this authority under the new clause 5 and then have the Minister of Finance as the person who asks the Auditor General to do certain things, then you leave to someone who does not have the responsibility for something the task of asking him to do something about that something, if you see what I mean. This is surely where you have a hole in the sequence.

What I am suggesting to you is that if your committee objects to all of this being handed over to the Treasury Board, leaving the Auditor General alone, if you still think the Minister of Finance ought to do all these things, that is one thing, but if the Treasury Board is to do these things surely it is the Treasury Board that is the liaison with the Auditor General instead of the Minister of Finance, and you no more bring him under the authority of the executive by switching ministers than—

Mr. HALES: Mr. Lewis, may I—

Mr. LEWIS: I just do not follow that at all.

Mr. HALES: May I help this way. These changes have to do with Part VII of the Financial Administration Act that deals with the Auditor General. We are suggesting that sections 71, 72 and 73 be left in the Financial Administration Act as they are. Now, the committee is considering making certain changes. I might refer you to Section 70, subsection (2) of the Financial Administration Act. Subsection (2) reads: "The report of the Auditor General shall be laid before the House of Commons by the Minister", and the Minister is the Minister of Finance. So, you are not changing section 70, you are leaving that in your new act, but you are changing 73 and omitting 72.

An hon. MEMBER: Does it say by the Minister or the Minister of Finance?

Mr. HALES: It says by the Minister, but I think the interpretation of "the Minister" means the Minister of Finance.

Mr. ORANGE: Could we have clarification on that particular point that Mr. Hales raised?

Mr. HALES: I think Dr. Ollivier could clear that up.

Dr. OLLIVIER: I do not think that creates any difficulty. You have to have a minister to table the report of the Auditor General, and it happens to be the Minister of Finance. That still does not change the fact that if you want to have other ministers or the Treasury Board have dealings with the Auditor General, I do not think it is an inconvenience. All the Minister of Finance does is takes the report and lays it on the table.

Mr. KNOWLES: Could that be an oversight? Should that have been changed too, so that it would be the President of the Treasury Board who would be the messenger boy?

Dr. OLLIVIER: I do not think it is necessary at all.

An hon. MEMBER: For the purpose of taking a report any minister can act for the Minister of Finance.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, could you clarify this?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, that was quite intentional. It is not intended by the changes that are being made in this proposed bill that the President of the Treasury Board should replace the Minister of Finance as the minister through whom the Auditor General reports in terms of his basic functions and responsibilities to Parliament. The public accounts, which is the basic document to which the Auditor General works, is a report upon the Comptroller of the Treasury's administration and maintenance

of the public accounts. The Comptroller of the Treasury remains as a part of the Department of Finance. The Auditor General makes his report based upon the public accounts and he reports in the normal way through the Minister of Finance to Parliament, and that relationship remains undisturbed. There is, in fact, in the three sections of the bill before us no reference to the president of the Treasury Board as a minister through whom the Auditor General reports, except in one sole respect. The President of the Treasury Board is not referred to in clause 11, the new section 71. The President of the Treasury Board is not referred to in clause 12, which is the repeal of section 72. The President of the Treasury Board is referred to in only one instance, and that is in clause 13, where it says that where there is, in the view of the Auditor General, evidence that any public money has been improperly retained by any person, he shall report that circumstance to the President of the Treasury Board, whereas formerly it was the Minister of Finance. The reason for that is that the President of the Treasury Board is responsible, as the President of the Treasury Board, for what I describe as the housekeeping functions of the government. It is therefore to him in this circumstance that the Auditor General would report this individual circumstance that he discovered. I repeat that it was entirely deliberate that the relationship between the Auditor General and the Minister of Finance and Parliament was preserved, in the amendment that we are proposing, in so far as his basic function of reporting on the public accounts to Parliament is concerned.

Mr. BELL (*Carleton*): The only difference is that Mr. Hales is saying it should be preserved in all cases?

Dr. DAVIDSON: That is right.

Mr. HALES: If you are going to preserve it in one place it should be preserved in all places. That is the argument.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Hales. We were glad that we saw you even a little late.

Mr. HALES: Well, my plea is that you make no changes in clauses 11, 12 and 13 until further deliberation.

The JOINT CHAIRMAN (*Mr. Richard*): The old sections 71 and 73?

Mr. HALES: Sections 71, 72 and 73 remain as they are. It would seem, Mr. Chairman, rather strange to have one committee reporting a recommendation to the House, and then another committee coming along and recommending something entirely different. It would seem we should get together before a recommendation is made. Thank you.

The CHAIRMAN (*Mr. Richard*): Now, the next—

Mr. KNOWLES: Mr. Chairman, before you proceed to other matters, could I have 30 seconds to ask that one correction in the record be noted. It is not world shaking and it may seem a bit facetious, but there has been correspondence about a silly remark attributed to me on page 749 of the Evidence for Thursday, November 3, 1966.

Mr. LEWIS: Only one?

Mr. KNOWLES: Well, I have found many others but on that page I am quoted as having said, "Have you not heard about the Tony Nanty".

An hon. MEMBER: What?

Mr. KNOWLES: That is the point. What I said, and I would appreciate it if a correction could be made, was, "Have you not heard about the Tory Party".

An hon. MEMBER: That is not as funny.

Mr. KNOWLES: This was immediately after Mr. Cloutier made the remark that there could be only one chief.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Mr. KNOWLES: I realize that the Minutes are not reprinted, but if a note could be made in some flyleaf somewhere that would be one less silly remark attributed to me.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we will discuss clause 32 of Bill No. C-181. Mr. Walker?

Mr. WALKER: Mr. Chairman, I wonder if I might just say a word of explanation in connection with this draft amendment.

The JOINT CHAIRMAN (*Mr. Richard*): By the way, have all members got a draft of the amendment which Mr. Walker intends to move?

Mr. WALKER: This draft amendment is the government's position on this whole question of political activity in the public service. I though I should tell the committeee this. They have given long and serious thought to it. Some members may feel that it goes farther than they would like to have it go, and other members may feel it has not gone far enough. But I am in position to say that the government have looked at this whole matter and have had discussions with many interested people and the results of their discussions are before you today in this drafted amendment. I know there have been some fears expressed in some quarters that if we were not careful in this question of political activity we might turn the public service into an arena of continual political activity. I believe that the present amendment precludes such a degeneration of the civil service. I think the amendment really has general approval of the majority of our public servants, many of whom have, I believe, through the Public Service Alliance, given their suggestions. It has been helpful to me to have some material that Mr. Bell gave me privately. It is an area of contention and of debate, but I am hopeful that the committee will feel that the proposed amendments which the government approves will generally be a step forward in preserving the integrity of a non-partisan political public service, and at the same time give quite an element of individual freedom for members of the public service as individuals. I think that is all I want to say, Mr. Chairman. There will be other members, of course who will want to comment on this. I would like to move this.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, seconded by Mr. Hymmen, moves that:

> Bill No. C-181 be amended by striking out section 32 and substituting the following:

Shall I dispense?

Mr. KNOWLES: Mr. Chairman, we are right at the start digressing a bit from what I thought was the understanding, namely, that we would arrive at a party consensus. Now we have a government proposal and it is moved and seconded by two government supporters.

Mr. HYMMEN: If anybody else wants to second it—

Mr. WALKER: I just want to get it on board.

Mr. KNOWLES: It is not just the moving and seconding that bothers me. Why could we not have had some meeting where we could have come up with a consensus instead of having this issue, which the government said it was leaving to the parties on the Committee, now resolved by a precise draft which comes to us from the government.

Mr. WALKER: I would just say that we have to get it aboard; we did have a discussion on this whole question. If I have done wrong, I apologize; we are just trying to get something concrete on this. This is not put forward as a government proposal, it is a proposal which the government finds themselves able to accommodate and it has their approval.

Mr. BELL (*Carleton*): Then I have misunderstood very much what Mr. Walker said. I thought Mr. Walker indicated in his remarks that the government had considered this and this was it. I took it as really being an ultimatum from the government.

Mr. WALKER: Well then, I should have gotten up earlier this morning to sort out the right words.

The JOINT CHAIRMAN (*Mr. Richard*): I did warn you before you came in and I thought you had thought our your position and how would say this, but it is all right; let us start over again.

Mr. WALKER: It is clear now that this is not put forward as a government proposal. The government would approve as far as they are concerned.

Mr. LEWIS: You have such a proposal, which the government approves.

Mr. WALKER: That is right; which is a bigger victory, I might say.

Mr. LEWIS: Mr. Chairman, the effect of this proposal is as follows, is it not, that any member of the Civil Service, at whatever rank, is permitted to be a member of a political party; to attend a political meeting; to contribute to a political party or to the election of a member, but no employee in the Civil Service, even the lowliest one, can work on behalf of a candidate. That is what 1(a) means, does it not? And no member of the public service—not even the lowliest one—can be a candidate without first applying to the Public Service Commission and receiving from the commission permission to run as a candidate, and the necessary leave of absence. No employee, no public servant—no matter only how lowly his post—can work in any campaign. That is what this means. So that you, Mr. Bell, and Mr. Co-Chairman, who represent ridings in which a good many civil servants undoubtedly live, even the lowliest clerk cannot distribute a leaflet on your behalf without contravening this proposal.

Mr. KNOWLES: Or talk to his neighbour.

Mr. LEWIS: Or talk to his neighbour on your behalf without contravening this, and I am darned if I see sense in that at all.

Mr. ORANGE: Mr. Chairman, added to what Mr. Lewis has to say, as I understand it, at the present time there are certain classes of civil servants such as prevailing rate personnel, exempt personnel, such as teachers in the federal

service, and so on, who are able to participate fully and completely in political activity. Do I understand from this amendment that as far as these particular groups are concerned it is really a retrograde step; in other words, they are losing some of the rights they now have. I would like some clarification on that.

Mr. LEWIS: I think you are right, Mr. Orange.

Mr. KNOWLES: The only thing in this that is good is clause (2), which does permit people no matter how much higher they are to do certain things. But, as has been pointed out, it denies to other people the right, no matter how long they are in the civil service, to do anything.

Mr. BELL (*Carleton*): It provides for a leave of absence for a candidate but for no reinstatement after a period of service in a legislative body, such as is done in virtually all the other acts; it is in the Ontario Act and the Saskatchewan Act. I wonder if Mr. Walker would answer the question that was put by Mr. Orange. I think it is a very significant one, and that is the position of prevailing rates people now and how they will be affected by this. Prevailing rates are not under the Civil Service Act. Does the old section on political partisanship apply to them?

Mr. WALKER: Do you have the old act before you? Some of the wording is directly out of the old Civil Service Act:

32 (1) No deputy head or employee shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories; or

(b) contribute, receive or in any way deal with any money for the funds of any such candidate or of any political party.

Mr. KNOWLES: We have brought people in under the Civil Service Commission now who were not under the commission at that point.

Mr. BELL (*Carleton*): A prevailing rates employee at the present time is not an employee for the purpose of the Civil Service Act. Therefore, section 60(1) does not apply to that person.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, is it your contention that before this a public works employee could take part in elections?

Mr. BELL (*Carleton*): Yes, section 60 (1) does not apply to public works employees of a prevailing rate nature.

Mr. WALKER: My information—if I have it right, and if I am not right my advisers here will tell me so—is that we presume that all prevailing rate employees will in fact become employees under the new Public Service Act.

Mr. BELL (*Carleton*): The position we are putting to you, Mr. Walker, is that under the existing section 60(1), which governs political partisanship, a prevailing rate employee is not an employee. Under the new act a prevailing rate employee does become an employee. Therefore the new and more restrictive provisions will apply to such a person.

Mr. WALKER: In such areas there formerly were people outside the broad definition of prevailing rate employees who now are being brought in under the Public Service Act. Does this not put everybody on the same footing?

Mr. BELL (*Carleton*): We agree with that.

Mr. ORANGE: But you are penalizing a group of people who have rights at the present time, and it is not only prevailing rates; there are other categories of public servants and I am thinking of federal teachers who are able to participate actively. Under this new arrangement these people will be denied some of the rights they now have.

Mr. WALKER: Yes, and a great bulk of people will be given some rights which they did not have.

Mr. KNOWLES: And which some of them do not even want.

Mr. LEWIS: Such as being a member of a political party and making a contribution. I will bet you dollars to doughnuts there are people who do that now.

Mr. WALKER: Well, we are just trying to relieve their minds of any—

Mr. LEWIS: Well, you have to relieve more than their minds.

Mr. ORANGE: Apart from other areas, this particular point with respect to prevailing rates and other categories of federal employees, we are taking something from them that they now have.

Mr. WALKER: Is it your suggestion that the former rights, if you will, of the prevailing rate employees with regard to political activity should extend right through the whole public service?

Mr. ORANGE: No, I am not suggesting anything. I am suggesting that there are groups of people—and I am being very parochial about this—in my own campaign, for example, where the N.D.P. candidates' official agent and his campaign manager were both federal teachers. The official agent of the Conservative candidate was a teacher. I had several teachers working on my behalf. Under this proposal these people would be denied the right to participate actively in a campaign and, frankly, from our own point of view I think this would be wrong regardless of the partisan aspects of this. In my own area we need the expertise and the energy of these people to assist in the democratic process. Otherwise I think it would have a great effect on the over-all results of the effectiveness of an election.

Mr. WALKER: Mr. Chairman, I wonder if you want to go at this clause by clause?

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes, I think this is the time to go at it. I just want to say that I think those first words "engage in work", if they mean anything, should have been "engage in partisan work". Otherwise it could mean a person delivering parcels, or typing or anything else. If it is not "partisan" it means nothing.

Mr. MCCLEAVE: It might rule out the postman delivering the mail.

Mr. BELL (*Carleton*): As a matter of fact, it would rule out a member's secretary.

The JOINT CHAIRMAN (*Mr. Richard*): Well, that is what I was thinking.

Mr. LEWIS: Mr. Chairman, I was going to say that Mr. Walker has made a good try. I am not personally prepared to deal with this clause by clause and suggest amendments as we go along. I would like to suggest—and if necessary move—that the Committee lay this on the table and that each one of us take a copy with us and think about it. I would also like to suggest that a small sub-committee of three or four, one representative from each party around this table, be appointed—or five or six, I do not care how many—to have a go at this before it comes to the full Committee, so that we have genuine consultation among the parties, to see if we cannot arrive at something more satisfactory than what is before us. I think if we try to do it this morning it will not be a very thoughtful job. I do not see any rush for this. A delay of a few days will not make any difference. I would like to see some consultation in a small committee among the political parties represented here, and after each one of us has studied this and made suggestions to our representatives on that small committee, then that small committee can work at it in as non-partisan a spirit as possible and come up with some solution. That is a general suggestion I make. If you need a motion I will move it.

The JOINT CHAIRMAN (*Mr. Richard*): I agree with you, Mr. Lewis and this can be taken as being a working paper. Would the Committee mind if I suggest that this committee be appointed right away and that we should meet, if possible, on Monday afternoon, or perhaps we can find some time during the evening.

Mr. LEWIS: Well, Monday is too short, Mr. Chairman, if we should be faced with special legislation. I do not know how long we will be sitting with regard to the air traffic control. If we should happen to be faced with special legislation there may not be much time between now and Monday.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps Tuesday?

Mr. LEWIS: I think we could meet Tuesday.

The JOINT CHAIRMAN (*Mr. Richard*): You will leave it to me, then?

Mr. KNOWLES: Mr. Chairman, because this is an all-party rather than a government measure, I suggest that the Committee consist of the chair, or both chairmen, plus one from each party.

The JOINT CHAIRMAN (*Mr. Richard*): That is what I had in mind.

Mr. KNOWLES: I think the Social Credit party has membership on this Committee.

Mr. WALKER: That is right, Mr. Patterson is here periodically.

Mr. KNOWLES: Well, this is giving the Liberals a little edge by virtue of the chairmen, but you fellows are so impartial up there—

The JOINT CHAIRMAN (*Mr. Richard*): Well, we have not been throwing our weight around very much in this Committee, as you may realize. Therefore we will try to meet Tuesday at the call of the chair.

Some hon. MEMBERS: Who is going to be on this committee?

The JOINT CHAIRMAN (*Mr. Richard*): I would imagine Mr. Bell, Mr. Lewis, Mr. Walker, and—

Mr. KNOWLES: Mr. Patterson.

Mr. BELL (*Carleton*): Mr. Chairman, I am involved in a problem on Tuesday, and I will probably ask Mr. Chatterton if he will substitute for me.

The JOINT CHAIRMAN (*Mr. Richard*): Yes. Well, that will be up to you. I will call one from each party.

Mr. BELL (*Carleton*): Mr. Chairman, with the assistance of the library I have put together a one-page bibliography on this subject, copies of which I have given to some members of the Committee. It occurs to me that it might be useful to have it as an appendix. The parliamentary library was very helpful in getting together a number of the articles, and if it is the wish of the Committee perhaps it might be printed as an appendix.

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed?

An hon. MEMBER: Was a copy sent to each member?

Mr. BELL (*Carleton*): No.

An hon. MEMBER: Oh, I thought you said you had.

The JOINT CHAIRMAN (*Senator Bourget*): Each member should have a copy of it right now. It is agreed that the motion made by Mr. Walker be withdrawn?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Senator Bourget*): Without attempting to run your Committee, are we doing anything about the sheet of paper that was here on clause 3 of Bill No. C-182?

The JOINT CHAIRMAN (*Mr. Richard*): There was another matter referring to clause 3 of Bill No. C-182. Dr. Davidson wished to speak to this amendment.

Dr. DAVIDSON: Mr. Chairman, this was one of the points that was left over for further consideration arising out of some comments made, I think, by Mr. Lewis in relation to clause 3 on page 2 of Bill No. C-182. It will be recalled that he was concerned about the interpretation of the opening lines, and made the point that as he read it the phrase:

> notwithstanding any other provision contained in any enactment...

could be interpreted as meaning that the Treasury Board, notwithstanding the existence of Bill No. C-170, could proceed in the exercise of the authority that is set out on page 3 of this bill. I gave at that time the view expressed by the Department of Justice that the purpose of this clause is to make certain that Treasury Board has the authority set out on page 3 so that, when it enters into an agreement under Bill No. C-170, it can discharge the commitments that it enters into under that agreement. Bill C-170 merely authorizes the Treasury Board to enter into agreements. It does not confer on the Treasury Board any authority. The Treasury Board must derive its authority to discharge its commitments under an agreement from some other legislative source. The purpose of this clause is to ensure that that power is vested in the Treasury Board. It is important that the existing powers and authorities which, as I have said, are scattered in 75 pieces of legislation through a variety of ministerial and other authorities be collected together and vested in the Treasury Board so it will have the authority, beyond doubt, to honour the commitments it has entered into in the agreements signed under the collective bargaining legislation.

A suggestion was made in the course of our discussion the week before last that we might meet this problem by enlarging the definition of personnel management in the public service to include a reference not only to the determination of terms and conditions of employment of persons employed therein but, in addition, to include a reference to including the authority to enter into collective agreements. We have taken this up with the Justice Department officials and they have found difficulty in including the expressions which were suggested at the last meeting in the definition of personnel management as set out on page 1 of the bill. They have encountered two difficulties.

First of all, they point out that the opening words of clause 5(1) are: "The Treasury Board may act for the Queen's Privy Council for Canada on all matters relating to", et cetera. This means that in the exercise of its responsibilities under clause 5(1) the Treasury Board acts for the Queen's Privy Council, and it follows that the Treasury Board can only exercise authorities under this clause to the extent that those authorities are vested in the Queen's Privy Council. By the collective bargaining bill the authority to enter into agreements is vested, not in the Queen's Privy Council, but in the Treasury Board itself and therefore it would not accomplish the purposes we have in mind to include references to the authority to enter into collective agreements in clause 5(1)(e), as set out on page 1 of the bill.

Furthermore, the Justice Department officers point out that what is required here is a clear authority for the Treasury Board to exercise all of its responsibilities and authorities in the field of employer and employee relations as dealt with in the collective bargaining bill, not merely the authority to enter into collective agreements. It is for that purpose that they have suggested a wording which, in their view, is designed to meet Mr. Lewis' concern and that wording was set out on the mimeographed sheet which has been circulated for the consideration of the members. The wordnig that the Department of Justice has developed in an endeavour to meet this point, if I read it into the words as they stand in the bill now, clause 7(1) would read as follows: "Subject to the provisions of any enactment respecting the powers and functions of a separate employer but notwithstanding any other provision contained in any enactment, the Treasury Board may, in the exercise of its responsibiilties in relation to personnel management, including its responsibilities in relation to employer and employee relations in the public service, and without limiting the generality of sections 5 and 6," and the rest of the clause follows on. The insertion of these words "including its responsibility in relation to employer and employee relations in the public service" would make it clear that notwithstanding any other provision contained in any enactment, the Treasury Board may, in the exercise of its responsibility in that field which is the field covered by Bill C-170, carry out the duties and responsibilities that are assigned to it in the succeeding clauses.

Mr. LEWIS: Mr. Chairman, God bless my fellow lawyers! I would like to ask Dr. Ollivier as well Dr. Davidson, why could the law officers not, through you, sir, have had this amendment read simply as follows: "personnel management, including its responsibilities under the Public Service Staff Relations Act"? You get the two acts tied in one with the other and you know exactly what you are talking about.

Dr. OLLIVIER: I imagine it would be more definite. Instead of referring to the circumstances we refer to the act which governs the circumstances. I do not see any objection to it.

M'. WALKER: Are there other things in the act beyond this specific area, when you refer to this?

Mr. LEWIS: I do not think so. The act gives the Treasury Board responsibilities in relation to employer and employee relations in the public service. You have in this amendment a new phrase that, strictly speaking, ought to be defined if it is to avoid argument, "employer and employee relations in the public service."

M'. BELL (*Carleton*): Mr. Lewis, would you not have to put in more than the one act, because there are responsibilities of employer and employee relations that are outisde the Public Service Staff Relations Act?

Mr. LEWIS: I know, but I think what was in the mind of the drafters originally, and I think correctly, is that the term "personnel management" is a pretty wide term. What they are trying to do here is to say that a specific employer-employee relation set up under Bill No. C-170 is what is now specifically referred to. Why not say that?

Mr. BELL (*Carleton*): Well, what I would be concerned about is that you might, by your proposed language, exclude the consultative process which is retained by an amendment of which you were the originator and which is retained in the Public Service Employment Act, is it not?

Dr. DAVIDSON: Could I just make one point, Mr. Chairman? Really, I apologize to Mr. Lewis and the members of the Committee for seeming to act as an intermediary between lawyers, neither of whose points of view I completely understand.

Mr. LEWIS: That does not make you any different.

Dr. DAVIDSON: It does not make me a lawyer, Mr. Chairman, or qualify me to speak on legal points.

Mr. LEWIS: Oh yes, it does. If you do not follow the other side just to make sure—

Dr. DAVIDSON: Could I just make this point? I think the reason, if I understand it correctly, why the lawyers chose the words that they did, this reference to "responsibilities in relation to employer and employee relations in the public service," and their purpose in not referring solely to Bill C-170 was twofold.

First of all, these words appear in the title of Bill No. C-170. Bill No. C-170 is entitled, "An Act respecting employer and employee relations in the Public Service of Canada". Therefore, by including these exact words as they appear in the title, I think the Justice Department officials considered that they were clearly including the reference to Bill No. C-170 in this, but in addition there are other responsibilities which the Treasury Board has to exercise in relation to employer-employee relations which are not dealt with in Bill No. C-170, and in order to make sure that they too are included, they used this descriptive phrase

rather than merely a limited reference to one act of parliament. I think that is the point, but I am not sure that I speak with the full authority of the Justice Department on that point.

Mr. WALKER: Mr. Lewis, apart from the simplicity of your wording, does this do more than you want to see done?

Mr. LEWIS: I do not know. I may be cavilling about things. My concern is that it be clearly understood that the Treasury Board does not have the kind of exclusive authority which it had before the collective bargaining regime, and that the collective bargaining regime is to be a meaningful thing. The Treasury Board as the employer has one side in that collective bargaining. Now, that is the reason for my anxiety to have Bill No. C-170 more directly identified. However, it may be identified sufficiently. I may be wrong.

Dr. DAVIDSON: Could I make one small point here, Mr. Chairman? I think it is important that by this enactment Treasury Board shall have the exclusive authority, but not the authority to exercise that unilaterally in disregard of the responsibilities that are placed upon it under the Public Service Staff Relations Act. The purpose of this clause is to make certain that Treasury Board in these areas does have the exclusive authority within the framework of the government and, equally, that this clause cannot be interpreted to authorize Treasury Board in the exercise of that exclusive authority to disregard the obligations placed upon it under the Public Service Staff Relations Act. I can assure Mr. Lewis that that is the clear intent of this. I can assure him that the justice authorities are convinced that this is the meaning of the words and that it will be so interpreted. I hope he will accept that as sufficient assurance for his purposes.

The JOINT CHAIRMAN (*Mr. Richard*): Shall the amendment carry?

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): I am told by the Clerk of the Committee that we overlooked at some time clause 18 of Bill No. C-170 because we were considering other clauses in the act, and that it would now be in order to pass clause 18.

On clause 18—*Powers and duties of the Board.*

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 18 carry?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There are no other—

Mr. WALKER: There is just one point. I do not know at what stage or whether instructions are needed for the reprinting when we conclude here.

The JOINT CHAIRMAN (*Mr. Richard*): Not until it is completed.

Mr. WALKER: We cannot do it ahead of time?

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. LEWIS: Finally, we have not yet dealt with clause 7 of Bill No. C-182.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 7 still stands. The next meeting of the subcommittee will be on Tuesday, I hope.

Mr. BELL (*Carleton*): May I ask Dr. Davidson one question? Has any consideration been given in this act to a statutory base for the Pay Research Bureau?

Dr. DAVIDSON: Mr. Bell and members of the Committee will recall that in the discussions which took place, I believe, on second reading of Bill No. C-182, the Minister made some reference to the Pay Research Bureau and you yourself made some reference to it. The Minister undertook at that time to have consultations at the appropriate point with the staff associations. I think I am right in stating that the staff associations have been written to. Is that correct? Yes, that is correct. Their views are now being ascertained and I cannot say more than that because I have not seen any of the responses from the staff associations.

Mr. BELL (*Carleton*): Before we close, I would like to know what the response is from the staff associations. Reference was made to this in many of the briefs and some of them, as I recollect, did suggest a statutory base for the bureau, including what should be the terms and conditions under which the information collected would be made available.

There is just one other aspect along the same line. I wonder whether you have given any consideration to the question of a standing advisory committee for the higher grades such as they have in the United Kingdom?

Dr. DAVIDSON: I am aware of that suggestion, Mr. Chairman. That was made, as I recall it, by the Professional Institute of the Public Service. When Mr. Leslie Barnes was before us he made the suggestion, and this will be found at page 509 in the report of the Priestly Committee, which is an appendix to the proceedings. The Priestly Committee, I suppose, is referred to in capitals in your statement?

Mr. BELL (*Carleton*): It is indeed.

Mr. KNOWLES: And reverently, too.

Mr. Chairman, have you yet had any indication when the government is going to make the motion to enlarge the terms of reference of this Committee so that we can discuss the problem of the pensions of retired civil servants? My reason for asking this type of question is that I do not want us to get into the position of being ready to report these bills and run the risk of the Committe becoming defunct before we have that term of reference. I am standing by the agreement I made that we would not ask to discuss this matter until we had finished these bills, but I do not want us to become defunct. It seems to me there has to be a motion enlarging our terms of reference before we make our final report.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, as I understand it, even if we reported this bill it would not be a final report of our Committee unless we call it final. In any event, I do not want to be technical.

Mr. KNOWLES: Mr. Chairman, you may be right. I have argued this myself. I have been discussing it with the Clerks at the table and it has been suggested to me that we should not take a chance. It is very simple; if we are going to be given the term of reference, let us have it.

The JOINT CHAIRMAN (*Mr. Richard*): I am entirely in favour of it, Mr. Knowles.

Mr. KNOWLES: I know you are.

The JOINT CHAIRMAN (*Mr. Richard*): I do not anticipate that it would be very difficult to satisfy our desires.

Mr. KNOWLES: I think that Mr. Bell and I might reach agreement not to debate the motion in the house. Could we not do this?

The JOINT CHAIRMAN (*Mr. Richard*): That would be a step forward.

Mr. KNOWLES: Watch out for "step forward" around this place.

Will you pursue it with Mr. Benson, and will Dr. Davidson pursue it with his minister, too?

Dr. DAVIDSON: I have not forgotten my promise to you the last time we talked about this, Mr. Knowles.

The JOINT CHAIRMAN: The meeting is adjourned.

APPENDIX "W"

(On clause 32 of Bill No. C-181)

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Re

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OF

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 26

MONDAY, JANUARY 23, 1967
TUESDAY, JANUARY 24, 1967
THURSDAY, JANUARY 26, 1967

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, *Treasury Board;* Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25456—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Éthier,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Tardif,
Mr. MacKenzie,	Mr. Hymmen,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, January 23, 1967.
(45)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.15 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Émard, Knowles, Lachance, Langlois (*Chicoutimi*), McCleave, Patterson, Richard, Walker (10).

An informal discussion on the remaining clauses of Bills C-170, C-181 and C-182 and the proposed amendments thereto was the subject matter of this meeting held *in camera.*

At 9.35 p.m., the meeting adjourned to 10.00 a.m. the following day.

TUESDAY, January 24, 1967.
(46)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Émard, Fairweather, Hymmen, Knowles, Lachance, Langlois (*Chicoutimi*), Lewis, McCleave, Patterson, Richard, Tardif, Walker (15).

In attendance: Dr. G. F. Davidson, Secretary, Treasury Board; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee concluded its study of Bill C-182 as follows:

Clause 1, carried; Clause 3, carried as amended (see motion below); Preamble, carried; Title, carried; Bill to be reprinted and reported as amended (see motion below at evening sitting).

25456—1½

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 3 of Bill C-182 be amended by deleting lines 46 and 47 on page 4 (re section 7(7)) and substituting the following therefor:

"Canada, to suspend any person employed in the public service or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person concerned has been given an opportunity of being heard, to dismiss any such person."

The Committee proceeded to the study of Bill C-170 as follows:

Clause 26, carried as amended (see motion below); Schedule B, carried as amended (see motion below); Clause 72, carried as amended (see motion below); Clause 28; carried as amended (see motion below); new Clause 29, carried; Sub-clause 39(2), carried on division; Sub-clause 17(2), carried as amended (see motion below); Clause 99, carried as amended (see motion below).

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Clause 26 be struck out with marginal notes and the following substituted therefor:

"Specification of occupational groups.

26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupation groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Where objection filed.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

(a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining, and

(b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

Times relating to commencement of collective bargaining during initial certification period.

(6) During the initial certification period, in respect of each occupational category,

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

Other occupational categories.

(7) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purpose of this Act, the Board shall, at the time of making the determination,

(a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That the date in the new Schedule B shown in Column I opposite Operational Category be changed from Jan. 31, 1967 to Feb. 28, 1967.

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 72(2) be amended by striking out lines 27 and 28 on page 34 and substituting the following therefor:

"on the parties but not before,

(a) in the case of an arbitral award rendered during the initial certification period, a day six months before the day specified in Column II of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case, the day on which notice to bargain collectively was given by either party."

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 28(1) be amended by striking out lines 3 and 4 on page 15 and substituting the following therefor:

"tions, the council so formed may, subject to section 30, apply in the manner prescribed to the Board for certi-".

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 28(2) be amended by striking out paragraph (b) thereof and substituting the following therefor:

"(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent."

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 28(3) be renumbered as Clause 29 and that lines 19 and 20 on page 15 be struck out and the following substituted therefor:

"29. A council of employee organizations shall, for all purposes of this Act except subsection (2) of section 28, be deemed".

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That the new Sub-clause 17(2) be amended by deleting the words "under the Chairman" and substituting therefor ", subject to the direction of the Chairman,"

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Clause 99 be amended by striking out all that portion of the said clause preceding line 25 on page 46 together with the marginal notes and substituting the following therefor:

"Regulations re procedures for presentation of grievances.

99. (1) The Board may make regulations in relation to the procedure for the presentation of grievances, including regulations respecting

(a) the manner and form of presenting a grievance;

(b) the maximum number of levels of officers of the employer to whom grievances may be presented;
(c) the time within which a grievance may be presented up to any level in the grievance process including the final level;
(d) the circumstances in which any level below the final level in the grievance process may be eliminated; and
(e) in any case of doubt, the circumstances in which any occurrence or matter may be said to constitute a grievance.

Application of regulations.

(2) Any regulations made by the Board under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

Regulations re adjudication of grievances.

(3) The Board may make regulations in relation to the adjudication of grievances, including regulations respecting

(a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chief adjudicator to an adjudicator;
(b) the manner in which and the time within which boards of adjudication are to be established;
(c) the procedure to be followed by adjudicators; and
(d) the form of decisions rendered by adjudicators.

Employer to designate persons at final or any level in grievance process.

(4) For the purposes of any provision of this".

During the discussion on Clause 1, the Committee accepted for consideration a motion by Mr. Lewis

"That the appropriate Clause be amended to include the following wording:

The Treasury Board shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to remuneration and other terms and conditions of employment of public servants excluded from bargaining units by virtue of subsection (u) of section 2 of this Act."

At 12.50 p.m., the meeting adjourned to 8.00 p.m. this same day.

EVENING SITTING
(47)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.32 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Cameron, Denis, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Crossman, Emard, Either, Fairweather, Hymmen, Knowles, Lachance, Langlois (*Chicoutimi*), Lewis, McCleave, Patterson, Richard, Walker (16).

In attendance: Mr. P.M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee resumed discussion of Clause 1 of Bill C-170 and agreed to accept Mr. Walker's proposed recommendation for the Committee's report with certain modifications (*See Evidence for text*).

The Committee agreed to the withdrawal of the motion put by Mr. Lewis at the morning sitting.

The Committee concluded the study of Bill C-170 as follows:

Clause 1, carried; Preamble, carried; Title, carried; Bill to be reprinted and reported as amended (see motion below).

Moved by Mr. Walker, seconded by Mr. Chatwood,

Resolved,—That Bill C-170 be reprinted as amended for the report to the Senate and House of Commons.

Moved by Mr. Walker, seconded by Mr. McCleave,

Resolved,—That Bill C-182 be reprinted as amended for the report to the Senate and House of Commons.

The Committee concluded its study of Bill C-181 as follows:

Clause 32, carried as amended (see two motions below); Paragraph 34(1)(c), carried; Paragraph 5(d), carried as amended (see motion below); Sub-clause 6(1), carried as amended (see motion below); Schedule A, carried; Schedule B, carried; Schedule C, carried; Schedule D, carried; Clause 1, carried; Preamble, carried; Title, carried; Bill to be reprinted and reported as amended (see motion below).

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Clause 32 and marginal notes be deleted and the following substituted therefor:

Political partisanship.

32. (1) No deputy head and, except as authorized under this section, no employee, shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or

(b) be a candidate for election as a member described in paragraph (a).

Excepted activities.

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, it is is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate. Leave of absence.

(4) Forthwith upon granting any leave of absence under subsection (3), the Commission shall cause notice of its actions to be published in the *Canada Gazette*. Notice.

(5) An employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon ceases to be an employee. Effect of election.

(6) Where any allegation is made to the Commission by a person who is or has been a candidate for election as a member described in paragraph (a) of subsection (1), that a deputy head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission, Inquiry.

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of an employee, may, if the board has decided that the employee has contravened subsection (1), dismiss the employee.

(7) In the application of subsection (6) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act." Application of ss. (6).

Moved by Mr. Lewis, seconded by Mr. Knowles,

That Bill C-181 be amended by striking out section 32 and substituting the following:

"32. (1) No deputy head or chief executive officer or person employed in a managerial or confidential capacity as defined in subparagraphs (i), (ii) and (iii) of subsection (u) of section 2 of the Public Service Staff Relations Act shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the Council of the Yukon Territory or the Northwest Ter-

ritories, or engage in work for, on behalf of or against a political party or

(b) be a candidate for election as a member described in paragraph (a).

(2) A person does not contravene subsection (1) by reason only of his being a member of a political party, attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

(3) Notwithstanding any other Act, upon application made to the Commission by a person, other than a deputy head, referred to in subsection (1), the Commission may, if it is of the opinion that the usefulness to the Public Service of such person in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to such person leave of absence without pay to seek nomination as a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee.

(4) Notwithstanding any other Act, an employee who proposes to become a candidate in a provincial or federal election shall apply to the Commission for leave of absence without pay for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee, and the Commission shall grant such leave.

(5) Fortwith upon granting any leave of absence under subsection (3) or (4) the Commission shall cause notice of its action to be published in the *Canada Gazette*.

(6) A person or employee who is elected as a member described in paragraph (a) of subsection (1) thereupon terminates his employment in the Public Service.

(7) No employee or person referred to in subsection (1) shall

(a) associate his position in the Public Service with any political activity,

(b) speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal party or candidate, unless he is himself a candidate in an election,

(c) engage during working hours or on the premises of the employer in any activity for or on behalf of a provincial or federal political party or candidate.

(8) Where any allegation is made to the Commission by a person referred to in subsection (1) or an employee that any deputy head or other person referred to in subsection (1) or any employee, has contravened subsection (1) or subsection (7) the allegation shall be referred to a board established by the Commission to conduct an

inquiry at which the person or employee making the allegation and the deputy head or other person or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of any other person or employee may, if the board has decided that such person or employee has contravened subsection (1) or subsection (7), dismiss him.

(9) In the application of subsection (8) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act."

And the question being put on the said proposed subamendment, it was negatived on following division: Yeas, Senator Cameron and Messrs. Bell (*Carleton*), Fairweather, Knowles, Lewis, McCleave, Patterson—7; Nays, Senators Denis, Fergusson and Messrs. Berger, Chatwood, Crossman, Emard, Hymmen, Lachance, Langlois (*Chicoutimi*), Walker—10. (N.B. The sub-amendment appears as a complete clause for ease in reading.)

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That the new paragraph 5(d) be revised as follows:

"(d) establish boards to make recommendations to the Commission on matter referred to such boards under section 6, to render decisions on appeals made to such boards under sections 21 and 31 and to render decisions on matters referred to such boards under section 32;".

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 6(1) be amended by adding "and inquiries under section 32." after "31" line 36 page 4.

Moved by Mr. Knowles, seconded by Mr. Lachance,

Resolved,—That Bill C-181 be reprinted as amended for the report to the Senate and House of Commons.

At 10.11 p.m., the Committee adjourned to the call of the Chair.

THURSDAY, January 26, 1967.

(48)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.38 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Hymmen, Knowles, Lachance, Lewis, Richard, Walker (9).

An informal discussion on the reports to the Senate and the House of Commons on Bills C-170, C-181 and C-182 was the subject matter of this meeting held *in camera.*

Moved by Mr. Chatwood, seconded by Mr. Bell (*Carleton*),

Agreed,—That the reprinted bills be available on the day of the reports to the Senate and House of Commons in the number of copies—800 English and 500 French.

At 9.00 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, January 24, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we will start the meeting.

We are considering Bill No. C-182. There were two minor questions on clause 1. There was a matter raised by Mr. Lewis on 5 (1) (e). I wonder if Dr. Davidson recalls what that was about.

Dr. G. F. Davidson (Secretary, Treasury Board): I recall what it was about Mr. Chairman. Unless my recollection is faulty, I think that was dealt with at the last meeting of the Committee not by making a change in the wording at the point which Mr. Lewis and I discussed but by making a change in another part of the bill, on the advice of Mr. Thorson, the legislative counsel.

According to the record, this concerned the suggestion by Mr. Lewis that somewhere in the financial administration bill there should be an explicit provision for the Treasury Board to have the power to enter into collective agreements.

He acknowledged that it was not technically necessary because it is covered in clause 55 of Bill No. C-170, but he was suggesting that, for greater clarity, it would be well to have some wording that would indicate this in Bill No. C-182.

I am sorry to say that I was not aware that this point was going to be raised this morning, but I am satisfied that this was taken care of in a manner satisfactory to Mr. Lewis at a later stage in the proceedings last December.

Clause 1, paragraph 5 (1) (e) carried.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Chatterton had some reservations on subclause 5(2), if I remember correctly. That is to be found on page 1170 of the proceedings.

Dr. DAVIDSON: On this point, Mr. Chairman, if I may say a word, I think this was also raised at a later stage. Both of these points, if my recollection is correct, arose at the meeting which Mr. Hales attended.

Mr. Chatterton's query to me was whether the provisions in clause 1, 5 (2) of the financial administration bill, which reads:

> The Treasury Board is authorized—

meant that the Treasury Board was authorized to exercise under the listed enactments the authority normally vested in the Governor in Council to pass regulations. I think I explained at the subsequent meeting that, on the advice of the legal officers whom I had consulted, this would mean that the Treasury Board was authorized to pass regulations to the extent that they were authorized to do so by the Governor in Council; that, in fact, the Treasury Board does have the power under the present legislation to pass regulations in respect of the bills that are listed there, in any case; and that the catch-all subparagraph at the end

of this clause is controlled by the wording which limits the authority of the Treasury Board to the authority that the Governor in Council it in specific instances.

I do not think there is any substantial change there, Mr. Chatterton, from the present position on the delegation by the Governor in Council of regulation-making authority to the Treasury Board.

Clause 1, 5 (2) agreed to.

On clause 3 7 (7)—*Right or power of Governor in Council not affected.*

Mr. WALKER: Mr. Chairman, if I remember correctly, last night we agreed with this in principle when we were speaking among ourselves about this particular clause.

The JOINT-CHAIRMAN (*Mr. Richard*): Are you moving the clause now?

Mr. WALKER: Yes, but there were questions—

The JOINT-CHAIRMAN (*Mr. Bourget*): Mr. Knowles wanted to ask some questions about this.

Mr. WALKER: Yes; Mr. Knowles had a question dealing with the pension rights of any person involved in the clause.

Again, pension rights are not dealt with in this particular bill. Are pension rights dealt with in the superannuation act?

Dr. DAVIDSON: Mr. Chairman, the provisions governing the pension rights of a person dismissed for any reason are spelled out in the regulations under the Public Service Superannuation Act.

Mr. WALKER: That being so, I wonder if it would meet Mr. Knowles' point if the Committee took note that this is a subject that we may discuss later in connection with any proposed regulations that we might think of attaching of the Public Service Superannuation Act?

There is no clause in the Financial Administration Act on which we can discuss the question raised by Mr. Knowles.

Mr. CHATTERTON: How can we have an opportunity of discussing the regulations?

Mr. WALKER: This is something I will have to ask the Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): I do not think we will have any opportunity to discuss the regulations; but, as I understand it, and as I understood it last night, the Committee had agreed to the wording of this clause. There were some reservations by Mr. Knowles about what happens to the pension rights of such a party. I do not think it can be dealt with under this clause.

Mr. BELL (*Carleton*): Mr. Chairman, what we might do is put a clause in our report to the effect that, consequent upon this amendment, a review of the regulations governing superannuation for persons affected by this clause be undertaken.

The JOINT CHAIRMAN (*Mr. Richard*): Will you move that?

Mr. WALKER: I move that clause 3 Section 7(7) of the Financial Administration Act be further amended by striking out lines 46 and 47 on page 4 thereof and substituting the following:

> "Canada, to suspend any person employed in the public service, or after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person concerned has been given an opportunity of being heard, to dismiss any such person."

Senator FERGUSSON: I second the motion.

The JOINT-CHAIRMAN (*Mr. Richard*): Shall the amended clause carry?

Clause as amended agreed to.

Preamble agreed to.

Mr. BELL (*Carleton*): I would just like to say, before the title carries, that unfortunately I was absent when the provisions dealing with Governor General's warrants were taken up.

I do not want to go into the details now but I reserve the right briefly to express my view in the House in connection with Governor General's warrants. If I do so, I hope no one will feel that I have double-crossed the Committee on this.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure we are looking forward to hearing you in the House, Mr. Bell.

Title agreed to.

The JOINT CHAIRMAN: Shall I report the bill?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): This concludes the study of Bill C-182.

We will now move to Bill C-170.

On clause 28—*Application by council of organizations.*

Mr. LACHANCE: Mr. Chairman, Mr. Émard is not here, and I do not know why. I presume Mr. Walker will move an amendment. This would probably call for Mr. Émard to withdraw the proposed amendment that has been tabled. I just wondered if the amendment was ever moved? I know it was tabled.

The JOINT CHAIRMAN (*Mr. Richard*): It was tabled, Mr. Lachance.

I do think that it would be the wish of the Committee to carry on to the point of finalizing this matter. Mr. Émard will be here at a later date. We could start discussing the suggestions.

Mr. LACHANCE: I was just trying to find out if the Committee would have another chance to study it.

The JOINT CHAIRMAN (*Mr. Richard*): At the present time I think we should proceed in that order.

Mr. WALKER: Mr. Chairman, again we discussed this last night. One of the questions that arose in connection with clause 5(b)...

The JOINT CHAIRMAN (*Mr. Richard*): One moment, please, Mr. Walker. Do you have a copy of the amendment for everybody this morning?

Mr. WALKER: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Do all the members have a copy of the suggested amendment to clause 26?

Mr. WALKER: There was some concern expressed last night about how clause 5(b) would be operative, and at that time, if you remember, I suggested that clause 32 in the bill would then take over and operate in the regular manner. If I cannot express it clearly perhaps we can have Mr. Roddick explain it.

Clause 32 depends on clause 26(4). Clause 5 nullifies, the effect of subclause 4 of clause 26 on clause 22, and when that happens then clause 32 is totally operative at whatever period of time. It has nothing to do with the initial period, or anything else. I understand that this roundabout way of doing it has been suggested by the legal advise so that the clauses have some meaning to one another and are hooked up to each other.

Perhaps only those who were here last night will know what I am talking about, but I am assured that the new subclause 5 that has been inserted in clause 26 does, in fact, carry out the principle we were discussing last night.

There is one correction that has been made in the sheets you received last night. At the end of clause 5(a), where there was a period, I understand there is now a comma.

Mr. P. M. Roddick ***(Secretary of the Preparatory Committee on Collective Bargaining):*** Yes, Mr. Chairman; and there has been one other slight change, too, in relation to the piece of paper which, I believe, Mr. Walker showed you last night. The phrase "for that reason" in 5(b) has been substituted for the phrase "on the ground". The change is that in the third line of (b) the phrase "for that reason" is replacing the phrase "on that ground" which was on the piece of paper shown to you last night.

Mr. WALKER: It seems to be a more specific description.

Mr. LEWIS: I was not here last night. Which piece of paper are we talking about?

The JOINT CHAIRMAN (*Mr. Richard*): Page 3, subclause (v).

Mr. LEWIS: This new clause 26?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. The only change is that at the end of subclause (a) there is a comma where there was a period.

Senator MACKENZIE: Is "and" included after the comma, as was suggested last night?

Dr. DAVIDSON: The word "and" should be at the very end of subclause (a).

Senator MACKENZIE: Thank you very much.

Mr. LACHANCE: If I understand correctly, instead of "on that ground" it would be "for that reason"? To what is it referring?

Dr. DAVIDSON: "For that reason" ties up, Mr. Lachance, with the expression "for that reason" in the third line from the bottom of subclause (a).

Mr. LACHANCE: I know; but you are replacing "on that ground" for what reason? To what exactly does it refer?

Dr. DAVIDSON: On the ground that such a bargaining unit would not permit satisfactory representation of employees included therein. That is the reason that is given. That is the reason that is alleged.

Mr. LACHANCE: The reason is on the ground that such a bargaining unit would not permit such representation?

Dr. DAVIDSON: That is correct.

Mr. WALKER: Is there any discussion?

Mr. LACHANCE: Yes, I was going to ask for a change on the ground of representation.

Mr. KNOWLES: This is where the discussion arose last night. It is not on the record, and I think that it would be useful to have a statement by one of the witnesses on the record, explaining what this does mean.

Dr. Davidson seems to be ready.

Dr. DAVIDSON: I am never ready, Mr. Chairman.

Mr. KNOWLES: Go ahead, anyhow.

Dr. DAVIDSON: If it is the wish of the Committee, I will be very glad to give an explanation of what we have tried to accomplish here.

It will be recalled that from time to time there has been some concern expressed by different members of the Committee about the issue that is raised by this clause, and Mr. Émard has, on at least two occasions, put forward a position of a group within a bargaining unit that did not feel that the proposed bargaining unit was constructed in a way that would adequately represent its formulation that was designed to make some provision for the recognition of the concerns and aspirations within the bargaining unit.

We have had a variety of ways suggested for meeting this, but, frankly, we have not found any that we have considered entirely satisfactory. The best that we have been able to do is to introduce this provision which has the following effect: As members know, clause 32 of the bill is the provision that governs the normal procedures by which the Public Service Staff Relations Board will certify bargaining units. Normal procedure calls for the Public Service Staff Relations Board to have the authority to certify a bargaining unit on any ground that seems good to it, provided that it does not cross the category boundary lines and provided that it takes account of the duties and qualifications attaching to the positions that are comprised in the bargaining unit. That is the basic, long-term direction that is given to the Public Service Staff Relations Board in connection with certification.

Clause 26 of the bill provides that, for the initial period only, the Public Service Staff Relations Board is restricted to certifying bargaining units on the basis of predetermined occupational groups, and this clause that we are now suggesting by way of an amendment permits the Public Service Staff Relations Board, under certain circumstances, when an objection is raised to the appropriateness of a bargaining unit in the initial period based upon the predetermined occupational groups, to set aside the provisions of the interim arrangement contained in clause 26 in order to allow the normal procedures that the Public Service Staff Relations Board will eventually follow, as set out in clause 32, to prevail.

The circumstances under which the Public Service Staff Relations Board may set aside this interim provision, which ties certification to predetermined occupational groups, are limited to a situation in which an employee organization files an objection to the proposed bargaining unit based upon an occupational group and alleges that such a bargaining unit would not permit satisfactory representation of the employees included in the proposed bargaining unit. If that is alleged by an employee organization, and if the board is satisfied that the objection is well grounded, the board may then say—and this is in the discretion and judgment of the board—that they accept the argument that the proposed bargaining unit would not constitute a unit of employees appropriate for collective bargaining, in which case they can set aside the provisions of clause 26 and allow the provisions of clause 32 to apply.

The effect of this would be that the Public Service Staff Relations Board would, under those circumstances, be free to certify a unit as appropriate for collective bargaining, without reference to the predetermined occupational group that is imposed on the Public Service Staff Relations Board by virtue of clause 26.

Mr. CHATTERTON: What about the different categories?

Dr. DAVIDSON: It could not, even under those circumstances, move across the category boundaries.

Mr. KNOWLES: Where is the language, either in clauses 26 or 32, that makes it clear that in that circumstance clause 32 takes precedence?

Dr. DAVIDSON: Mr. Chairman, if I may say so, it depends on the construction of the legislation. The legislation sets out, in clause 29 and following, the procedures by which application for certification is made; and clause 32, as set out in the bill, prescribes the normal procedure. Clause 26, as you can see, I think, from the section in the printed bill—but you can see it better from the clause that you have before you—provides for an interim arrangement covering the first period of collective bargaining only; and clause 26, as is clear from the opening words, and from subclause 4, which is the critical one—clause 26(4) says:

> During the initial certification period a unit of employees may be determined by the board as a unit appropriate for collective bargaining only if that unit is comprised of all of the employees in an occupational group—

and so on. Now, it is that provision, and that provision only, which interferes, in the initial certification period, with the normal application of clause 32. Therefore, by providing in subclause 5 that subclause 4 does not apply—if the board so decides during the initial certification period—this leaves the way open for clause 32 to apply in the normal way.

Mr. LEWIS: Would you look at clause 29, Dr. Davidson?

The JOINT CHAIRMAN (*Mr. Richard*): Clause 29 has been deleted.

Mr. KNOWLES: I have one other question on clause 32. There is a reference in clause 32(1) to subclause 3 of clause 26. Does that still apply?

Dr. DAVIDSON: It has been changed to subclause 4, Mr. Knowles.

Mr. KNOWLES: We did that on a previous run?

Dr. DAVIDSON: Previously.

Mr. KNOWLES: And fits the new 4?

Dr. DAVIDSON: That is right.

Mr. LEWIS: Mr. Chairman, I am at a disadvantage because I could not be here last night, but what is the timing for the application of clause 32? What you had in the old clause 26 was the preliminary period where the bargaining units were established, and, following that, organizations made application for certification. In a situation where the preliminary unit does not make application, and you have no bargaining unit, what happens to the schedules, say, when collective bargaining starts, and at what time does an organization apply for certification? This is the circumstance where you have no bargaining unit.

Dr. DAVIDSON: The initial application would still be made.

Mr. LEWIS: When?

Dr. DAVIDSON: Immediately; as soon as the cycle permits application for recognition to be made by a particular occupational category.

Mr. LEWIS: I am sure it is my fault, Dr. Davidson, but I just do not understand. If you have no bargaining unit at all when does the cycle start?

Mr. P. M. Roddick ***(Treasury Board):*** If I may interject. Dr. Davidson, clause 26 deals with several distinct things. Clause 26(4), as Dr. Davidson has said, places an inhibition upon the board in exercising its authority under clause 32. Clause 26(5) now permits the board to take that inhibition off. But if we move on to subclause 6 we find that it still provides for a timetable of the introduction, category by category, into bargaining, and there is no way in which that can be set aside. In other words, the time-scheduling provisions are in no way altered by what has been done with respect to the determination of bargaining units.

Mr. LEWIS: Perhaps you will overrule this, Mr. Chairman, but subclause 6(a) says:

> Notice to bargain collectively may be given in respect of a bargaining unit comprised of employees—

...and so on. I had understood had the bargaining you had in mind was a bargaining unit predetermined. Which bargaining unit is someone going to give notice to bargain about, if there has been no determination of a bargaining unit?

Mr. RODDICK: Mr. Chairman, the wording of clause 26 is:

> —a bargaining unit comprised of employees included in that occupational category—

It does not refer to employees included in an occupational group.

Mr. LEWIS: Well, with great respect, Mr. Roddick, that is not the point at all. In order to give notice to bargain there has got to be an established bargaining unit. In the previous section the bargaining unit was established by the board. How can any bargaining agent give notice to bargain with respect to a bargaining unit that has not yet been defined.

Mr. RODDICK: Mr. Chairman, I think it might be useful, in relation to what is a fairly complex process, to try to contemplate the situation that will occur. The

limitations on the board here are in relation only to the determination of bargaining units. There is no limitation on any organization applying for certification for a bargaining unit which they themselves propose. In no place in the bill is there any inhibition on that.

Mr. LEWIS: I understand that.

Mr. RODDICK: Now, in the circumstance that is provided for by subclause 5 we can assume that two different things may happen. First of all, an organization may, in fact, apply for a unit that conforms to the requirements of subclause 26(4) and in that case subclause (5) permits another organization, with employees in that occupational group that is proposed to be a bargaining unit, to intervene and object. The board would then hear the objection and either accept it or reject it. If they accept the objection that means that the unit that was proposed, that was consistent with subclause 26(4), has been set aside and that there has to be a proposal for a different kind of unit. That is one model.

Mr. LEWIS: Excuse me; I think I can understand better if I interrupt you at this point. If the board accepts the objection then you do not have a bargaining unit?

Mr. RODDICK: Mr. Chairman, if the board accepts the objection the clause that then comes into play is 32(4) which says:

> for the purposes of this Act a unit of employees may be determined by the Board to constitute a unit appropriate for collective bargaining whether or not its composition is identical with the group of employees in respect of which application for certification was made.

Mr. LEWIS: I appreciate that. The point I am making is that you have, say, 67 bargaining units proposed to be predetermined by the board under clause 26. In one of the 67 units there is an objection. Therefore, you have 66 bargaining units determined by the board, and a group of employees who are no longer a bargaining unit, if the board accepts the objection. So that for those employees there is, at that point, no bargaining unit.

Mr. RODDICK: I am sorry, Mr. Chairman—

Mr. LEWIS: Is that not right?

Mr. RODDICK: You seem to say, Mr. Lewis, that 67 or 66 units were determined by the board. No unit is ever determined by the board until an application has been duly processed. There is no determination except in the processes relating to applications and hearings and the certification itself.

Mr. CHATTERTON: What happens if a certain group does not apply.

Mr. LEWIS: There is no unit.

Mr. RODDICK: Until somebody applies no unit exists. In other words, clause 26(4) provides only a certain framework within which the board is obliged to act, if and when anybody applies. If nobody applies during the initial period, at a certain point in time that framework disappears and therefore they are no longer inhibited by it. Clause 26(4) has no significance at all unless there is an application for certification before the board.

Mr. LACHANCE: Would you not say that (3) should come after (4), as a matter of timing?

An hon. MEMBER: No.

Mr. RODDICK: Mr. Chairman, if I may, I would like to add the other model that I wanted to describe for Mr. Lewis. The one I mentioned was in a situation where the initial proposal is for one of these units that the board may determine under clause 26(4).

There could be a proposal for a unit that is not one of these units; for a unit, we will say, that is half one of those units—half in one way or another.

An hon. MEMBER: Or two of them.

Mr. RODDICK: Yes; or, alternatively, two of them; or that cuts across three of them, in some peculiar and particular fashion. It would be quite legitimate for an association to make an application for such a unit and to couple with that application an objection to the units that may be determined under clause 26(4). In that circumstance the objection would have to be heard. If it is sustained, the board then reverts to its authority under clause 32 and would consider the application before it.

Mr. CHATTERTON: Is there a limit to the time within which this objection must be filed?

Mr. RODDICK: Mr. Chairman, those of us who are concerned with trying to help the future Public Service Staff Relations Board have its regulations ready in good time have contemplated that the regulations would be written in such a way as to indicate that where the proposal for a unit was not consistent with clause 26(4) the regulations would place an obligation upon the applicant to make an objection; to couple his application with an objection; and the regulations would then also impose upon the board the necessity of disposing of the objection before coming to the problem of the application itself.

Mr. LACHANCE: Mr. Chairman, after going through the process of subclauses (4) and (5), let us say that the board accepts the objection. We then return to clause 32?

An hon. MEMBER: That is correct.

Mr. LACHANCE: And the board on the basis of clause 32, would have to take into consideration the objection that was filed?

Mr. RODDICK: Mr. Chairman, I have no doubt that in some degree the board would be influenced by the proceedings that went on in relation to the objection; but I would have to add that the board is empowered by clause 32 to take anything into account, including whatever was said in respect of that objection.

Dr. DAVIDSON: And there would be no obligation on the board—

Mr. LACHANCE: No; but it would have to—

Dr. DAVIDSON:—in certifying under clause 32, to recognize any particular claim of the group that had intervened and filed an objection to the application of clause 26.

Mr. LACHANCE: But, to be logical, the board would have to take that into consideration.

Dr. DAVIDSON: There is nothing in the law, Mr. Lachance, that requires the board to be logical.

Mr. RODDICK: Mr. Chairman, I think we could contemplate a situation in which a particular unit is proposed, an objection is put in and an argument is made that the board accepts; but having accepted the argument does not necessarily mean that, when they come to look at the unit that is proposed, the grounds that sustained the objection will also sustain the determination of the proposed unit. In other words, there could be a gap between the proposed unit and the arguments that were advanced in relation to the objection.

Mr. WALKER: Mr. Chairman, perhaps this simplifies it too much, but really what is happening is that we are moving forward the authority of the board, which they will have in a certain number of months anyhow, to designate units which, in their judgment, provide satisfactory representation. They can make that designation right from the beginning, in spite of clause 26(4), if there is an application to do so and they think that it should be done, and all we have done is to advance the date for the authority of the board to act contrary to clause 26(4). Is that correct?

Mr. RODDICK: That is correct.

Mr. WALKER: That is all that has been done. We are advancing the date for the board to have the authority to act other than under clause 26(4), which they are going to have later on anyhow.

Mr. LACHANCE: I am just wondering if it would be normal to have, after subclause 5 (a), a clause to the effect that whenever subclause 5 takes effect the board reverts to the application of clause 32.

Dr. DAVIDSON: It does not need to say so.

Mr. LACHANCE: I hope that it does not need to say so.

Dr. DAVIDSON: Our legal officers assure us that it does not need to say so and I can add that our legal officers are already rather uncomfortable about the fact that we already have added words in subclause 5 (a)—which are unnecessary, in their opinion—merely for the purpose of clarifying the position. I think that there is a certain point where they would become very uncomfortable about putting in additional words, which they do not regard as necessary, merely for the purpose of spelling out in detail—

Mr. LACHANCE: Can we assume that if subclause 5 takes effect clause 32 automatically comes into it.

Dr. DAVIDSON: I give the Committee the unqualified assurance, based on the views expressed to me by the legal officers, that the effect of subclause 5 is that if the board takes the decision that is contemplated in subclause 5 (b) the procedures set out in clause 32 automatically replace the provisions which are set out in clause 26 even during the initial certification period.

The JOINT CHAIRMAN (*Mr. Richard*): I suppose if any amended rules could have been made it would have been to clause 32(4) to make sure they acted on clause 32(4) in accordance with subclause 5. That would have been more logical.

Mr. LACHANCE: Dr. Davidson says that it automatically comes under clause 32.

Mr. BELL (*Carleton*): There is a very clear statement now on the record.

Mr. LACHANCE: Yes, there is.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on the proposed amendments?

Mr. CHATTERTON: The board initially certifies the unit only on receipt of an application.

Dr. DAVIDSON: That is right.

Mr. CHATTERTON: In effect, the application can refer only to the predetermined unit?

Dr. DAVIDSON: No, sir.

Mr. CHATTERTON: The initial application did not conform to the groups as established.

Dr. DAVIDSON: An initial application, during the initial certification period, can be an application made by a would-be bargaining agent on behalf of any bargaining unit that he proposes. Before the amendment that we are now discussing was under consideration, the board, under those circumstances, would have had no authority to consider for a moment an application that did not conform to the predetermined bargaining unit in the initial certification period. Now an application that does not conform to a proposed predetermined bargaining unit is not automatically disqualified if the applicant, in filing that application that does not conform to the boundary lines of the proposed occupational group or bargaining unit, files, at the same time, an objection.

Mr. CHATTERTON: But he has to file an objection at the same time.

Dr. DAVIDSON: Yes.

Mr. CHATTERTON: Suppose that he just files an application for the unit which does not conform to the predetermined one?

Dr. DAVIDSON: If he files an application that does not conform to the proposed bargaining unit, and does not at the same time file an objection of any kind clause 26 applies; because he has merely made an application and has not argued that the bargaining unit based upon the occupational group is not a suitable one. The Public Service Staff Relations Board, under those circumstances, in the absence of any statement of objection, would proceed to disqualify that application and to require an application to be made that conforms to the proposed bargaining unit.

Mr. CHATTERTON: How can it require? You cannot insist that another application be filed?

Dr. DAVIDSON: No; but the Public Service Staff Relations Board is bound by the provisions of clause 26 during the initial certification period, unless the applicant organization conforms to the requirement of subclause 5. Subclause 5 is merely brought into play when an employee organization, at the time of making an application in respect of a bargaining unit, files with the board an objection to the determination of a bargaining unit under the normal clause 26 rules. If they do that, it is a new ball game.

If they merely file an application for 10 employees in an occupational group that is a predetermined bargaining unit and offer no argument, file no objection of any kind and do not invoke the provisions of subclause 5, then the Public Service Staff Relations Board would proceed in the normal way to deal with that

application. The "normal way" means that they would have to refuse to accept that application because it does not conform to what the board is required to accept under clause 26 in its normal operation.

Mr. CHATTERTON: Can the board, on receipt of application with an objection, certify a unit which does not conform to the application accompanied by the objection, even though the unit which it wants to certify does not conform to that predetermined?

Mr. RODDICK: Mr. Chairman, as I think we have reiterated several times, the effect of this proposal is merely to remove from the board—that is, where an objection is sustained—the inhibition provided by clause 26(4) and to permit clause 32 to apply.

Now, when we talk about a proposed bargaining unit, a proposed bargaining unit has to take into account the people who are going to be managerial exclusions, and it covers a good deal more than merely a prescription of people in a certain place or of a certain class. Therefore, there is normally expectation, in relation to application, that the boundaries of the unit will change a bit in relation to the initial proposition, and I suppose there is nothing to stop this change going on by some kind of exchange between the board and the applicant in which the applicant says: "I am willing to propose a bit of a different unit if you will accept that as appropriate." Therefore, it is decided at some point that this is the appropriate unit, and at that point they start to find out whether they meet the test.

I would like to say one more word in addition to what Dr. Davidson has said. Under the Act as it is written, and under the amendment as proposed, an application can be made in respect of any unit, and it is a legitimate application. I think the board says: "We are unable to proceed with this application because we are inhibited in our determination unless, of course, you are going to file an objection; in which case we then will consider the objection and if it is sustained the inhibition is off and we are free to consider another kind of unit."

Mr. CHATTERTON: The application must necessarily object to the predetermined unit?

Mr. RODDICK: To one or other or several of the units that the board is obliged to use under clause 26(4).

Mr. CHATTERTON: Can the board certify a unit which does not conform to the application coupled with the objection, and does not conform to the unit as predetermined?

Mr. RODDICK: Mr. Chairman, it can, but only if the applicant is willing to propose such a unit. The board cannot certify a unit in respect of which no application exists.

Mr. CHATTERTON: Therefore, if the applicant does not wish to change his application—

Mr. RODDICK: That is correct.

Mr. LEWIS: In the context of clause 32(4) they can make a unit which is not identical with a group of employees in respect of which an application is made.

Dr. DAVIDSON: Yes; but, Mr. Lewis, I think Mr. Roddick's point is that the board cannot impose on an applicant changes in its original application that are

so drastic that the result would be that the applicant would be unwilling to continue as a representative of the revised bargaining unit.

Mr. LEWIS: I am not so sure. Clause 32(4) says that the board in determining a unit may determine, (1):

> —whether or not its composition is identical with the group of employees in respect of which application for certification was made.

The board has the right to determine the bargaining unit under clause 32(4) in any way it sees fit.

Mr. RODDICK: Mr. Chairman, I think that technically Mr. Lewis is right, but I would also suggest that an applicant has a right, in the course of natural justice, to withdraw his application at any point; and if the unit that the board was proposing to determine was a unit that he said he could not possibly consider representing he would then withdraw his application and all bets would be off.

Mr. CHATTERTON: I know that in certain areas there is a lot of dissatisfaction with the proposed groups. Is it conceivable that a number of groups will never be certified?

Dr. DAVIDSON: Yes.

Mr. CHATTERTON: What happens then? Does the Treasury Board simply makes a decision on those points which normally would be negotiable?

Dr. DAVIDSON: If there is no bargaining agent or bargaining unit, for a group then obviously there can be no collective bargaining.

Mr. CHATTERTON: Then the Treasury Board simply decides for that particular group?

Dr. DAVIDSON: It has to.

Mr. MCCLEAVE: Mr. Chairman, I would like to ask Dr. Davidson a question.

I take it, with regard to the shipyard repair classification, that the board itself could decide that the Esquimalt and Halifax dockyards be considered separately for the purpose of collective bargaining, or that those two dockyard councils themselves each could make application to be considered as separate bargaining units under subclause 5?

Dr. DAVIDSON: Under this subclause 5 it would be open to an employee organization, representing, let us say, a portion of this proposed occupational group, to file an application, to represent a group of employees that it is interested in and to file an objection—they have to do that—to the normal procedures contemplated in the initial certification period under clause 26. It has to base its objection and its claim on the ground that the proposed total bargaining unit would not permit satisfactory representation of the employees included therein.

Mr. MCCLEAVE: Dr. Davidson, is it not also a fact that under the previous subsections the board itself could anticipate the geographical problem that would arise between Esquimalt and Halifax dockyards and that they would be allowed to set up separate bargaining units—one on the east coast and one on the west coast.

Dr. DAVIDSON: Not during the initial certification period, no.

Mr. CHATTERTON: Just one moment. I think you have answered this before, but I want to make sure. Let us say that in the case of this ship repair group to which Mr. McCleave has referred, the board refuses to certify separate groups for Esquimalt and Halifax. Finally they submit application and the board certifies one unit which includes the shipyard workers and the repair workers in both shipyards. It is possible under the negotiating procedures to establish a rate of pay for Esquimalt workers different from that of the Halifax workers. It is possible for the board to make such a determination, or for the abitration, or negotiation?

Mr. MCCLEAVE: For the bargaining?

Dr. DAVIDSON: For the bargaining. This is a matter of substance which is dealt with in bargaining, and I suppose one can say that almost anything which is agreed to by parties to the bargaining is possible.

Mr. CHATTERTON: I can never see that happening.

Dr. DAVIDSON: You said that. I did not.

Mr. MCCLEAVE: I think I see your point, because under subclause 4(a) the unit must include all the employees within an occupational group.

Dr. DAVIDSON: That is correct. Unless subclause 5 is—

Mr. MCCLEAVE: Unless they invoke that; but this at their initiative and not at the initiative of the board.

Dr. DAVIDSON: That is correct.

Mr. WALKER: Mr. Chairman, is there a small amendment in schedule B or schedule D?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. RODDICK: Mr. Chairman, there are two amendments—

The JOINT CHAIRMAN (*Mr. Richard*): Order!

Mr. CHATTERTON: Mr. Chairman, before we go on I would like to make a comment. One of my objections has been with regard to clause 26. It depends now, it seems to me, as to the manner in which the board will operate, the opportunity is there now for these people to apply initially for a bargaining unit which would be separate from the one proposed.

Dr. DAVIDSON: I do not want to mislead the committee on this part, Mr. Chairman and Mr. Chatterton. It would be a mistake to assume that any group for any reason could apply the procedure which is set out under section 26, and that the Board could decide this merely on a whim. The grounds on which you can invoke subclause (5) are the grounds set out in the provision itself. Those grounds are, that a bargaining unit based upon an occupational group concept would not permit satisfactory representation of the employees included therein. Now, I confess I do not know all the considerations that would enter the board's mind, but the board, on the basis of what it heard, would have to be satisfied that the bargaining unit based upon the occupational group concept would not permit satisfactory representation. This is not a question of our not liking the bargaining unit; there are a lot of other grounds that could be alleged. However, it has to be substantiated that the bargaining unit that is based upon the concept of the

total occupational group would not permit satisfactory representation. If that can be substantiated, the board can then set aside clause 26. Unless the board is satisfied on that ground and on that ground alone, then it is bound to follow the procedure set out in clause 26 during the initial certification period.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, at last evening's meeting, we were told that Clause 26, subsection 5, could replace the amendment which my colleague, Mr. Lachance, and I had suggested. I am trying to make some kind of a link between the amendment as we proposed it and the Clause in question, and it is very difficult for me. I do not want to complain without reason, but for a month now, we have been waiting for this amendment, and this morning, we are faced with an amendment drawn up exclusively in English. It is very difficult for me, not being a lawyer, to try to understand this legal terminology, having it only in English. You can imagine the efforts I have to make in order to try to interpret what you are trying to do. My learned colleagues, who are lawyers, tell me that this will approximately have the same effect as the amendment we presented. I am trying to follow the discussions as best I can and I find that the discussions which took place this morning have not satisfied me, have not enlightened me fully so that I don't know whether what is being submitted here would really replace the amendment, or would be in the spirit of the amendment we presented. Should I ask for an extension, a postponement, before adopting the bill, or should I rely on what has been told me to the effect that this amendment has approximately the same intent as the amendment we presented? I really do not know what to do.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, I understand your difficulty, and I do not want you to not have the opportunity of being able to understand the text of this proposed amendment. On the other hand, I think that you can, of course, exercise the right at all times, in the House of Commons for instance, to raise any objection you might have to the amendment should this Committee decide to pass it. I am in the hands of the Committee.

Mr. LACHANCE: I understand Mr. Émard's fears. Personally, I hesitate to accept this amendment, in the light of the amendment which Mr. Émard and I had drafted and intended to submit to the Committee. However, if I can take the liberty of doing so, I would tell Mr. Émard that in Clause 26 originally, there was no provision to allow, at the initial stage, the initial certification stage, to make any objections. Neither Clause 32 nor the Bill allowed for objections in the initial stage.

The JOINT CHAIRMAN (*Mr. Richard*): Nor to make any other applications.

Mr. LACHANCE: Yes, to make any other applications, or to allow the Board to hear objections from various categories of employees. With this amendment, and with the explanations which Doctor Davidson and his assistants have given us, it is understood that in the initial phase, during the initial certification period, the Board has the power to accept objections and to change, and cut groupings to pieces, so to speak, or to combine them. The object of the amendment which Mr. Émard and I had intended to submit was particularly to ask the Board whether it would be possible to split up the units in certain circumstances. In the present case, sub-clause 5, to my mind, allows this. Perhaps it does not comply with

everything Mr. Émard and I wanted in the amendment, but it leaves the door open at the initial certification period. This was the main object, I think, of the amendment which we had been proposing. At this stage, I am satisfied.

Senator BOURGET: If I understood Mr. Émard's amendment correctly, I think his main object was to force the Board to recognize a group of employees which lived in a certain region, Montreal, for instance, and in this amendment, we have before us, the Board is not so obliged. This, to my mind, is the essential difference existing between the amendment as proposed by Mr. Émard and the proposal made in sub-clause 5 under the new Clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Is that it, Mr. Émard? The new Clause 26?

Mr. ÉMARD: That is precisely the point I wanted to make.

Senator BOURGET: That is it. Now the Board is not obliged. But you will have occasions where a group of employees will make representations to the Board. And if the Board is satisfied well, then, they can be appointed as bargaining agents.

Mr. ÉMARD: Mr. Chairman, throughout the bill we are giving the right to file objections. From just looking at most clauses, you can see that there is a right to make objections, but I am wondering, in practice, where this is going to lead. This is what counts. We can make objections even though we have no right to do so, but just where is this going to lead us? These objections that are going to be filed this is what is important. Several clauses of the Bill give the right to file certain objections, but there is always a clause saying that the Board can do what it wants. When I say "we", I mean the employees, the associations, the organizations, have to follow such and such a procedure, but on the other hand, the Board has complete discretion to do what it wants. There is absolutely nothing being forced upon it. Perhaps in legal terms this appears right, but in the past I have had too much experience to know and see exactly what goes on in practice. Good experience is precisely going to see what the Canadian Labour Relations Board does about differences in groups. You can present all the objections you want, but when the Board has decided on one thing, it then follows the precedents it has itself established over the years. I am not a lawyer, and I am not in a position to be able to refute what is being brought out. In addition to that, I am not sure I would be supported if I proposed the amendment that we presented before or presented in another way? I shall let those who have the responsibility for the Bill decide this and see to it that the organizations are fairly treated, that they have rights which will defend their own interests. However, the principle is still there. I think that in some cases it should be specified that the Board must do such and such a thing; that is, in certain particular cases as in this particular case, I think the Board should recognize the objections, and not only recognize them, but do something about them, too, in the case of certification.

Mr. LACHANCE: Mr. Chairman, in view of the fact that I associated myself with Mr. Émard in objections or in representations, I think that the Board should know, by reading the Committee's proceedings, at any rate, that at least it is Mr. Émard's hope and my own hope personally, that the Board will act broadly in consideration and accepting objections which are filed. They should

not only consider this act in the strict sense, but rather in the broad sense. It would be useless to present this amendment if the Board did not accept taking this amendment into consideration in its widest sense. This exists in the Canada Labour Relations Board Act but it is not very widely applied. That is the reason why we consider that it should be accepted in its widest possible sense.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments? Clause 26(5) is proposed by Mr. Walker and seconded by Senator MacKenzie.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

(a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining,

(b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

Mr. WALKER: Well, Mr. Chairman, I do not know if either Mr. Émard or Mr. Lachance, who were originally concerned with this problem, wish to be associated with this, but I would certainly be happy to have it moved by Mr. Lachance and seconded by Mr. Émard, if that is what you want to do.

Mr. LACHANCE: I will do it, unless Mr. Émard would prefer to do it.

Mr. WALKER: If Mr. Émard will move this, Mr. Chairman—

Mr. ÉMARD: I will.

Mr. WALKER: —I will be happy to second it.

The JOINT CHAIRMAN (*Mr. Richard*): I think Mr. Walker seconded by Mr. Lachance would be quite agreeable.

Mr. WALKER: We have been passing these privileges around very freely in this committee.

Mr. LACHANCE: Well, I am going to give my place to Mr. Émard to watch, but I am very happy to do it.

Mr. WALKER: Mr. Chairman, I move, and it is seconded by Mr. Lachance, that clause 26 as it is now in the bill be withdrawn and that there be substituted therefor this new clause 26. Let us be very clear about the changes. There is the substitution of the words "for that reason" in place of the words "on the ground", in subclause (a) and also in subclause (b).

An hon. MEMBER: No, no.

Mr. WALKER: Oh, excuse me, subclause (b) only.

The JOINT CHAIRMAN (*Mr. Richard*): And the word "and" is to be inserted at the end of subclause (a).

Mr. LACHANCE: And the comma.

The JOINT CHAIRMAN (*Mr. Richard*): Well, the comma is there now.

Mr. LACHANCE: No, it was a period.

The JOINT CHAIRMAN (*Mr. Richard*): It was a period last night, but it is a comma today.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Once again, Mr. Chairman, I would like to say that in my own particular case, I do not think I have been given every chance. You will have to understand I am not a lawyer and it is very difficult for me to interpret legal language which I consider to be very complicated. And in addition, you only gave me an English copy of the amendment, which makes it even more difficult for me. I want to accept the decision that has been taken, of course, but we had to wait for nearly a month to see what Treasury Board was going to come up with, or to see the type of amendment which was going to be brought in instead of the amendment I submitted. You presented this last night at nine o'clock, and this morning we came in. I did not have time, either, to contact other lawyers. I would have wanted to find out the exact meaning of this. I will accept it but, without knowing too much what I am accepting.

The JOINT CHAIRMAN (*Mr. Richard*): With reservations.

(*English*)

Mr. RODDICK: Mr. Chairman, there are two technical amendments which are related to clause 26, if you would like to deal with these at this time.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. RODDICK: One of them relates to Schedule B, which is a schedule created in order to provide for the application, I believe, of clause 26(6). The date in Column I of Schedule B opposite "Operational Category" in the amendment that has been passed by the Committee reads January 31, 1967. This will be a dead date very soon, and after discussions with the legal draftsmen it was suggested that this be amended to read February 28, 1967, which is one month later, and an amendment has been prepared to this effect and it is attached to the document.

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment to Schedule B carry?

Mr. CHATTERTON: Column II of Schedule B reads:

> Day after which collective agreements may be entered into or arbitral award rendered.

Let us suppose that event does not take place until late in 1967, does the date in Column III still apply?

Mr. RODDICK: The dates in the columns are prohibitions and the items that are identified at the top may not take place before that date, but they may take place any time after that. Because of the way the legislation is constructed we have to have a date of some kind in each of the slots.

Mr. CHATTERTON: But the date in the last column would apply in any event?

Mr. RODDICK: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Does the schedule as amended carry?

Some hon. MEMBERS: Agreed.

Schedule B carried.

Mr. RODDICK: Mr. Chairman, the second technical problem arises from changing that date from January 31, 1967 to February 28, 1967. An amendment to clause 72 was passed by the Committee which provided that during the initial certification period an arbitral award could take effect retroactively four months prior to the date set out in Column I, and that amendment was passed in order to permit the government to honour a commitment in relation to pay review dates. Having changed that date, we now have the awkward situation where four months prior to February 28 would permit the arbitration tribunal to make an award retroactive in respect of the operational category only to November 1. Therefore, in order to correct this it is proposed to tie this clause 72 to Column II. You will notice that the difference between the dates in Column I and Column II are always 60 days. The dates in Column I, which shows the dates after which notice to bargain can be given, are always 60 days in advance of the dates specified in Column II. It is therefore proposed to link this clause to Column II and to identify the number of months as six before the day specified in Column II, rather than four months before the day specified in Column I. That does not sound like a very adequate explanation, but I hope you understand it.

Mr. LANGLOIS: It is not always 60 days on your schedule.

Dr. DAVIDSON: It was before.

Mr. LANGLOIS: Because February 28 to March 31 is not exactly 60 days.

Mr. RODDICK: Not exactly, but the effect will be, if we accept this amendment to take it back in each case to the pay review date, which is our objective.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. RODDICK: No.

The JOINT CHAIRMAN (*Mr. Richard*): We now return to clause 28. It was moved by Mr. Walker seconded by Mr. Chatwood:

That clause 28 of the said bill be amended

(a) by striking out lines 3 and 4 on page 15 thereof and substituting the following:

tions, the council so formed may, subject to *section 30*, apply in the manner prescribed to the Board for certi-

(b) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent.

and

(c) by striking out lines 19 and 20 on page 15 and substituting the following:

Council deemed to be employee organization.

29. A council of employee organizations shall, for all purposes of this Act except subsection (2) *of section 28*, be deemed

I am not familiar with this amendment.

Mr. RODDICK: Mr. Chairman, it was my understanding that Mr. Émard and Mr. Lachance, in relation to the proposals which they had made, anticipated that there would be an amendment required to clause 28 and it was my understanding that this clause had been stood for that purpose. As the problem has been dealt with in another clause, I would presume that the Committee might wish to proceed by simply passing clause 28.

Mr. LACHANCE: It is the only—

Dr. DAVIDSON: Mr. Chairman, clause 28 was held specifically for the purpose of making certain that we dealt with the concerns of Mr. Émard and Mr. Lachance.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me, Dr. Davidson, this was your material.

Dr. DAVIDSON: But these amendments have been approved.

Mr. RODDICK: I am sorry, the Chairman and the Clerk are quite correct. There was an amendment proposed to clause 28 which was unrelated to Mr. Émard's and Mr. Lachance's proposal and, as I recollect, that matter was dealt with and agreed to, but the passing of the amendment was held up. Therefore, the amendment which was tabled before the Committee, I presume—

The JOINT CHAIRMAN (*Mr. Richard*): Shall the amendment carry?

Mr. LACHANCE: What is it?

The JOINT CHAIRMAN (*Mr. Richard*): At that time it was accepted by you, Mr. Lewis, and the other members of the Committee. but it was—

Mr. RODDICK: Could I run through these slowly again?

Mr. LEWIS: Like yourself, I have forgotten.

Dr. DAVIDSON: The motion is

That clause 28 of the said bill be amended

(a) by striking out lines 3 and 4 on page 15 thereof and substituting the following:

tions, the council so formed may, subject to *section 30*, apply in the manner prescribed to the board for certi-

The effect of that is merely to eliminate the reference to section 29 which has, in the meantime, been deleted and to limit the reference to section 30 only. It is purely technical. The second amendment is:

(b) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge duties and responsibilities of a bargaining agent.

I think the members will recall that that was argued out and this was accepted as being a desirable formulation in replacement of (b) as it stands in the printed text. The third amendment is:

(c) by striking out lines 19 and 20 on page 15 and substituting the following:

29. A council of employee organizations shall, for all purposes of this Act except subsection (2) *of section 28,* be deemed

The words "of section 28" are to be inserted in this amendment.

Mr. KNOWLES: This one is numbered 29.

Mr. BELL (*Carleton*): This is to avoid renumbering all the sections of the bill. It is a draftsman's device.

Dr. DAVIDSON: That is correct.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 28 carry?

Clause 28 and new clause 29 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next is clause 39(2).

Mr. KNOWLES: Should we deal with the other bill before we go into this one?

The JOINT CHAIRMAN (*Mr. Richard*): Is it directly related? I do not think it is directly related to employees.

Mr. KNOWLES: Should we not let this stand until we have decided on the question of political activity? This is the one that would deny certification to any organization having anything to do with politics.

Dr. DAVIDSON: These two clauses, as I recall, Mr. Chairman, were stood.

The JOINT CHAIRMAN (*Mr. Richard*): As I understand it, this relates to political activity of an organization as against the political activity mentioned in Bill No. C-181. I thought we might dispose of this part of it before going into the other one.

Mr. LEWIS: Mr. Chairman, it may perhaps surprise members of the Committee to hear that I am in favour of organizations of public servants being prohibited from acting on behalf of a political party. Whatever may be the case with other employee organizations, I do not think you can have a public service organization affiliated with or working on behalf of any political party. I agree with this. My difficulty in this connection has always been whether, in principle, this is the right way to deal with it, and whether or not the act should not simply say that an organization shall not do this, rather than saying that the board shall not certify them if they do do this.

Mr. CHATTERTON: What would the penalty be in your proposal if an organization did not desist?

Mr. LACHANCE: They would have to be decertified.

Mr. ÉMARD: What would happen in the case which Mr. Lewis suggests? You just mentioned that an organization is not supposed to do this, but what happens if they still do it?

Mr. LACHANCE: They would have to be decertified.

Mr. ÉMARD: That is why it has been put in this clause.

Mr. LEWIS: Suppose you certify an organization and they do it afterwards; what happens then?

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 39?

Mr. CHATTERTON: What is the answer to that?

Mr. RODDICK: Mr. Chairman, this bill has been drafted many times and I am now searching to find whether the answer to that is in here—I think it is—but I have not yet found it. There was in one draft—I do not know whether it is in this final draft—a provision that a bargaining agent that ceased to fulfill certain conditions, which it was required to fulfill when it was certified, would lose its certification. Now, what those conditions were—

Dr. DAVIDSON: It is clause 42(2).

Mr. RODDICK: You found it?

Dr. DAVIDSON: Yes. It says:

> (2) Where the Board, upon application to the Board by the employer or any employee, determines that a bargaining agent would not, if it were an employee organization applying for certification, be certified by the Board by reason of a prohibition contained in section 39, the Board shall revoke the certification of the bargaining agent.

We have drafted this legislation better than we realize.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 39?

Mr. KNOWLES: Mr. Chairman, I am wondering if it does not go a bit too far in that it draws no line between voluntary contributions of members and the requirement of membership. I have no objection to clause 39(2)(c) but I would be interested in hearing comments from the officials on the fact that it goes further than that.

Mr. LACHANCE: Mr. Chairman, if an employee organization receives a contribution and returns it to the member, there is no problem. I do not think there is any problem about that. But if it does receive or handle such contribution and forwards it to a political party, that is different. That, at least, is the difference to me. You cannot penalize an employee organization which receives such contributions.

Mr. KNOWLES: Mr. Chairman, this is part of the reason I thought this should stand, but I am willing to get it settled now if we decide under the other act that it is legal for civil servants to make contributions to political parties. However, does that not have some bearing on whether or not we permit their organization to handle it? Are you saying that civil service employee organizations that handle money for contribution to the Red Cross could not handle money for contribution to the Liberal party?

The JOINT-CHAIRMAN (*Mr. Richard*): I think that is what the amendment suggests.

(*Translation*)

Mr. ÉMARD: I do not think it is a question of legality in a case like this, but rather a question of principle. I am sure that anyone at all in the organization can give his money to anyone he wants. But do we want employees of the Public Service to be tagged, as belonging to a certain political organization in particular? I think this is what we want to avoid.

Mr. LEWIS: In fact, there is a difference between the member himself and the organization.

The JOINT-CHAIRMAN (*Mr. Richard*): This does not involve the trade-unionists.

(*English*)

The JOINT-CHAIRMAN (*Mr. Richard*): Shall clause 39 carry?

Mr. KNOWLES: On division.

Clause agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): There is a small smendment to clause 17, subclause (2) which was approved last night and which reads as follows:

> A secretary of the Board shall be appointed under the provisions of the Public Service Employment Act who shall, subject to the direction of the chairman—

Instead of the words "on the order".

Amendment agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): The only clause left is clause 99, which has to do with regulations respecting grievances. I think Mr. Knowles introduced an amendment.

Mr. KNOWLES: If I did I must have done it for somebody else.

On Clause 99—*Authority of Board to make regulations respecting grievances.*

Dr. DAVIDSON: No, it was Mr. Lewis, I think.

Mr. LEWIS: What was that?

Dr. DAVIDSON: This was the question of the regulation-making power of the board.

Mr. LEWIS: Oh yes.

Dr. DAVIDSON: I do not know whether it is before the members of the committee or not, but we have endeavoured in the text—

Mr. LEWIS: No. You said you were going to redraft this.

Dr. DAVIDSON: —to set out certain types of regulations that the board may make on its own, and other regulations which may—

Mr. RODDICK: I think the request that Mr. Lewis made was to amend the section dealing with regulations relating to grievances in such a way that it

would permit the parties, in effect, to set aside certain provisions in the regulations by a clause in their own agreement. In order to do this it was necessary to take clause 99, which provides authority to the board to make regulations relating to grievances, and break it into two parts in order to separate its regulation-making authority in respect to grievances from its regulation-making authority in respect to adjudication, which is also in there. The consequent proposal that I believe you now have in front of you is that clause 99(1) establishes the authority of the board to make regulations relating to grievances, and subclause (2) says that any regulations made in respect of subclause (1) may, in effect, be modified by a collective agreement. Then we come to subclause (3), which deals with regulations relating to adjudication, and there is no such provision which permits those regulations to be set aside.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments on the proposed amended clause 99?

Mr. LEWIS: Mr. Chairman, subclause (2), as I read it very rapidly, says that those regulations which are changed in bargaining shall not apply, but the others do. Now, I think what you may have overlooked is that in bargaining the parties may deliberately agree not to have some of the regulations apply.

Mr. RODDICK: I think it would take a very simple provision in a collective agreement to accomplish that purpose, but perhaps I am being naive.

Mr. LEWIS: Well, I am not exactly sure how you would do that. I suppose you could say, "and the regulations of the Board shall not apply to this agreement".

Mr. RODDICK: It is agreed between the parties that we will make our rules as we go along? Perhaps that is a rather oversimplified statement.

Mr. LEWIS: What objection do you have—I am not going to prolong this—to saying in simple language that the regulations made by the board under subclause (1) in relation to the procedure for the provision of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the board and where the collective agreement provides its own grievance procedure, or something like that?

(*Translation*)

Mr. ÉMARD: If I understand correctly, Mr. Chairman, a Clause in the Collective Agreement takes precedence over the regulations of the Board. Is this what it means?

(*English*)

Dr. DAVIDSON: That is, in effect, the purpose of this, Mr. Émard. We want to ensure, first of all, that in the absence of any specific provision in collective agreements there is a regime established and a set of procedures set out that will apply. Having done that, we then want to provide that if in a specific collective agreement the bargaining agent and the employer work out, write into the agreement, alternative procedures that they agree shall apply to the grievance processing in respect of that bargaining unit, that those will take precedence and replace the basic provisions that are set out by the board in accordance with subclause (1).

Mr. MCCLEAVE: I would say this is very satisfactory.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 99 as amended carry?

Clause 99 as amended agreed to.

On clause 97(2)—*Where no adjudicator name in agreement.*

The JOINT CHAIRMAN (*Mr. Richard*): There is a small grammatical error in clause 97. The word "is" appears twice. Shall that amendment carry?

An hon. MEMBER: What is the new word?

The JOINT CHAIRMAN (*Mr. Richard*): The Clerk tells me that we agreed, last night to parliamentary counsel inserting the right word.

Mr. KNOWLES: I think we should know what it is before we agree. It is on line 43 which reads as follows:

the person whose grievance it is is—

Mr. RODDICK: I am sorry, what is the clause reference?

Mr. KNOWLES: Clause 97(2).

An hon. MEMBER: Page 44, line 43.

Mr. BELL (*Carleton*): "is liable to pay".

Mr. RODDICK: Mr. Chairman, I checked this with the legal draftsman and he regards it as a satisfactory expression of the intent of the legislation, notwithstanding a certain "peculiarization" in style.

Mr. KNOWLES: Could you not say the "grievor"?

Mr. LEWIS: That is too simple.

Mr. KNOWLES: Is there a law against using one word instead of six?

Mr. LEWIS: I suggested that a long time ago.

Mr. RODDICK: I would have no objection to a comma.

The JOINT CHAIRMAN (*Mr. Richard*): It seems to be the consensus of the committee that this type of language is usual in a bill.

Mr. KNOWLES: Mr. Chairman, if there is a difference of opinion between the parliamentary counsel and the law officers that drew the bill I think we at least should know what the decision is, that is all.

The JOINT CHAIRMAN (*Mr. Richard*): I am asking the committee whether it would not be better to leave it the way it is.

Mr. KNOWLES: As "is"?

The JOINT CHAIRMAN (*Mr. Richard*): You know what it means now.

Mr. WALKER: Mr. Chairman, it certainly does not affect the principle that is in the clause. As it is just a question of arguing about grammar, I will concede the drafter the right of using whatever grammar he wishes.

Mr. LEWIS: Could I say, sir, that this always makes me laugh because there is really a very simple way of doing this: "The person who has filed the grievance if liable to pay." or "who has made—"

Mr. MCCLEAVE: I do not think it is right that the poor devil who raises the grievance should be saddled with the costs.

Mr. LEWIS: Or "the person who has made the grievance" or "who has filed the grievance is liable" or "who had lodged the grievance is liable".

Dr. DAVIDSON: May I say that we will take this up with the legal draftsmen without any further commitment, Mr. Chairman?

Mr. KNOWLES: Could we consider the possibility of the one word, "grievor"?

The JOINT CHAIRMAN (*Mr. Richard*): Do you really want it changed?

Mr. LEWIS: As a lawyer who has had to try to interpret the work of draftsmen, Dr. Davidson, do not be so tender-hearted about making them uncomfortable. One reason which you gave earlier for not doing something was because you thought it would make them uncomfortable.

Mr. KNOWLES: Hear, hear.

Mr. LEWIS: Which is not a very strong reason.

Mr. BELL (*Carleton*): The task of parliamentarians is to make them uncomfortable.

Mr. KNOWLES: That is right.

Dr. DAVIDSON: I do not mind making the legal branch uncomfortable, but do not make me uncomfortable.

Mr. LEWIS: That is a little stronger reason.

The JOINT CHAIRMAN (*Mr. Richard*): What is before the committee now? Is there a suggestion that we should substitute some words or leave it the way it is?

Mr. LEWIS: I would rather leave it to Dr. Davidson to look at.

Dr. DAVIDSON: I will take this up with the draftsman. Would you agree that if the draftsman is prepared to accept a more graceful wording which would satisfy him, that we are free to insert it without coming back to the committee?

Mr. KNOWLES: Agreed.

Mr. MCCLEAVE: Dr. Davidson, would you also ensure that somebody else cannot launch the proceedings on behalf of the person.

Dr. DAVIDSON: Can or cannot?

Mr. MCCLEAVE: Cannot. That the follow who pays the cost must launch the grievance. This is the thing.

Mr. LEWIS: Or authorized it.

Mr. MCCLEAVE: Or authorized it, yes.

Mr. RODDICK: This is one of the considerations that I think should be related to some of the substitutions that were thought of.

Dr. DAVIDSON: We will check up on it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 97(2) carry?

Clause 97(2) as amended agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall subclause (1) carry?

Mr. BELL (*Carleton*): Mr. Chairman, before we come to subclause (1), there are a number of matters that I think stand for consideration. I perhaps should

have raised this matter when we were discussing clause 26. I wonder if Dr. Davidson would be prepared to comment on the letter which Mr. Claude Edwards sent to the chairman, which appears at page 990 and which contains the resolution of the Customs and Excise Component, dealing basically with bargaining at the departmental level, a subject on which the final authority is at the departmental level. I know that a considerable number of members have had representations from constituents on this subject and I would like to have a fairly detailed comment from Dr. Davidson on the resolution of the Customs and Excise group and Mr. Edward's letter.

Dr. DAVIDSON: Mr. Chairman, as you will recall, Mr. Edwards was present at the time that letter was presented to the Committee and he was called upon to testify in respect to it. My interpretation of Mr. Edwards' testimony was that the Public Service Alliance was transmitting the views of the Customs and Excise Officers Association for the consideration of the Committee.

I must say that I find some difficulty in reconciling the proposal contained in the Customs and Excise Association's letter, and the concept of a departmental association entering into a bargaining relationship with the employer in a collective bargaining context, with the concepts that we have enshrined in this legislation, which basically provide for occupational groupings as the bargaining units, subject to the qualifications that we have incorporated into clause 26 in the discussions this morning.

There is, so far as I am aware, nothing which would prevent or discourage departmental staff associations from remaining in existence and maintaining a relationship with the deputy heads of their departments, but if you are going to have collective bargaining it seems to me that you would be inviting difficulties, to say the least, if you were to endeavour to divide the subject area of collective bargaining between two bargaining units; one at the centre, which represents the group concerned in its relations with the employer at the centre, and a second and distinctive bargaining unit which would claim jurisdiction to represent the employees on a different basis of composition at the departmental level.

I really do not see how both these concepts can be reconciled in the context of collective bargaining because it would mean that you would have different bargaining units set up for different purposes, dealing with the employer at different levels, and the membership of the bargaining units based upon different grounds. If you make a distinction, however, between the collective bargaining as such that is provided for in this bill, the maintenance of a channel of communication between the departmental staff association that is interested in the well being of the employees of the department as such and the deputy head or the operating heads of the department concerned, I think that would be a different question.

Mr. BELL (*Carleton*): The resolution is based on the assumption that there are a number of bargainable matters, and in its own terms it states:

> On which the final authority is delegated to a department or departments.

I assume that they are suggesting here that in respect of such matters the Treasury Board has no authority, it has been delegated completely and the Treasury Board is *functus*. Are there such matters, Dr. Davidson? What are the types of things that this staff association is trying to get at?

Dr. DAVIDSON: As a matter of fact, I have some doubts, Mr. Bell, whether there are such matters that, in the complete legal sense, are within the jurisdiction of the department as such that would come within the framework of bargaining. I am at a loss to know what they would be. I am aware of the fact that there are certain matters such as space arrangements, accommodation arrangements, lighting and the physical environment which to some degree come within the responsibility of the department itself to supervise and monitor, but even in a matter such as this the standards of accommodation and the guidelines of policy that are to be applied by the department are prescribed by the Treasury Board and, frankly, I am at a loss to know what bargainable items could be referred to which, under this legislation, could be said to come within the jurisdiction of the department, as distinct from the employer, as set out in the bargaining legislation.

Mr. CHATTERTON: Mr. Chairman, I wonder if anybody can answer the question whether the present membership of the Customs and Excise Officers Association goes beyond the boundaries of the categories which are proposed?

Dr. DAVIDSON: The present membership of almost any departmental association would almost certainly break down, on the basis of the categories, in a way that would result in some of the members of the departmental association finding themselves in each of the different categories.

Mr. CHATTERTON: So that it would not be possible for the present association to be certified as such?

Dr. DAVIDSON: The structure of our collective bargaining legislation does not contemplate a structure in the bargaining units on the basis of departmental units. This, in fact, is a contradiction of the concept of occupational groups that is basic to this legislation. I think the reasons for this are fairly clear, Mr. Chairman. There are stenographers, for example, in each department of government. If you have departmental associations formally recognized as bargaining units, this would contemplate paying persons of the same occupational classification different salary levels in different departments, according to the strength of the bargaining unit or the nature of the bargaining relationship between the employer and the employee. This, it seems to me, would create very real problems of equity and consistency so far as the Government of Canada as an employer for the public service as a whole is concerned. This was a decision that had to be taken in the early stages of the consideration of the desirable structure. We had to decide whether we were going to go for departmental associations, regional or local associations or occupational groups, and we came to the conclusion that the only practical basic principle to follow was one that was based upon occupational groups, subject to the exceptions that we have now provided.

Mr. CHATTERTON: This Customs and Excise Officers Association could be certified as a bargaining unit for any group where a large number of their members might be included?

Dr. DAVIDSON: There is nothing in the law that would prevent the Customs and Excise Officers Association from being certified by any group, recognized as a bargaining unit under the law that is prepared to have them as their bargaining unit.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I notice that this request applies to some items which are peculiar to certain departments. I think there are several precedents in industry, in which a national collective bargaining, for instance, is negotiated and in which the locals negotiate certain particular items. Those which are peculiar to their own locals. For instance, you have hours of work. At what time does one certain office begin and end work. I know that in Montreal there are traffic problems and in some cases even if the working hours are specified as being from eight to five, for instance, in some cases, we change the lunch hour, we start a little earlier in the morning and finish a little earlier in the evenings, so as to allow the employees to avoid the traffic jam. There are certain particular cases like this, but I do not see why a certain department could not negotiate some certain particular clauses which apply to their case in particular and only in their case.

(*English*)

Mr. LEWIS: Even in a single plant you may have that.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 1?

Mr. BELL (*Carleton*): There is another matter that I would like to raise. I wish to draw attention to the evidence that was given at page 335, I think it is, by Mr. J. A. Taylor, in which it was requested that a conscience clause be included in this bill. I wonder if Dr. Davidson and his associates have given consideration to that brief and what their view may be?

Dr. DAVIDSON: We have examined that brief, Mr. Chairman. I was present when Mr. Taylor and his colleagues presented their views to the Committee, and I think the fact that we have not of our own initiative presented a proposal to take account of this must be evidence of the fact that, even after considering the basis on which the proposal was put forward, we have not thought that it would be sound to introduce into the legislation itself a provision that would permit people to withdraw from participation in the bargaining units envisaged under collective bargaining legislation on grounds of conscience.

Mr. LEWIS: There is nothing that compels them.

Dr. DAVIDSON: There is nothing that compels them.

Mr. LEWIS: The fact is they are not required by the legislation to be members. The legislation does not provide for any check-off of dues. It is surely a matter for collective bargaining in a particular situation as to what requirements are made, and if the law does not compel them in any way, surely that is all they require.

Mr. KNOWLES: Mr. Chairman, I think the act goes even further. It spells out on pages 2 and 3 that no person shall intimidate, threaten or do anything against a person by reason of his becoming or refraining from becoming a member. In other words, it seems to me that the protection is there not only in terms of this natural justice we talk about but it is spelled out that you do not have to become a member, and if you do not become a member nobody can hurt you.

The JOINT CHAIRMAN (*Mr. Richard*): Pardon me, Dr. Davidson, if I may interject. Perhaps I did not understand Mr. Taylor very well but I though that his submission was a little bit different. He wanted to be a member and make a contribution but revert that contribution to works of charity or the like.

Mr. KNOWLES: Or a political party?

The JOINT CHAIRMAN (*Mr. Richard*): No. He was a little bit ahead of some people.

Mr. PATTERSON: Mr. Chairman, I think a great many people today consider this a very important issue because of the fact that they find themselves in a bind with regard to certain union activities and organizations. I think the general idea, which was not only expressed by Mr. Taylor to whom reference has been made but by others as well, that some safeguard be placed in the legislation to ensure that they will not be required to contribute to funds which will find their way into political activities and, on the other hand, there are numbers who, for conscience reasons, did not feel they were able to join an organization. They wanted to be assured that some safeguard was included.

Dr. DAVIDSON: Mr. Chairman, both of the points catalogued by Mr. Patterson are, in fact, covered in the bill as it now stands. There is no need for anything else. Clause 39 which we dealt with this morning, does bar the use of the channel of the employee organization or bargaining unit as a vehicle for conveying political contributions, either voluntarily or compulsorily, from the individual to a political party. By the same token, there is nothing in the bill that requires anyone to become a member of the employee organization representing the employees.

The one thing I would like to say, of course, is that if an employee is within an occupational classification that is represented by a bargaining agent and if that bargaining agent, even without that employee being a member, negotiates a wage schedule with the employer or other conditions of employment that are worked out by agreement between the bargaining agent and the employer, the conditions of employment,—the wage rate and all of other negotiated conditions—apply to all of the persons in that bargaining unit whether they are members or not of the employee organization.

Mr. KNOWLES: Just the same as the conditions which are laid down by Treasury Board now apply to everybody without collective bargaining.

Dr. DAVIDSON: That is correct.

Mr. CHATTERTON: Is it possible, Dr. Davidson, for such an agreement to require dues to be paid by members?

Dr. DAVIDSON: No.

An hon. MEMBER: There is no check-off.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, in the case in which the Rand Formula might be negotiated or in which the Association and the Treasury Board would agree to accept the Rand Formula, in that case the employee would not have to be a member, but he would have to pay his dues. This is perhaps what Mr. Bell had in mind and referred to. I think that these people do not want to pay their dues to a

labour organization. There is absolutely nothing in the Bill which would prevent the organization from negotiating the Rand Formula and accepting it. In which case, conscientious objectors would be right because they do not feel that they want their money to serve the purposes of labour organizations.

(*English*)

Dr. DAVIDSON: That is the same position, Mr. Émard, as prevails in the industrial setting.

Mr. CHATTERTON: You did not answer my question, Dr. Davidson, whether it is possible for a collective agreement to require dues to be paid?

Dr. DAVIDSON: I think it is, yes.

Mr. RODDICK: I am sorry, Mr. Chairman. It would be possible for a collective agreement under the Rand Formula to require an amount of money equivalent to dues but not dues. Membership dues can only exist where there is a membership. If I could say one or two words, as all of you know, this is a difficult issue and a continuing issue in labour relations in the private sector. I am not familiar with every one of Canada's labour laws in respect of this issue but I do not think that most of them—certainly the IRDI Act does not provide such a conscience clause. To introduce such a conscience clause it is argued by some would permit individuals to gain all the benefits of the efforts of the union and to make no contribution of any kind. In many circumstances it has been possible to resolve the issue of conscience in a manner suggested by Mr. Taylor. Of course, it is impossible, I suppose, to anticipate the manner in which bargaining agents and the government as employer, or the Treasury Board as employer, will handle this issue. I can only express the hope that it would be handled in a due politic fashion.

Mr. BELL (*Carleton*): In the course of your study did you consider the provisions of the Saskatchewan act? They have made specific provisions for this, giving the board the power to say that the dues or the equivalent of the dues shall be paid to a charity. I confess I thought the Saskatchewan act was a rather sensible way of dealing with a rather difficult problem. It may be that it would be sufficient here to take the power by way of regulation in the board or something of that sort. But I just do not think we should brush this matter aside.

Mr. PATTERSON: I think, Mr. Chairman, the suggestion to which Mr. Bell has referred is really worthy of consideration because it has been submitted by certain of those who belong to and are active in, for instance, the Christian Labour Organization or association that some of these people would be willing and quite glad to contribute the equivalent to be placed in a fund of a charity designated by a certain group. They are not saying they want to designate where it has to go but they want the opportunity of contributing the equivalent to a charitable organization that is approved by the board or the organization concerned.

An hon. MEMBER: What do you think of that, Mr. Lewis?

Mr. LEWIS: Mr. Chairman, I think what we are discussing is not the particular cases but the wisdom of putting something into legislation with all the difficulties of definition and where you begin and where you end. I do not agree with these people. I have been in cases where I have persuaded a union to let

them pay to a charity or not pay as they liked because in practical fact there are very few in relation to the total and no organization, no employer, nobody is going to be hurt if they are given the right to exercise what they believe to be their conscience in this thing. But that is different from trying to write something into legislation.

Mr. CHATTERTON: Mr. Chairman, perhaps the Public Service Alliance or other organizations could provide within their own organizations a charity fund to which the contributions by these people could be allocated?

Dr. DAVIDSON: Mr. Chairman, it does seem to me too difficult to anticipate every conceivable situation that might arise at some point in the future. This problem, as I see it, does not really arise, certainly the contributions the individuals might be required to make, until at some point in the future there is a question of the inclusion in some collective agreement of a provision that requires all the members of a bargaining unit to make a contribution. It seems to me that it would be perfectly open, if that situation were to arise,—and there is no assurance that it ever will arise, and there is no assurance that the employer would agree to the inclusion of such a clause—to the employer at that point in the negotiations to argue that while he is prepared to accept what is in effect a compulsory dues payment in respect of all the members of a bargaining unit, there must be an exception in this particular collective agreement that would make other provision for any person in that bargaining unit who would have valid objections on grounds of conscience to having his contributions go into the coffers of the employee organization. Personally, I must say that in the absence of any real knowledge or experience of how much of a factor this is going to be I prefer not to see it written into legislation but left to be worked out in the process of negotiations if and when the contingency arises.

Mr. LEWIS: The real problem, surely, is the consequence to the person who says that he conscientiously cannot make the contribution provided under a collective agreement, namely, dismissal. Everybody is aware of the case in some small plant in Ontario where a man who refused to make the contribution was dismissed and an arbitrator upheld his dismissal. The sensible and humane way in my view—it is not new, I do not know the section of the Saskatchewan act, that Mr. Bell refers to. I do not recall ever seeing it. Is it a recent or old one?

Mr. BELL (*Carleton*): I do not know. It is in the brief that was submitted by Mr. Taylor.

Mr. LEWIS: I have not looked it up but this sensible thing is to provide in the agreement—I can show you one or two where it is provided—that if someone refuses to pay the contribution for reasons of conscience he shall not be penalized therefor, or shall not be dismissed or it shall not be, in his case, a condition of employment that he pay. But I do not think it is wise to have legislation on that matter.

Mr. LACHANCE: Mr. Chairman, let us ask Dr. Davidson. If this is left to negotiation in collective bargaining, a collective agreement, do you not feel that there might be some political pressure? After all, the employee organization will certainly be in favour of payment by all its members of contributions, and who would oppose it? Only the negotiator for the government, the Treasury Board, might oppose it. Are you not afraid that it would leave the door open to political pressure?

Dr. DAVIDSON: No, sir.

Mr. LACHANCE: It is not like private industry.

Dr. DAVIDSON: I think the political pressure one way or another can come from either side. I think it is helpful to have on the record an expression of the views of the members of the Committee, particularly from the different political groups, because this certainly would be a useful guide to the Treasury Board's position as employer in entering into any negotiations that would be affected by this point. It seems to me that it would be reasonable for the employer's representatives, if they were faced with a demand from an employee organization to have a requirement inserted into a collective agreement. That all members of the bargaining unit must pay dues whether they are members or not—it would be reasonable in those circumstances for the employer's representatives to recall the representations that have been made by those people who have qualms of conscience on this score. It would be appropriate at that time, it seems to me for the employer's representatives to recall the views which have been pretty generally expressed by the members of this Committee, which at least go as far as to indicate that special consideration should be given in any negotiations on collective agreements to the position of employees who do not wish to be compelled to become members or to pay dues to an employee organization on grounds of conscience. I think this would be very much a consideration in the minds of the representatives of the employers in any negotiating situation were this question to arise. But I doubt, frankly, whether it is necessary at this stage in the drafting of the legislation to write formally into the legislation a clause covering a contingency which so far as we now know may never arise and which, if it does arise, may very well be quite easily negotiable in the framework of the bargaining that takes place at that point in time.

Mr. LEWIS: I have another matter I want to bring up.

Mr. KNOWLES: We certainly do have the requirement in the statute that no person can be forced to become a member, and he cannot be intimidated by threat of dismissal or any other kind of threat because he refuses to become or refrains from becoming a member. I am reading from page 2c.

Mr. CHATTERTON: I think that would supersede any agreement.

Dr. DAVIDSON: Oh, quite.

Mr. BELL (*Carleton*): I think it is useful to have this discussion on the record and the expression of views. I would ask Dr. Davidson, however, to do one further thing between now and the time clause 19 of the bill is discussed in the House. Could you consider a simple amendment to clause 19, giving the board discretion to make regulations of general application covering these matters of conscience. Perhaps he would look at the model of the Saskatchewan act which I see—Mr. Lewis, I know is very interested in the date—came into effect May 31, 1966. So Mr. Lewis need not have any personal concern as to authorship.

Mr. LEWIS: I was not concerned in any case. I was surprised at it. I did not remember it. If it is as recent as that, that explains it.

Mr. KNOWLES: I think when Dr. Davidson looks at this matter in response to Mr. Bell's request that he should bear in mind what he himself said, namely, that in the minds of these people there is an issue we have not discussed. Dr. Davidson mentioned it, namely, their desire not to have to submit to conditions of employment arrived at as a result of collective bargaining. That phrase, by the way, is taken from a letter that I have had recently from Mr. Taylor and Mr. Devenish. They go further. They want not only not to be required to be members or to be required to make contributions but they want the right to opt out of the pay and conditions of employment that are arrived at. Now, it is no secret, I have carried on correspondence with these gentlemen and I have tried to make my position clear that I do not think they can ask for that any more than they can ask for different rates on the Ottawa Transportation Commission.

Mr. LANGLOIS (*Chicoutimi*): Mr. Chairman, following what Mr. Knowles said a moment ago that the law now—I have not got the act with me now—says that no employee shall be forced either to become a member of a union or association or to pay dues, if it is in the law how can you figure that at one time or another during negotiations you will be able to talk about the Rand formula. It is out already.

Dr. DAVIDSON: No, it is not out, Mr. Chairman. It is correct that the law prohibits enforced membership in an employee organization but the law does not prevent a collective agreement being negotiated in which the employer and employee organization voluntarily agree that amounts equivalent to the membership dues of the employee organization be deducted from the pay of all the members in the bargaining unit even if they are not members of the bargaining unit.

Mr. LEWIS: Members of the organization?

Dr. DAVIDSON: You are right. I should have said members of the employee organization. The law is silent on this point.

Mr. LANGLOIS (*Chicoutimi*): When they negotiate it is a global affair; I mean, it is not individual by individual, but in the statute there is the law, it is for an individual, it is not for a group.

Mr. RODDICK: Mr. Chairman, the nature of establishing terms and conditions of employment in bargaining is to impose upon all members of a bargaining unit a variety of conditions, including pay, and in some circumstances including contributions to pension plans, or an obligatory inclusion in a medical-surgical plan, or many other things which, in fact, take money off their pay cheques. The point at issue here I took up with the legislative draftsmen, to ascertain the manner in which the courts might be expected to interpret the word "intimidation" here and having regard to what, I think, most of the members of the Committee realize, namely that the Rand formula has been a formula used for many, many years now, there is clear evidence that the courts do not regard the insertion in a collective agreement of a Rand formula clause, which is a clause which requires the contribution to the certified agent of an amount of money equivalent to dues, as constituting intimidation of the employee.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I would like to make an unfavourable remark following a comment made by Dr. Davidson.

(*English*)

Dr. Davidson mentioned that it is difficult to foresee every situation that will arise and have a clause to deal with it in this bill. I feel that there is a clause in the bill that will protect the Treasury Board from every contingency that may arise.

Dr. DAVIDSON: Would you please call it to my attention, Mr. Émard?

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 1?

Mr. LEWIS: Yes. It has been drawn to my attention, and may have been drawn to the attention of other members of the committee that the effect of this bill would be that the public servants who are excluded from collective bargaining units by virtue, particularly, of subclause (u) (ii) and by other clauses as well, but mainly the definition of an employee in a managerial or confidential capacity, would have no organized way at all through which they can have some representations made on their behalf about their salaries and terms of conditions of employment. They are completely excluded and there would, I imagine, in as large a work force as the public service of some 200,000, be some thousands who would be excluded under clause 2(u) (ii). It would be a considerable number; we are not dealing with just a very few people. I drafted a suggestion but I would just as soon not move it because I am sure it can be improved on. I would like to ask Dr. Davidson whether it is possible to put in the bill a clause which would in effect import into this bill Section 7 of the Civil Service Act in respect of these employees. My suggestion, because I am not a drafter, is, I think, simpler than your drafting advisers would probably make it. Theirs would be more accurate, I am sure. Could we not have a clause in the bill which would simply say: "The Treasury Board shall from time to time consult with representatives of appropriate organizations and associations of employees"—the wording is from Section 7 of the Civil Service Act, "with respect to remuneration and other terms and conditions of employment of public servants excluded from bargaining units by virtue of subclause (u) of clause 2 of this act."

Dr. DAVIDSON: Mr. Chairman, I think this poses a very real difficulty because while a great many of these so-called managerial exclusions will in fact be excluded from bargaining units, they will be in classifications that are being dealt with in the process of collective bargaining. Just as the conscientious objector, who by his own abstinence, tries to exclude himself from participation in the process of collective bargaining as a member of the employee organization, is bound by the terms of the collective agreement that is eventually negotiated between the employer and the employee organization concerned in respect of this particular class of employee, so the persons who are excluded under the managerial exclusion provision most of them being in classifications which will be covered by the bargaining process, will be automatically covered. I must say I think we could get ourselves into some difficulty if we were to set up a twofold procedure for dealing with the conditions of employment of people who are in classifications that are the subject of collective bargaining but who are excluded for any particular reason because of their individual position in the managerial hierarchy. Now, I make a distinction between that group, Mr. Lewis, and other groups of classifications where the total group is excluded from the collective bargaining procedure. Do you see the distinction there?

Mr. LEWIS: It seems to me, Dr. Davidson, the suggestion I have made, and which is not original with me at all, protects you, surely. You have the organization appear before you merely in consultation with you. There is no obligation on you, that is, on the Treasury Board, no collective agreement, nothing of an obligatory nature flows from it. They appear before you and they say such and such a group of people has been excluded and you say: "Well, their terms and conditions are the same as their equivalent group within the bargaining unit." Then, presumably, you will have an argument whether that is the case. The organization may say, because of the added duties of this man or woman, because of the greater responsibility as management personnel, "we think you ought to recognize those duties." You will discuss it. All this suggestion means is that they be given the opportunity to put that kind of suggestion to the board.

There was also a suggestion, I think, from the Professional Institute, that there be an advisory council similar to the British one. I am frank to say that I am not persuaded that in this legislative regime, as distinct from what has grown up in the United Kingdom, that that advisory council is needed. I appreciate the difference and therefore I am not at all sure that it would fit this legislative framework to set up an actual separate sort of bargaining organization no matter how informal. I am not suggesting that for that reason. I am suggesting to you that—

Mr. BELL (*Carleton*): That is not the situation in England though under the standing advisory committee.

Mr. LEWIS: What is not the situation?

Mr. BELL (*Carleton*): What my friend has just described as a sort of bargaining unit at the top.

Mr. LEWIS: No, I appreciate that but it gives us more formality and I am saying if you want to go to that, Mr. Bell, you may be able to persuade me that that is the right way of doing it. At this point I am suggesting that the Professional Institute, which I assume will be one of the organizations most affected, should be able to come and discuss with the Treasury Board the terms and conditions of the excluded personnel. It seems to me the difficulty you raise simply does not exist if it is consultative machinery.

Mr. CHATTERTON: In the first place, can Dr. Davidson give us just a rough estimate of how many of these people covered by clause 2(u)(ii) would not be in classifications subject to negotiation?

Dr. DAVIDSON: I would have to make a blind guess at that.

Mr. CHATTERTON: Some indication?

Dr. DAVIDSON: I doubt whether the numbers who are not in classifications covered by bargaining units—we covered that question earlier—would exceed more than 3,000 at the outside.

Mr. CHATTERTON: Now, if Mr. Lewis' proposal was amended to refer only to those who were holding positions not included in classifications in the negotiations, would that obviate your objection?

Mr. LEWIS: If you will permit me, Mr. Chatterton, I think your question and Dr. Davidson's answer carry within them a conclusion that the people concerned

may not agree with. If I am an engineer and Mr. Knowles is an engineer and we are engineers of the same grade and I have nothing other than engineering duties, with two or three assistants under me, and Mr. Knowles has managerial duties which exclude him from the bargaining unit, with 200 or 300 people over whom he has supervisory authority, it is open to Mr. Knowles to argue or to get his association to argue that because of the added—I am not saying he is right or wrong, just that it would be open to him to argue—responsibilities, the added duties, he is entitled to a different classification to get higher pay than I do who do not have those responsibilities.

Mr. KNOWLES: Hear, hear.

Mr. LEWIS: Now, Dr. Davidson's answer ignores Mr. Knowles' right to make the argument. And, if it is Mr. Knowles', Dr. Davidson will hear the argument many times. This is all, surely, that it involves: For the excluded personnel to have the right to come to the Treasury Board through their organization and discuss these matters and make their argument that their added responsibilities require recognition in some appropriate form.

Mr. WALKER: Mr. Chairman, if that is so, do you not have the Treasury Board in conflict with the bargaining agent? In this case you are operating on two parallel roads at the same time, because the bargaining agent for a union is in fact bargaining for people even if they are in that classification and are excluded from membership.

Mr. LEWIS: No, they are not. If they are not in the bargaining unit the bargaining agent does not bargain for them. He has no right to bargain for them.

Mr. WALKER: But he is representing that particular classification, whatever conditions—

Mr. LEWIS: No, with great respect, Mr. Walker, he does not represent the person who is excluded in any way whatever except by analogy. He does not bargain for them; he does not represent them; he has no right to take up their grievance—I am speaking of the bargaining agent—he does not speak for them; he has no right to process a grievance for them; he simply does not represent them.

Mr. WALKER: Well, a minute ago we decided that the bargaining agent did in fact represent people who did not want to be represented.

Mr. LEWIS: But they must be within the bargaining unit. The bargaining agent represents all the people, whether they are members of the bargaining unit or not, within the bargaining unit. But, he does not represent anybody without the bargaining unit.

Mr. WALKER: Oh, I see.

Dr. DAVIDSON: But any agreement that fixes a salary, let us say, for a specific classification applies to the classification in which excluded persons find themselves.

Mr. LEWIS: Dr. Davidson, it may; it does; I acknowledge it. If I am an engineer excluded, and, assuming I agree that my duties are no greater than those included, the salary is mine; but I want the right to argue with you that the duties which exclude me from the bargaining unit deserve recognition. It is

just as simple as that. Surely I should be given the right to put it to you, which is all "consultation" means. What you do with it then is a matter of persuasion and for your decision. I cannot do anything about it except that. What is wrong with giving them that right of consultation through their organizations.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, could you tell me how you intend to deal with it?

Dr. DAVIDSON: I have no hesitation in saying that I would expect that the door will be open, so far as the employers' representatives are concerned, to representation by the employee organizations that have hitherto been accustomed to making representations and that have hitherto been involved in the consultation process; and that there will be no disposition to discontinue the processes of discussion between the employee organizations and the representatives of the employers, nevertheless, I would frankly be reluctant, speaking for myself, to see introduced into the collective bargaining legislation, as such, a second statutory channel of communication.

What is done by mutual agreement and arrangement is one thing, but, after all, we have proceeded through a series of stages when employee organizations had no right to make more than representations; we have proceeded through a form of legislative arrangement under which there was formal consultation and that was found to be unsatisfactory, we were told—and we agree; we have now replaced this with a full-fledged system of collective bargaining, which I think goes further than in outside industry in that it provides both for the option of arbitration or for the option of striking.

It seems to me, having gone that far, that for us to add, in statutory form into the legislation, a third privilege that would provide a channel of consultation with organizations that may or may not be recognized as bargaining units in the collective bargaining context, and that may or may not represent a significant number of the employees who are excluded from the bargaining unit—we have no knowledge of that at the present time, and we are not likely to have until the situation is clarified—would be dubious wisdom.

Mr. LEWIS: Dr. Davidson, you and I have known each other for a long time. I think you are really arguing by assertion and not by reason. All you are saying is that we have something and it would be a pity to introduce something else. That is just an assertion, with great respect.

The fact is that your legislation will necessarily exclude from the processes of collective bargaining some thousands of men and women who, prior to the collective bargaining legislation, did have the opportunity for consultation through section 7 of the Civil Service Act. What your collective bargaining legislation accomplishes with regard to these thousands of men and women is this: It leaves them completely without anything. The situation of those who are included in the bargaining unit is improved, because from consultation they go to collective bargaining. The situation of those whom this legislation excludes from bargaining units deteriorates, because they lose even the consultation right which they formerly had.

I do not see any conflict at all with the framework of your legislation. You can satisfy yourself, before you speak to anyone, that they do in fact represent the people for whom they desire to speak. When they come to see you you can

say to them: "Will you please give me evidence that these people want you to talk for them and that they are your members?" You have a perfect right to do that. The legislative requirements for consultation do not lay down any rules. What I am suggesting to you would not, and the old act did not. You can certainly satisfy yourself that this spokesman, in fact, speaks for the people for whom he purports to speak. If you are satisfied that he does, then what I am suggesting to you, it seems to me, gives back to those thousands what they had before. It is as simple as that.

I just cannot, with the greatest of respect, be impressed by the assertion that there is something illogical about doing this. I do not think there is anything illogical about it at all. It would not matter if you were dealing with a dozen or two but I am confident that under the various subclauses a number of thousands of people across the public service—and properly so; I am not complaining about it—will be excluded from the bargaining unit. I am suggesting that you give serious consideration to re-inserting for them the consultative procedure which they now lose. The others gain; they lose.

Mr. BELL (*Carleton*): Mr. Chairman, this the feature of the legislation that has, from the very outset, caused me more concern, I think, than any other, because there is no doubt that there are thousands of persons who after this legislation is passed, are going to be in a position less favourable than their present one under the existing Civil Service Act with its guarantee of the consultation process under section 7.

Dr. Davidson has said to us this morning that for these people the door will be open. I do not see any part of Dr. Davidson's argument which is against our making statutory that the door shall be open. That is all that is being suggested. If the door is going to be open in any event let us put it in the statute and make sure that it will be open.

At a very minimum I would be prepared to support an amendment of the type that Mr. Lewis proposes—perhaps drafted somewhat differently, but an amendment which carries that import.

I feel that we ought also to consider whether the model of the standing advisory committee of the United Kingdom ought not to be adopted, as well. I think it has worked well there. I do not think that the mere fact that the system of collective bargaining in Britain has no statutory basis makes any real difference. This is the technique, in any event, for generally excluded personnel in the U.K. I think there would be real advantages in adopting this system in Canada. If we do not adopt it I fear that this legislation is going to be very detrimental in fact, to many thousands of public servants, and I think that this Committee has an obligation to try to protect them.

Mr. CHATTERTON: Mr. Chairman, I would say that the proposal made by Mr. Lewis should be the very minimum. I think it is extremely reasonable. It does not place any compulsion on the government to accept the requests; it is merely that they shall consult. I had in mind something similar to what Mr. Bell said, and that they should go beyond that. I think Mr. Lewis' proposal is the very minimum that should go into the act. I would urge the government at least to consider something along those lines.

Mr. LEWIS: Mr. Chairman, if I could explain to Mr. Bell and Mr. Chatterton, one of the reasons why I am not so sold on the advisory council is because of the

set-up. You have the Treasury Board as the employer and it will be doing all the bargaining with all the classifications. It will have the knowledge of what has been done with respect to all the qualifications. It seems to me that it is the body with which this consultation should take place, because it will have the information.

This is why I thought that simply reintroducing an appropriate adaptation of section 7 of the Civil Service Act for the excluded personnel should prove adequate. If, in practice, it is not adequate then we can do something else. This is why I thought that since the Treasury Board will be the body doing all the setting of rates and so on, in one way or another, they are the right people to deal with the organizations representing the excluded personnel.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, will you put that as an amendment before the Committee now?

Mr. LEWIS: Let me move it, if I may. I am not sure that the wording is right and I would be very happy just to move it and lay it on the table and let Dr. Davidson consult other people. He may want to consult the law officers for the best kind of amendment.

Mr. BELL (*Carleton*): Mr. Chairman, since we are not going to finish—

The JOINT CHAIRMAN (*Mr. Richard*): No; but I thought we should have this amendment before us so that Dr. Davidson could consider it.

Mr. BELL (*Carleton*): It is clear that we are not going to finish, and some of us have other engagements—

The JOINT CHAIRMAN (*Mr. Richard*): Shall we just take the amendment so that Dr. Davidson can have a copy during our recess.

It is moved by Mr. Lewis that clause 59—

Mr. LEWIS: I thought there might be a new clause. I did not know just where to put it.

The JOINT CHAIRMAN (*Mr. Richard*): It states:

> The Treasury Board shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to remuneration and other terms and conditions of employment of public servants excluded from bargaining units by virtue of subsection (u) of section 2 of this Act.

I will give a copy to Dr. Davidson.

Do you want to make any more comments before we decide to adjourn?

Dr. DAVIDSON: No, sir. I hope that the members of the Committee who have spoken so eloquently will not mind my saying that I still have reservations about the wisdom of this. I cannot, myself, see clearly through the problem that I believe is presented by this amendment which, in my judgment, introduces two separate channels of communication with respect to people who in a good many cases will qualify in the same classification.

I am not persuaded by the argument that, after all, this is only consultation and that the Treasury Board can listen and do what it wants to do afterwards. Mr. Chairman, we have been subjected in the last two or three years to a great deal of criticism from the staff associations about consultation; that it is a

thoroughly unsatisfactory procedure; and that all that results is that the Treasury Board receives representations and enters into a process which is called consultation, but nothing results from that.

Because of this I am satisfied that if we were to accept lightly an additional channel of communication such as is here envisaged, using again this familiar word "consultation", the Treasury Board would soon find itself in a position where there would be inevitable conflict between what it was bargaining to do with respect to persons occupying certain classifications in the bargaining context and what it was being asked to do by the consulting organizations with respect to the employees in the same classifications who are excluded from the bargaining units.

The Treasury Board would be on the horns of a dilemna. Obviously, it would have to adhere to collective bargaining arrangements, and it it were to ignore the advice that it was receiving through the consultation process, which would be advice, in some circumstances that would be inconsistent with what it was binding itself to do under collective agreements, it would be subject to the familiar charge that it was paying no attention to the advice it was receiving through the channel of consultation. You may say that this, of course, will happen in any event if, as you say, the door is kept open for discussions with the staff organizations involved. I agree, in a large part, that it will happen, in any event, but it will not be written into the legislation in a form which puts the Treasury Board in a position where it cannot consistently—

Mr. LEWIS: —ignore these consultations?

Dr. DAVIDSON: In your interpretation—

Mr. LEWIS: That is the purpose of putting it in the legislation.

An hon. MEMBER: Nor the right of the agent to bargain for—

Dr. DAVIDSON: I merely want to say, with great respect to the members of the Committee, that I have not yet been persuaded by their arguments.

Mr. CHATTERTON: If Mr. Lewis' word "shall" were replaced by "may" would your objection still apply, Dr. Davidson?

Dr. DAVIDSON: I am speaking very personally here, Mr. Chairman. I think I would have to say that I would be reluctant to see another statutory procedure written into the legislation at a time when we are embarking upon a new concept of collective bargaining. I want to be sure that there is no conflict between the procedures that have to be carried out in conformity with the collective bargaining legislation, as such, and what is done under these other peripheral and marginal channels of communication. I am quite prepared to experiment with them; I am quite prepared to agree that we should consider the desirability of an advisory committee which, on the face of it, I consider to be a good idea; but I would be reluctant to see things written almost irrevocably into the statute at this time until such time as we have had some experience with the problems of collective bargaining as such and know better, in the light of that experience, what supplementary machinery, such as is now being discussed, should be added by way of inclusion in the statute.

Mr. MCCLEAVE: If these employees who are left out look through these bills to find out where their rights are defined and discover that large numbers of

people are covered but they are not, do you not think that this is apt to engender some bitterness, or the feeling of being second-class public servants?

Dr. DAVIDSON: Mr. Chairman, the provisions of the Industrial Relations and Disputes Investigation Act, and of all of the labour statutes that I am aware of on the statute books of the provinces, provide at the present time for mandatory exclusions.

Mr. LEWIS: Mr. Chairman, let me remind Dr. Davidson that the result was the dockworkers' strike on the west coast.

Dr. DAVIDSON: But we have provided for the supervisory group in our legislation.

Mr. LEWIS: How?

Mr. RODDICK: Clause 26(4) permits supervisory bargaining units.

Mr. LEWIS: This is a particular type of employee; but there are still people excluded.

Dr. DAVIDSON: Yes, Mr. Chairman; but if this section had been in the I.R.D.I. Act you would not have had the strike in the west.

Mr. LEWIS: Well, I do not know.

Mr. RODDICK: Mr. Chairman, I would like to get on the record, if I may, certain implications that seem to flow from the proposal regarding the group which would be known as the management group which, I hope, includes the Secretary of the Treasury Board and his immediate officers and a good many people in departments whose job it is to discharge the responsibility of an employer in a relationship which is rooted, not necessarily in conflict, but surely in contention between two sides.

I am concerned that if, in effect, the management group are encouraged by legislation to form associations for the purpose of consulting, the divisive influence that this will have in terms of the management team will have an unfortunate effect.

It seems to me that it is the responsibility of management, even the large complex management groups that we will have here, to provide for effective communication within its own ranks. But to assume that that effective communication within its own ranks will not take place, and to insert a legislative provision which says that if you want to influence what the Treasury Board does for management, you have to go out and organize a group and approach them not from within but from without, is to break up the team before it is established. This would be my greatest concern.

With respect to the confidential group, however, I think another case exists. The confidential people dealt with in clause 2(u)(v), I believe, are caught in a "bind". They are not management, and I do not think that the case I am making would be considered applicable to them in the same fashion.

I am also concerned about what happens when the Treasury Board is approached by an association representing employees on Monday and on Tuesday it turns up representing people who are supposed to be the agents of the Treasury Board in the discharge of its responsibility in collective bargaining.

Mr. LEWIS: What is wrong with that?

Mr. RODDICK: I am asking you. Can top management place confidence in the management and subordinate management that it is asking to discharge the responsibilities of the employer in a situation such as would be precipitated by this proposal? I have grave doubts.

Mr. KNOWLES: Mr. Chairman, before we adjourn, may I ask one question? I apologize for not having been here when we started this morning and dealt with Bill C-182. Am I correct in understanding that you decided to include in the report to the House some recommendation regarding pensions in the case of persons dismissed for security reasons?

The JOINT CHAIRMAN (*Mr. Richard*): It was not spelled out, but it is understood that when we make the report we will discuss that. The bill is not being referred immediately to the House, and when we make our report that recommendation will be included.

Mr. KNOWLES: The bill itself was passed, but we still have the report to consider?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes; that is right.

Mr. LACHANCE: Are we going to resume on clause 1?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes; on clause 1, this evening at 8 o'clock.

Mr. LACHANCE: I will have a few words to say on that clause.

The JOINT-CHAIRMAN (*Mr. Richard*): We will deal with clause 1 at 8 o'clock tonight.

The meeting is adjourned.

EVENING SITTING

The JOINT-CHAIRMAN (*Mr. Richard*): When we adjourned this morning we were on clause 1 of Bill No. C-170. We were talking about an amendment which was moved by Mr. Lewis. I understand there is more discussion to follow.

Have you anything further to add, Mr. Roddick?

Mr. WALKER: I just wondered if Mr. Lewis had anything more to say.

As you can well imagine, I had a discussion with Dr. Davidson immediately after the meeting, and he outlined the grave difficulties that he has in accepting any statutory conditions that would give to a group of management team that type of representation, which he is quite in favour of their having, but not as laid down in the statutes.

I think Mr. Roddick covered it very well this morning when he explained the difficulty, to his mind, of having a management team and Treasury Board as part of that management team—and he excluded personnel as being part of the management team—and having this team bargaining with themselves. This would be the effect of it. I am putting a point of view that has come to me, Mr. Lewis. This would be the effect of writing it in the legislation.

As was agreed in one other matter, we could make a strong recommendation in the Committee report to the government. I have a suggested type of wording that might express the wishes of the Committee on the non-inclusion in the

statutory law of this particular type of representation for excluded people. Perhaps this could be passed around, or I could read it.

The Committee is concerned about the position of public servants who, under the proposed legislation (Section 2(u)), will be excluded from bargaining units because of their managerial responsibilities, or because they occupy positions confidential to management.

Under the administrative and legislative procedures now in effect, staff associations that are members of the National Joint Council are authorized to make representations to the Civil Service Commission and the Treasury Board with respect to salaries and other terms and conditions of employment of classified civil servants, including many who, because they have managerial responsibilities, will be excluded from bargaining units under the provisions of this legislation.

The Committee urges the Government to establish, as soon as possible after this legislation comes into effect, special administrative mechanisms and procedures which will provide those who are excluded from bargaining units with an opportunity to make representations relating to their salaries and other terms and conditions of employment, in such manner and fashion as will provide assurance that their views on these matters are taken into account and have a bearing on the determination of their salaries and other terms and conditions of employment.

For this purpose, the Committee recommends the creation of an Advisory Committee, comparable to the "Franks Committee" in Great Britain, which should, in its terms of reference, be required to consider the salaries and other terms and conditions of persons excluded from bargaining units in a regular and systematic fashion, to afford representatives of such persons a full opportunity to be heard during its consideration of these matters, and, with due regard to the salaries and other terms and conditions of employment that have been established for employees as the result of collective bargaining, advise the Government on the appropriateness of the salaries and other conditions of employment applicable to such persons.

Mr. LEWIS: I would like to ask Mr. Roddick if the people we were talking about were excluded from consultation under the Civil Service Act?

Mr. RODDICK: Mr. Chairman, I think it must be recognized that a great many people who are in a system of collective bargaining provided by this bill had no rights of consultation under the Civil Service Act. All the prevailing rate employees had no rights; all those members of agencies which lay outside the jursidiction of the Civil Service Commission had not such rights; but because the law still prevails and because the present Civil Service Act was contrived to handle relationships in a totally different context, a context in which the precise responsibility of management was not implicit—this responsibility being assumed in some degree by the Commission and in some degree by the Treasury Board—it is true that there may be represented in this consultation process employees who will be managerial exclusions under the proposed bill.

Mr. LEWIS: Mr. Roddick, I am not arguing about words, but I really do think that you people have closed your minds to this. When you have consultation, you have consultation.

Mr. RODDICK: What do you mean?

Mr. LEWIS: As far as the prevailing rate employees are concerned, they, of course, were in a different class. They received the prevailing rate. The bargaining was done by the unions with other employers and the prevailing rate applied. As I understand it, it was not merely the prevailing rate, but the prevailing hours and other things.

The point is that if these managerial people could be a part of the consultation process before, I do not see anything other than—forgive me for putting it this way—bureaucratic fear standing in the way of giving these people the same rights to be spoken for as they had before.

You say that the management role was blurred, or whatever the words were. They were not blurred. They did not run the show without management. Whether you have a collective bargaining regime or not, you have management personnel carrying out exactly the same duties as the management personnel carry out now, except that there is a codified way in which it is to be done for the grievance or for the bargaining. They are the same people, doing the same job, carrying on the same duties and having the same responsibilities as before; and previously they were given the right under the act to have some organization speak for them. Now you tell me that it will upset the world if they are given the same rights, without any right of bargaining, without any right to insist on a decision, without being entitled to take any action to enforce their will, but merely to be spoken on behalf of by some organization that factually represents them. What we are being told Mr. Chairman is that the Treasury Board is prepared to continue consultation on behalf of these people as before. Mr. Walker, the government spokesman, has even suggested that we recommend in the report that this be carried on; but for some reason putting it in the statutes, so that everyone who wants to see it can read it and know that his rights are being protected, is an evil in the system.

I think on occasion I have proven to the Committee and to the officers that I try to avoid having a closed mind on these things, because they are practical matters, they are not matters of principle except tendentially. I just do not see it. I cannot see what you are afraid of. I just do not see what you fear. They are the same people.

If you do not have this, and if for some reason this voluntary consultation breaks down because someone gets mad or loses his patience, then you have many thousands in a situation where they will have no organization to speak for them, and each of them will have to do it separately and individually. I do not see the reasoning at all.

Mr. RODDICK: Mr. Chairman, I suppose my personal position, which I expressed at this morning's meeting, is capable of the interpretation which Mr. Lewis has put upon it. Tonight, Mr. Chairman, I am obliged to speak not only for myself but for Dr. Davidson.

If I may attempt to interpret the position which he took this morning, and to interpret what is probably a more considered and pragmatic approach to what Mr. Lewis has identified as, in our very large organization, a genuine problem of the communications of the feelings of what will inevitably will be fairly large numbers of people about their terms and conditions of employment—if we tackle it from that point of view—I think I can say not only for Dr. Davidson but for myself that it would be desirable to find an appropriate mechanism for the

channelling of the views and attitudes and feelings of these people about their terms and conditions to those people in high authority who are ultimately going to determine what those conditions will be. Dr. Davidson, in his remarks, seemed to indicate that he felt that such a process would probably be necessary. I think the objection was to putting it in statute law, and particularly to simply carrying over the former approach of a totally different system.

As Mr. Walker has indicated, Dr. Davidson, he and I had some conversation about this after this morning's meeting, and we thought to find some method by which these large numbers of people, who obviously are not all going to be able to demonstrate their worth individually to the President or Secretary of the Treasury Board, will have some assurance that their interests have appropriate protection and that they will be able to make a contribution to this.

The proposal which Mr. Walker would like to offer to you is designed to achieve that purpose. It is perhaps only one of a number of alternatives, but, in our view, it is less troublesome, in terms of the problem that I identified, than to proceed with a statutory provision which would permit and authorize employee organizations who, on Tuesday, are representing employees, to come to the Treasury Board on Wednesday to represent the Treasury Board in the administrative sense.

I am concerned to avoid the conflict of interest and responsibility that seem to be implicit in the application of your particular suggestion, Mr. Lewis, but I am very sympathetic to the finding of an appropriate way to handle the problem.

Mr. LEWIS: Would Mr. Walker be prepared to put a time limit within which this advisory committee is to be established? I am not saying for the moment that I accept this proposal as an alternative. I would like to hear what other people would have to say, if it were considered, but would I not like to say that we recommend the creation of an advisory committee.

Mr. KNOWLES: Mr. Chairman, in terms of the record, Mr. Lewis is talking about something that has not been put on it yet. I would suggest that perhaps Mr. Walker could put this document in the record.

Mr. LEWIS: It might be helpful.

Mr. WALKER: We will take it as read, Mr. Chairman, and as a method of providing communication of a kind that would give the non-represented employees an opportunity to discuss their problems with their superiors. That is what it amounts to.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee that this proposal, which every member has received, be made part of the record at this time?

Some hon. MEMBERS: Agreed.

Mr. WALKER: It has been called the Franks Committee. The proper name is the Standing Advisory Committee on Salaries of the Higher Civil Service. That is what it is called. Perhaps we should put a comma after "Committee" and a comma after the official name that I have just mentioned. The Standing Advisory Committee on Salaries of the Higher Civil Service is a proper designation of what has been called the Franks Committee.

An hon. MEMBER: Put that in.

Mr. BELL (*Carleton*): It is the type of Committee that is spoken of in appendix K of our proceedings at page 509.

Mr. LEWIS: Would Mr. Walker answer my question whether he and the officials would be ready to consider putting into the last paragraph, beginning on page 1, a recommended period within which the Committee would be set up three months or four months.

Mr. BELL (*Carleton*): July 1, 1967 is a good date.

Mr. WALKER: Could we relate it to the schedule B dates?

Mr. RODDICK: If I may comment on this question, in terms of the proposal here it is implied that the terms and conditions which have been secured by people in bargaining are things that might, relatively speaking, be taken into account in relation to those who are excluded from these, and therefore the operational requirement would seem to occur (a) as people are excluded and (b) as the units from which they have been excluded in fact enter into collective agreements; and therefore there is a situation in which comparisons can be made. In relation to that sort of condition, one would speculate about when the first collective agreements will be signed. I would speculate perhaps by July 1, and it does not seem to me an inappropriate date if a date is to be proposed.

Mr. LEWIS: If we are going to discuss this seriously I would certainly like to have a date.

Mr. WALKER: I do not want to choose a date out of thin air. It should certainly not go into effect before any other bargaining units have been set up.

Mr. RODDICK: It seems to me, Mr. Chairman, from the wording that is suggested here that the Committee will function in a regular and systematic fashion, and that the timing of its creation and the timing of its work are not necessarily the same thing.

Mr. LEWIS: But if you set it up you lay fears to rest. You may delay the actual operation, but you set it up within a certain time limit.

Mr. WALKER: We are trying to solve a problem for these excluded people. Mr. Roddick knows more about the timing of this. It is—

Mr. RODDICK: Not later than six months.

Mr. WALKER: This would take us to July 1.

Mr. LEWIS: Six months—

Mr. WALKER: From the adoption of our report in the House of Commons, I would presume.

Mr. KNOWLES: Be careful; our report is not adopted.

Mr. LEWIS: Six months from the coming into force of the Public Service Staff Relations Board Act.

Mr. KNOWLES: Bills that we report are put through the House, but a report that we make is not adopted. Did you not know that?

Mr. WALKER: Yes, I did; but what about the suggestions that we are putting into the report?

Mr. KNOWLES: They become things that we have recommended to the House. We can put pressure on the government to agree with them, but the number of reports that are moved and adopted is almost nil.

Mr. MCCLEAVE: In the middle of paragraph 31: the Committee urges the government to establish, within six months of the coming into effect of such and such, special administrative mechanism.

An hon. MEMBER: And take out "as soon as possible—"

Mr. LEWIS: I do not mind; it seems to be a good suggestion.

The JOINT-CHAIRMAN (*Mr. Richard*): Do you understand now? That is in the third paragraph—that the Committee urges the government to establish, not later than six months from the coming into force of Bill No. C-170, special administrative mechanism, and so on.

Are there any other comments to be made?

Mr. WALKER: We will have to delete something here. Did you take out "as soon as possible after this legislation comes into effect"?

An hon. MEMBER: Yes.

Mr. WALKER: All right.

Mr. MCCLEAVE: We will join up these parts later, will we not? Or can we join them up now?

The JOINT-CHAIRMAN (*Mr. Richard*): This is one of the recommendations that we can adopt.

Mr. KNOWLES: Is this not just like the other things that we have agreed to put into the report? We are agreeing to it in principle. When we actually come to draft the report we can finalize it.

Mr. BELL (*Carleton*): Mr. Chairman, I would like, very briefly, to make my position clear. I, personally, would prefer to support the amendment which was proposed by Mr. Lewis, but expanded somewhat, which is confined entirely to an amendment to clause 2(u). I think there also should be included in it the other exempted group, which is the executive group. In other words, in this legislation there are only five categories. The sixth, the executive group, is entirely out. If Mr. Lewis' motion were being put to a vote I would want to amend it to bring the executive group in. For reasons which I mentioned this morning, I would prefer that that be done and that it be made statutory.

It has been made quite clear by Dr. Davidson and by Mr. Roddick that they want a technique of consultation; there is no question about that. Therefore, I see no harm whatever in making it statutory. I had hoped at one time that this whole process could be, as it is in England, non-statutory, and that it could all have grown up as it did in England.

The officials in this respect appear to say: "Well, all right; we have to make it statutory in everything except this." I just do not understand this attitude. If we are going to have to settle for something, I think there is a considerable advance in the proposed estabishment of an advisory committee, provided it is clear that that advisory committee includes not only the exempted clause 2(u) personnel, but, as well, the totally-exempted executive personnel. I think that ought to be clear. If Mr. Lewis puts his motion I will move an amendment

to include in his motion "executive personnel" and if that does not carry I will settle, with appropriate amendments, for what has been presented by Mr. Walker tonight.

Mr. RODDICK: Mr. Chairman, on a point of interpretation here, my impression of Dr. Davidson's view—and I would hesitate to be too precise—is that it was the intention that this provision would provide for the executive category.

Bill No. C-170, as it is established, may be interpreted in two ways. It may be interpreted in the way that Mr. Bell has just mentioned, that those people who are in the executive category are exempted from the provisions of legislation rather than being excluded from bargaining units. If that is the correct interpretation, then I personally would see no harm—and neither, I believe would Dr. Davidson—in a modification of this proposal to make reference to persons in the executive category as well as to persons excluded.

Mr. BELL (*Carleton*): I think that would be useful.

Mr. RODDICK: If I may say so, Mr. Chairman, the wording that occurs to me starts with the end of the third line of paragraph 3, which will provide for those who are exempt from the provisions of this legislation because of their inclusion in the executive category, or who are excluded from bargaining units.

Mr. BELL (*Carleton*): So long as there is consideration given to this point before the final draft of the report.

Mr. LEWIS: Mr. Chairman, before I make a suggestion, may I say that I dislike very much putting Mr. Roddick "on the spot"—perhaps Dr. Davidson would feel less hesitant—but I would be very grateful if Mr. Roddick were able to place on record that Dr. Davidson and those associated with him intend to see to it, as far as it is within their power to do so, that this advisory committee will, in fact, be set up, and that this is part of the Treasury Board officials' policy and intent.

Mr. RODDICK: It is my impression that your words adequately express the position of Dr. Davidson, but I think he would have to add that he is not in a position to express in any way what may be the considered views of the government on this matter, but what I have said would I think tend to imply that when he was asked for his advice his response would be favourable to this proposition, not opposed.

Mr. BELL (*Carleton*): I think that is as far as we can go. I think as members of the Committee we say that if the advice is not accepted we will harass the government until they do accept it.

Mr. KNOWLES: Those words sound as if they came from Dr. Davidson himself.

Mr. LEWIS: Mr. Chairman, I think because the proposal brought in by Mr. Walker contains more precise machinery, namely, the advice of the Committee, in place of the mere consultation which my suggested amendment contained, if the members of the Committee would permit, I would withdraw my amendment with the understanding subject to editing, that what has been proposed is part of our report.

The JOINT CHAIRMAN (*Mr. Richard*): Does the Committee agree to permit Mr. Lewis to withdraw his amendment, and allow the proposal Mr. Walker, has

suggested, including the amendments which have been proposed to be re-edited and made part of the recommendations of this Committee?

Mr. LEWIS: I assume, without any offence to Mr. Walker, that Dr. Davidson and Mr. Roddick had something to do with the authorship and that they wrote with their hearts.

Mr. WALKER: I did it all myself.

Mr. KNOWLES: The record will not show Mr. Walker's smile.

Mr. WALKER: You will have to guess whose idea this was; we will leave you in doubt.

Mr. KNOWLES: Oh, no, you do not.

The JOINT CHAIRMAN (*Mr. Richard*): It is too bad the Chairman cannot speak.

Mr. LACHANCE: For my own personal understanding and for those who will read the deliberations of the Committee I would appreciate it if the representative of Dr. Davidson would co-operate with me and what I understand of the amendment which has been carried by the Committee this morning concerning clause 26. If I understood correctly, Mr.Chairman, if an objection is agreed to by the Commission, by virtue of subclause 5 of clause 26, subclause 4 would have no effect.

Mr. RODDICK: That is correct.

Mr. LACHANCE: And clause 32 would automatically come into effect.

Mr. RODDICK: That is correct. That is the interpretation of the legal draftsman.

Mr. LACHANCE: This could allow the board to sanction the bargaining unit.

Mr. RODDICK: That is correct.

Mr. LACHANCE: And the certification of two or more bargaining units if it is agreed to by the board and the certification.

Mr. RODDICK: That is correct, although I would like to respond with my interpretation of what I think you have said at this point.

Mr. LACHANCE: At the initial phase and at any subsequent bargaining negotiations.

Mr. RODDICK: Yes, that is correct.

The JOINT CHAIRMAN: (*Mr. Richard*): Does clause 1 carry?

Mr. BELL (*Carleton*): No. We have a very clearcut commitment now in respect of an advisory committee? What about Pay Research Bureau? Can we get an equally clearcut commitment on pay research namely, that despite lack of statutory authority, the Pay Research Bureau will be continued and that its findings will be made available to the bargaining parties?

Mr. RODDICK: Mr. Chairman, I wish Dr. Davidson were here to answer this but I will do the best I can. I think the Committee was informed when we last met, at least it is my recollection that it was informed, that the views of the

interested staff associations, that is to say, the staff associations which have been active in relation to the work of the Pay Research Bureau in the past, were at that point being consulted by the government in respect of what the future of the Pay Research Bureau should be. I believe that all of the replies to those letters seeking advice have now been received by the President of the Treasury Board and it is my understanding that a proposal will be made very shortly to the government by the President of the Treasury Board in relation to the continuation of the Pay Research Bureau.

The Pay Research Bureau—I do not know whether to call it a costly institution, but it is an institution that costs money. I do not think that whether or not it continues is the kind of decision an official is likely to make or endeavour to commit the government on in advance; but from my own interpretation of the remarks that were made by the President of the Treasury Board on second reading, of the bill, I believe it is quite clear that he will support the proposal for its continuation.

Members of the Committee are all aware, Mr. Chairman, of the recommendations that were made by the preparatory committee and I am sure that those will be considered when that decision is made; whether or not they will be precisely adhered to, I am sure I do not know. I personally had hoped that we could have completed the consultation and been in a position for the government to make an announcement on this before the Committee folded its tents, but the letters were much longer in coming back than I had thought. The last ones only arrived this week and we have not yet taken an official position on it. I am afraid, Mr. Chairman, although that is a pretty indefinite answer that is the best that I can do on it.

Mr. BELL (*Carleton*): I think that is a very fair statement from Mr. Roddick and it is as far, obviously, as he can go. I would only like to say, Mr. Chairman, that as far as I am concerned I will insist that there be in the report of this Committee a clause in a very affirmative style advocating the continuance of the Pay Research Bureau and the making its information available to the bargaining parties. I think perhaps I might put Mr. Walker on notice so that he will be able to write as excellent a document as he obviously has since we met this morning.

Clause 1 agreed to.

Preamble agreed to.

Title agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall I report the bill?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): I would like to have a motion to reprint this bill.

Mr. WALKER: I so move.

Mr. CHATWOOD: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, we come to—

Mr. KNOWLES: Mr. Chairman, we did make one or two pretty important amendments.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, but I am advised by the Clerk that they are not lengthy.

Mr. WALKER: Will we move them again as amendments in the House?

An hon. MEMBER: Yes.

Mr. WALKER: We have gone to an awful lot of trouble here in trying to have a—

Mr. KNOWLES: I think we have done a very good job.

Mr. CHATWOOD: It is better to have it reprinted. Someone in the house might ask for a copy.

The JOINT CHAIRMAN (*Mr. Richard*): If the Committee wishes to you could—

Mr. WALKER: I would move—

The JOINT CHAIRMAN (*Mr. Richard*): That Bill No. C-182 be reprinted.

Mr. WALKER: I so move.

Mr. MCCLEAVE: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We shall now have a short discussion on Bill No. C-181.

On clause 32—*Regulations by Commission.*

Mr. WALKER: Before we begin, Mr. Chairman, do you have before you the proposed clause 32? There were some suggestions the other night—

The JOINT CHAIRMAN (*Mr. Richard*): Would you allow the Clerk to pass them out.

Mr. WALKER: Oh, all right.

Mr. BELL (*Carleton*): Can the proposed amendments to clause 32 appear in our proceedings at this point.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. WALKER: The change will take care of what Mr. McCleave wanted. All right, if you want to discuss it.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, seconded by Mr. Chatwood, moves that Bill No. C-181 be amended by striking out clause 32 and substituting the following:

Political partisanship.

32. (1) No deputy head and, except as authorized under this section, no employee, shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or

(b) be a candidate for election as a member described in paragraph (a).

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party. Excepted activities.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate. Leave of absence.

It will be entered in the record at this point.

Mr. KNOWLES: That goes into the record?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. It will be made a part of the record at this time.

Mr. LEWIS: Mr. Chairman, if this is open for discussion—

Mr. BELL (*Carleton*): There were some suggestions of amendments of Mr. Walker's to be made first.

Mr. LEWIS: Yes.

Mr. WALKER: Mr. Chairman, may I say a word. Mr. McCleave the other night brought up this question respecting the first line, which reads:

No deputy head and except as authorized under this section—

He felt that "except as authorized under this section" had better be moved down to clause 32 (b) for more clarity and this is certainly agreeable.

Mr. RODDICK: I am sorry, Mr. Chairman, to intrude on this clause but Mr. Walker mentioned it to me last night and I spoke to the legislative draftsman. All I would like to say to the Committee is that he would not like the change made that has been proposed.

Mr. WALKER: All right, then, I will not make such a motion that Mr. McCleave wants to be made.

There was one other suggestion that at the end of clause 3 the words should be added "by the employee, if he has ceased to be a candidate". This would take care of the eventuality of a man who, being a candidate, for one reason or another before the election is held ceases to be a candidate. It was a matter that was brought up by one of the Committee members.

Mr. LEWIS: If he has "ceased to be a candidate".

Mr. WALKER: That is right. That is all for the moment, Mr. Chairman. Do I have to move the addition of those words as an amendment?

The JOINT CHAIRMAN (*Mr. Richard*): Well, are you still amending clause 32 (1) or only 32(3)? Are you still making that amendment?

Mr. LEWIS: I would treat it not as an amendment. I would include it in Mr. Walker's original amendment.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, but are you making that change now?

Mr. WALKER: Yes, "if he has ceased to be a candidate".

The JOINT CHAIRMAN (*Mr. Richard*): What about 32 (b)?

Mr. WALKER: That is at the bottom of the page.

The JOINT CHAIRMAN (*Mr. Richard*): No, but "except as authorized under this section"?

Mr. WALKER: No.

The JOINT CHAIRMAN (*Mr. Richard*): You are not making that change? There is only one change, then.

Mr. KNOWLES: He got talked out of it.

Mr. BELL (*Carleton*): It was the suggestion of Mr. Walker, was it not, that (6) might be amended by deleting some words?

Mr. WALKER: Yes, it was, but I would prefer to talk to that one when we come down to it. In discussions with the officials, they proposed something else.

Mr. LACHANCE: Mr. Chairman, are we proceeding with the first amendment to the amendment.

The JOINT CHAIRMAN (*Mr. Richard*): We are proceeding with the amendment. We have only one amendment.

Mr. WALKER: We have just the original amendment.

The JOINT CHAIRMAN (*Mr. Richard*): We are proceeding on the whole amendment.

Mr. WALKER: All right.

Mr. LEWIS: Mr. Chairman, I just want to say that as far as I am concerned the suggested amendment—Mr. Knowles will speak for himself but I know he shares the views—is totally unacceptable. In fact, during the period between the last suggestion of Mr. Walker and the present suggestion he has even dropped something that his last suggestion contained, namely, that a person could be a member of a political party as well as attending political meetings or contributing money.

I do not want to make a lengthy speech because we have discussed it many times and at great length. I know of no reason in practice or in principle for depriving public servants below a certain level, at least, of full citizenship rights, and I know of no reason that public servants below that level should be required to seek the permission of the Commission before they can be candidates. I know of no reason in logic for prohibiting a civil servant at any rank from being a member of a political party if you are going to permit him to attend political meetings and contribute money to the funds of a candidate or of a political party. I just do not see the logic of that at all.

A civil servant can be a member of a political party and be less known for his political ideas and affiliations, by choosing not to attend meetings, which is a

common failing of all citizens from which public servants are not excluded, than the person who does attend a meeting. I think we are just being fearful without good reason and we are sticking in this amendment to a tradition which is unjustified in my opinion in the modern world at all.

I have not any evidence of it with me but I have an impression that certain gentlemen who are now members of the government said in Toronto during the last election that political rights will be guaranteed. In fact I heard them state it from a public platform. I am subject to correction. I want to be absolutely sure I am accurate but I am going to state from memory, and if I am wrong or shown to be wrong I would be very glad to withdraw, that one of the members of the government who was in and out and in again made that statement to a meeting of public servants which he and I and some others addressed in Toronto.

Mr. BELL (*Carleton*): At what stage of the in and "outness" was he at that time?

Mr. LEWIS: He was about that time "in", I think. Mr. Chairman, I cannot for the life of me understand why a public servant should not be treated as a mature person. If someone tells me that if a civil servant takes a part in politics he jeopardizes his job, he creates difficulties for himself, that may well be so but let him make the choice. Let him use his judgment as every other adult is permitted to do. There are thousands of situations in a country outside the public service where political activity of one sort or another may affect the person's employment or a person's relationship with somebody in the community. I have come across them in the 30 odd years that I have been active in political work in this country. I have come across them from coast to coast, literally hundreds of situations myself, but the law does not lay upon them a prohibition. Why should that prohibition be laid upon the public servant. Why can he not be treated as an adult who has as much judgment and as much capacity to use his discretion (a) in his own welfare and (b) in the welfare of the organization which he serves. Why should he be put through a particular way of exercising his rights as a citizen?

I said in one of our in camera meetings earlier on, I was not present last night because I was held up by fog—

Mr. BELL (*Carleton*): Let us not talk about in camera meetings. It is not proper to talk about them.

Mr. LEWIS: I suppose you are right. I have said, on occasion and I want to repeat, Mr. Chairman, that I do not just see any reason for putting people in a position where in order to act in accordance with their conscience they must break the law. When I lived in Ottawa for 15 years, between 1935 and 1950, I knew personally dozens of civil servants in every rank who were in fact either members of a political party or making contributions to candidates under the table, and I am certain that you, Mr. Chairman, as a member of the parliament from this area, and Mr. Bell as a member of parliament from this area, know more people than I do because I regret to tell you that fewer of them were in the C.C.F. than there were in the Liberal party and the Conservative party.

You just pass a law and make them break it if they are to act like adults, and they do the thing in fear and trembling all the time, as has been my experience. In my constituency of York South, I have met dozens of post office workers, to give you one example, who feel free to support the candidature of

one of the candidates in the Legion Hall, of which they are members, because they can rely on their comrades not to speak about it; but they cannot admit the fact that they have made a contribution to a political party, and I tell you some of them made a contribution to my campaign and I am sure did it to my Liberal and Conservative opponents in equally large numbers.

I simply cannot in conscience vote for this and I want to move, Mr. Chairman, without any longer speech a subamendment that all the words after the word "that" in the amendment moved by Mr. Walker be deleted and the following be substituted therefor. I have even got eight or ten copies of the amendment.

Mr. WALKER: In both languages?

Mr. LEWIS: No.

Mr. KNOWLES: In the language Mr. Walker brought his in.

Mr. LEWIS: Yes, in the language Mr. Walker brought his in.

Mr. LACHANCE: Were they written by the same man?

Mr. LEWIS: No, this was written by me. Mind you, I used the other language to help me and when that has been distributed, if you will permit me, I would like to say a few words on it. There is not one for each member, I am afraid.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, seconded by Mr. Knowles, moved in amendment to Mr. Walker's amendment that Bill No. C-181 be amended by striking out clause 32 and substituting the following.

> 32. (1) No deputy head or chief executive officer or person employed in a managerial or confidential capacity as defined in subparagraphs (i), (ii) and (iii) of subsection (u) of section 2 of the Public Service Staff Relations Act shall
>
> (a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party or
>
> (b) be a candidate for election as a member described in paragraph (a).
>
> (2) A person does not contravene subsection (1) by reason only of his being a member of a political party, attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.
>
> (3) Notwithstanding any other Act, upon application made to the Commission by a person, other than a deputy head, referred to in subsection (1), the Commission may, if it is of the opinion that the usefulness to the Public Service of such person in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to such person leave of absence without pay to seek nomination as a candidate for election as such a member, for a period ending on the day on which the results of the election are

officially declared or on such earlier day as may be requested by the employee.

(4) Notwithstanding any other Act, an employee who proposes to become a candidate in a provincial or federal election shall apply to the Commission for leave of absence without pay for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee, and the Commission shall grant such leave.

(5) Forthwith upon granting any leave of absence under subsection (3) or (4) the Commission shall cause notice of its action to be published in the *Canada Gazette*.

(6) A person or employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon terminates his employment in the Public Service.

(7) No employee or person referred to in subsection (1) shall

(a) associate his position in the Public Service with any political activity,

(b) speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal party or candidate, unless he is himself a candidate in an election,

(c) engage during working hours or on the premises of the employer in any activity for or on behalf of a provincial or federal political party or candidate.

(8) Where any allegation is made to the Commission by a person referred to in subsection (1) or an employee that any deputy head or other person referred to in subsection (1) or any employee, has contravened subsection (1) or subsection (7) the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person or employee making the allegation and the deputy head or other person or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of any other person or employee may, if the board has decided that such person or employee has contravened subsection (1) or subsection (7), dismiss him.

(9) In the application of subsection (8) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act.

Mr. LEWIS: You will notice Mr. Chairman, that there is a misspelling in the second line of 32(1). It is intended to be "managerial". It has nothing to do with Biblical events.

Mr. KNOWLES: It was the French "manger".

The JOINT CHAIRMAN (*Mr. Richard*): I notice, Mr. Lewis, that your amendment replaces the original amendment in toto. You call this an amendment to an amendment—

Mr. LEWIS: I left the word "that".

Mr. KNOWLES: Mr. Chairman, you are technically correct on the point. We could take the trouble to draft a subamendment with (a), (b), (c) and (d) parts changing all the different sections of Mr. Walker's amendment, but I think that common sense suggested it was simpler to just put it all in front of you.

The JOINT CHAIRMAN (*Mr. Richard*): I did not want anyone to pick me up later. I have been well educated over the years by your attention to the rules, Mr. Knowles.

Mr. KNOWLES: You have even allowed this kind of thing when you have been in the chair in the House.

Mr. LEWIS: I would like to point out, Mr. Chairman, what I am aiming at. Mr. Knowles and I are not wedded to the particular wording. I drafted it, trying to keep within the framework, but the intention of this is to have three categories of people, if you like. The first is the deputy head or chief executive officer or persons employed in a managerial of confidential capacity as defined in the other bill. They may not engage in work for, and then (a) and (b) are the same as the amendment of Mr. Walker's. Subclause (2) in effect, says that a person does not contravene subclause (1) by reason only of his being a member of a political party as well as the other reasons given in Mr. Walker's amendment. Then (3) and (4) are the key clauses. We suggest that we retain the requirement to obtain permission from the Commission to be a candidate for the excluded personnel, that is, the upper echelons of civil servants, for reason which I think are obvious. If he is a management employee, or a confidential employee he should have to obtain permission from the Commission before he can be a candidate; but if he is an ordinary employee below those echelons he can decide himself to become a candidate in a provincial or federal election, but in order to do so he would have to apply for the same leave of absence and the Commission shall grant such leave.

Then paragraph (6) is the same as (4) and (5) in Mr. Walker's amendment. Then I have added subclause (7). If I may interject here, we agreed, and I personally readily agreed earlier today, that a public service organization should not carry on as an organization any political activity because I can see the difficulty there. I think there are certain things that any individual civil servant probably should not do. I do not feel so strongly about it, but it is probably better for the public service if an employee or person referred to in subclause (1) is prohibited (a) from associating his position in the public service with any political activity; (b) from speaking in public or expressing views in writing for distribution to the public on any matter that forms part of the platform of a political party or candidate; and (c) from engaging during working hours or on the premises of the employer in any activity for or on behalf of a provincial or federal political party or candidate. I think that these three prohibitions protect, in my judgment, the integrity of a public servant because you cannot associate his political activity with his position in the public service. What I am suggesting

in (7) is that he must not speak in public or write for public consumption under his name and no political activity whatever is to be carried on, on the premises of the various offices during working hours. I put it wrongly. No political activity whatever is to be carried on, on the premises of the employer, whether during working hours or not, even during lunch hours or coffee breaks, so that as far as the prohibition of the law can carry it out there is not political activity in the offices. Subclause (8) is merely an adaption of subclause (6) in Mr. Walker's amendment and subclause (9) is the same.

If I may summarize it it seems to me that this is a legitimate approach. As I said before, I am not wedded to the precise wording, nor even to the precise lines. If there were a possibility of the Committee by a majority agreeing that at some point the civil servant who does not carry any particular responsibility should be free to be a candidate and that all of them should be free to be members of a political party, attend political meetings without having the right to speak at them, because of a later prohibition, and make contributions to political parties or candidates as they like, I submit that this would be a mature way of tackling the problem and I hope that the members of the Committee may feel themselves free to support it.

The JOINT CHAIRMAN (*Mr. Richard*): I do not wish to take part in the discussion, Mr. Lewis, but (7) (1), what does that mean? Does that mean that anybody else can—

That applies only to the deputy heads or people of that class.

Mr. LEWIS: Oh, no. It applies to everybody. What I intended to say in (7) is that all public servants, those who are employees and those who are excluded from the term "employee", would be prohibited—"No employee or person referred to in subsection (1)"; the persons referred to in subsection (1) are all the rest, and if I have left any out it is a matter of drafting. That is why I keep saying that I am not wedded to the particular words.

Mr. BELL (*Carleton*): Subsection (1) applies only to persons and not to employees.

Mr. LEWIS: That is right.

(*Translation*)

Mr. LACHANCE: Mr. Chairman, I think that a member of the Committee who does not have many public servants in his own riding, or who does not come in frequent contact with public servants, might well be in a better position to discuss this matter. Mr. Lewis, and I do not blame him, has very close relationships with members of a party which also has close connections with the labour union to which a great many public servants belong through their affiliation to an organization which has asked to be affiliated to this body.

I understand that Mr. Lewis is perhaps better enlightened than other members on this matter. I do not know whether or not I am expressing myself clearly, but when he speaks of depriving citizens of a right because they do not have the right to become members of a political party, I feel I must object. A

judge is not being deprived of his rights as a citizen because he does not vote. By accepting appointment to the bench he accepts, of course, the withdrawal of his voting privilege.

Mr. LEWIS: But he is deprived.

Mr. LACHANCE: Yes, but he accepts voluntarily; it is because his position is a most particular one that this right to vote is not given him, if not actually removed from him. Employees of the Public Service, are being placed in a very bad situation. It is placing the civil servant in a situation where there is danger of his political activities conflicting with his work, if his particular political party is not the one which is governing the country.

Human beings are imperfect. This would make us feel that perhaps there might be a conflict and indeed that this could happen very often. I do not believe that we are depriving the citizen or the public servant of such a great right if we prevent him from becoming a member of a political party. This is not an absolutely necessary right, the right to vote is much more important, as has been said to elect representatives who are to govern. But the right to be a member of a political party, I do not think is as essential as all that. It is hardly worth making an issue of it and say that he is being deprived of an essential right. It is not an essential right, to my knowledge. But it is, however, placing ourselves in a position of conflict with regard to the civil servant, if we were to allow him to be a member of a political party. And even if we were to do so, I think that no member of the public service should be a member of a political party, even if he had the right to do so.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. BELL (*Carleton*): Mr. Chairman, I think it is quite clear from what I said earlier that the proposal of Mr. Walker does not coincide with the views that I hold on this subject. I have expressed myself as believing in a three-tiered structure, more or less along the same lines as it exists in the United Kingdom. Mr. Walker has made it quite clear to us that he has gone as far as he and his colleagues are prepared to go; no doubt we shall have to argue this matter out in the Commons and I do not intend to delay the Committee tonight, I would like to make the suggestion that whatever is finally adopted should be reviewed by a Committee of Parliament immediately after the next election. Let us see whether whatever we do adopt works out during the next election and that we, in our report, suggest there should be a review of the whole structure.

My views are already on record. I do not see any advantage in going through them in detail. Mr. Walker has made his position and the position of his colleagues clear, and I think we shall just have to leave it for the chamber itself.

Mr. WALKER: Mr. Chairman, last night I made my views clear when Mr. Lewis was not here, and I wonder if I could say this, Mr. Bell. You just stated that my proposal did not coincide with your personal views. I must say that my proposal does not coincide with my own personal opinions. I will explain this: Mr. Lewis' amendment tonight is not a great deal different from the one which I put before this Committee myself as a basis for discussion, but I have reluctantly come to the conclusion that—and I speak very frankly—I am out of step at the moment with the thinking of the majority of my own colleagues. I am not speaking about the government; I am speaking about the members of my party.

It could well be, I suppose, that my idea of what I thought the employees wanted just does not coincide with the lack of any demand that has been placed on me to give the rights that Mr. Lewis is speaking about to the employees. I am wondering whether, as a member of this Committee, in attempting to bring in a piece of legislation which I think is for the benefit of the public service, I should be inclined to impose my ideas on a public service which at this particular time may not be ready for it or may not want it. A year or two from now it may be different.

Mr. LEWIS: On a point of order, Mr. Chairman, I am not suggesting imposing anything on anybody, and I really do object to the suggestion that if you take out of the law the prohibition which is there now and say to people, "You have the right to do certain things if you wish" that you are imposing anything on them. A civil servant does not have to become a member of the party; he does not have to make any contribution; he does not have to be a candidate. The law does not require him to do these things, it just gives him the right to do them if, in his judgment and conscience, he wants to. I object to the word "impose".

An hon. MEMBER: He does not have to be a civil servant either.

Mr. LEWIS: He does not have to be a civil servant, either.

Mr. WALKER: Mr. Chairman, I was just explaining the workings of my mind, and it may be difficult for some members of the Committee to follow me. Do not forget that it was my original proposal that had in it the right to belong to a political party. One of the things that is bothering me is the obligation of that membership, and when you get into that area you are going down four or five avenues at once. What obligation is there for a member of a political party? The chips are down and if the party that he belongs to says, "This is our stand", as a member of that party he has an obligation, I presume, if the membership means anything, to follow that particular policy. But how can we expect this man in the daytime to come in and administer a different type of policy? These are the things that began to bother me when I looked into the whole matter.

As I say, concern has been expressed by many people that the membership in political parties will affect the capacity of the public service to discharge its responsibilities in a non-partisan manner. I do not feel this personally, but this is one of the concerns that has been expressed in this Committee. Also, I think it was expressed before this Committee—it certainly has been expressed to me personally—by officials of some of the employee organizations that membership in political parties would tarnish the public image of public servants. At any rate, my personal inclination is completely embodied in what I put forward the other day for proposals for the Committee to discuss. I have reluctantly come to the conclusion that what I suggested might be accepted willingly by many people in the public service a year, two years, three years from now, but that is up to them.

May I just make one other point. A matter that we have not discussed here at all—and I do not know whether the Committee would want to do so at this point—with any of the officials who would be concerned are the difficulties of administration embodied in the proposal that Mr. Lewis has submitted tonight. Of course I am speaking of the chairman of the Public Service Commission. I do not know what difficulties there are, but he is here if you want to question him on this point. I think it is an important point.

Mr. KNOWLES: Mr. Chairman, Mr. Lewis said I would speak for myself. I do not think that is an invitation to talk for 40 minutes, but I would like to say a few words. Like Mr. Bell and others here, I have expressed myself on this question many times both in the House and in this Committee, and it is obvious that I am in full support of the amendment which Mr. Lewis has moved and which I have had the privilege of seconding.

I would like to re-echo what Mr. Lewis said to Mr. Walker just now, not just for the purpose of underlining the point but for the purpose of getting a better perspective on this. We are not proposing that anything be imposed on a group of people; we are proposing that a right should be accorded to them to exercise or not to exercise, as they wish.

Secondly, I would like to say something in relation to some of the remarks that Mr. Lachance made. He knows how much I respect the sincerity with which he has approached this problem. But I must say with equal frankness that I do not think it behooves us—all of us being politicians and enjoying political rights—to say that we are not taking something away, something valuable, something worthwhile, from civil servants when we take away their political rights. Mr. Lachance said that it is one of the things they accept when they become civil servants. Economics of life in this world are such that people do have to have jobs and when attached to a job is a condition that you have to give up a certain right, well, you have to give up that right and I think it ill behooves us to belittle that act on our part. It seems to me that if political rights are worth something in this country all our citizens should enjoy them. As a matter of fact, it strikes me that if we are earnest and sincere in our desire to improve the image of parliament and the image of politics we should not keep it restricted to certain people, and we should not talk about participating in political activities tarnishing civil servants. I think politics is a very noble operation and that to take part in the effort to govern the country is something that should be regarded highly and not something that tarnishes a person or a group of people.

I also think that Mr. Walker is getting pretty close to insulting civil servants when he suggested that they do not now have ideas. He raises the question—and we have had this argument before—as to what a civil servant does if he belongs to a political party and, because of that membership holds certain views on matters of policy, and, then, has to come to work in the daytime and help work out or administer policies with which he disagrees. I hope that there are hundreds of civil servants who are in that position right now. They do their own thinking, have their own ideas, but recognize the kind of job that they are in and act accordingly. We have had very high placed civil servants who worked for a few years for a Liberal administration and then a few years for a Tory administration and then back again. Of course, you might quote me at some other stage, saying that there is not much difference; to support my argument tonight I will admit there is some difference. Surely if Mr. Walker contends that these people do not have ideas now this is getting pretty close to insulting them. I do not think it is impossible at all for people to belong to organizations and, as a result of that, have ideas and yet in their work-a-day life recognize their responsibilities.

In short, Mr. Chairman, if we are trying to upgrade parliament and upgrade politics I do not think that we should indulge in some of the things that have

been said here tonight. I think we should regard this as a pretty sacred and pretty important right and we should be doing our best to extend it to everyone. I think that the amendment that Mr. Lewis and I have proposed is a practical and realistic way of according to federal civil servants political rights.

Mr. WALKER: Mr. Chairman, I think I should correct one thing that Mr. Knowles said when he made the plea for the giving of what you call "political rights". In fact, the amendments placed before the Committee—not your amendment—on clause 32 do give political rights that civil servants did not have before. Now, it does not go as far or as fast as I would like.

Mr. KNOWLES: Mr. Chairman, with all respect, I think the way in which those rights are given in Mr. Walker's amendment are terribly unsatisfactory. There are far too many people excluded and even those who can get it—right down to the lowest clerk or postal employee who walks the street and who may want to exercise this kind of right as spelled out in your amendment—have to go through the proposition of persuading the Civil Service Commission to give him the right to do it, as a result of which he has to take certain penalties. I do not think that it can be said that your amendment accords political rights in a manner continent with what those rights are. I realize the intent of what you are trying to do in your amendment but I do not think it accomplishes it. I think it sets up a complicated proposition which hardly makes it worth the while.

Mr. WALKER: Mr. Chairman, I would like to clear up this point. The impression might be from what Mr. Knowles said was that in fact my amendment was taking existing political rights away from civil servants. This is not the case; there are political rights being given to the civil servants—perhaps not on as large or as wide a scale as you would like or—

Mr. KNOWLES: Are these the rights that you thought your party would go for in the last election?

Mr. CHATWOOD: Mr. Chairman, if I may say so, I feel it is unfortunate that this second amendment by Mr. Lewis is being brought in. There has been a good deal of consideration put into the previous amendment taking into consideration what it was felt the public servants want and what they expect. I do take exception to one thing Mr. Lewis said first in his rather impassioned plea when he delivered his amendment and repeated again later giving the impression that under this amendment they were prohibited from contributing money, which is not so. Mr. Lewis, you might find it in paragraph 2.

Mr. LEWIS: I am sure I did not say this but, if I did, it was unintentional because I know it is there.

Mr. CHATWOOD: It is there and I do feel that the—

Mr. BELL (*Carleton*): What Mr. Lewis referred to is past.

Mr. CHATWOOD: He was speaking about the motion as it stood at the time. I do feel that the previous motion by Mr. Walker does not necessarily fill the particular desires of everybody because there is a great deal of variety in what each person here, I think, feels is right. However, I do think that at this time it best fills the need.

Mr. BERGER: A moment ago Mr. Knowles was quite moved when he made his plea. I understand and I am for upgrading the public servants. But from the

public point of view, I checked with my constituents. What puzzles me is this. I found out from them that they have much confidence in the public servants because they do not play in politics; at least, they hope to God that they do not. They said that because of the very unfortunate cases which we have had to face in the last few years, at least with a minority or a majority government there is protection for the public. They feel that public servants should not indulge in playing politics but should provide protection for the public. They know that over 80 per cent of public servants do not care too much about politics and they want things to stay as they are right now. They have not requested this and perhaps we are trying to be smart and are going a little too far. The people of Canada should be protected. Can you imagine what might happen if a civil servant belonging to a certain party ran for election and was not elected. Suppose that I am re-elected and I go to see that man—maybe he is in another ministry—and ask him to do something and it does not work. What do you think that I and my constituents will think? So to protect the public and to have integrity, sincerity and efficacy in the public service why should we let them play politics. As pure as we try to be there is always a little something somewhere. They are regarded by the public of Canada as people with great integrity. Maybe it is their right to a certain extent but the public has a right to be well protected too. That puzzles me and what are you going to say in answer to that.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, only one word, the time is late and I do not want to extend the debate. There is one point that strikes me more particularly in Mr. Lewis' amendment and that is that public servants in the lower grades would have very few restrictions in so far as their political activities are concerned.

But activities of higher echelon employees would be restricted to a minimum. If as Mr. Knowles said a little while ago we want to improve the standing of politicians, why then limit—

Mr. LEWIS: You did not read it properly.

Mr. ÉMARD: Well, what I wanted to say was this: Why then limit ourselves to participation in the lower echelons of the Civil Service only? Clause 32(1) reads:

(*English*)

> No deputy head or chief executive officer or person employed in a managerial or confidential capacity as defined in subparagraph (i) (ii) and (iii)—

(*Translation*)

I think by this very fact we are placing restrictions on a great many public servants.

Mr. LEWIS: The higher echelons, not the lower ones.

Mr. ÉMARD: Why them?

Mr. LEWIS: There is a reason for this, it is because they are officials who develop Government programmes.

Mr. ÉMARD: Precisely, but they are the best qualified to be candidates.

Mr. LEWIS: Perhaps.

Mr. ÉMARD: Then, why restrict it to the lower echelons?

Mr. LEWIS: There is no limit for the lower echelons.

Mr. ÉMARD: No, I realize that, but why limit ourselves to the lower echelons?

(*English*)

Mr. LEWIS: The principle behind it, if I may answer, is that the superior categories actually develop and plan government programs. In answer to the question asked by the hon. member, Mr. Berger, earlier, if you give a deputy head, a chief executive officer or one of the top people in a department this right, they would have to get permission from the public service commission before they could be a candidate and the public service commission would then take into account whether or not the usefulness to the public service of such persons in that position would be impaired. But if it is an ordinary clerk, a stenographer, a postal employee or the tens and tens of thousands to whom a member of parliament does not frequently refer and about whom the public does not frequently even know—

Mr. BERGER: Suppose he is a postman going from door to door every day?

Mr. LEWIS: So what? What can a postal employee do to the public? What favour do you ask of him except that he does his job. He is not the person you turn to to give somebody a better deal or to correct some grievance or anything like that.

Mr. LANGLOIS (*Chicoutimi*): Those who have the high-ranking jobs will be leaving one of these days because every day some are dying and some are retiring. However, their replacements from the ranks eventually will get the top-notch jobs. Where do you separate them?

Mr. LEWIS: All I can tell you, Mr. Langlois—and I am not saying this to be corny—is that I have confidence in the members of the public service, as I have confidence in most people in Canada, being able to use their judgment and their discretion just as well as I can use mine. When a member of the Committee tells me that it is my job to make sure that a public servant acts wisely in his own interest I say: Where in the devil do I get that right? He is a human being; he is an adult; he is a Canadian; he has just as good judgment as I have, and I want to give him the opportunity to use his judgment. I do not think that I should force my judgment on him.

Senator DENIS: Have any provincial legislatures given such rights?

Mr. LEWIS: My answer is that the Saskatchewan law, unless Mr. Thatcher has changed it recently, gave the civil servants of Saskatchewan full political rights.

Senator DENIS: Mr. Chairman, during the course of our discussion has any civil service association or any group of public servants asked for the kind of amendment suggested by Mr. Lewis? It would be helpful if we had something before us to indicate that it is a good thing to legislate that amendment.

The JOINT CHAIRMAN (*Mr. Richard*): Senator Denis, I think I can say that some of the associations made representations, not in a definite form as you say,

and these ranged from full participation to a narrow participation but without any particular detailed suggestions.

Senator DENIS: But was it a civil service association or one from outside the civil service?

The JOINT CHAIRMAN (*Mr. Richard*): Both.

Mr. HYMMEN: Mr. Chairman, I did not intend to speak on this because I think I have already made myself quite clear. I think the amendment which Mr. Lewis is introducing is attempting to provide something that the majority of the civil servants do not want.

Mr. LEWIS: We know that—

Mr. HYMMEN: Just let me finish. Secondly, I think Mr. Walker's amendment does provide two areas; the contribution of funds and also the attendance at political meetings, which I think all members of this committee agree would substantiate our feeling that civil servants are not second class citizens.

There is one question I wanted to ask Mr. Lewis so we could have his answer on the record with regard to clause 7(c) in which the provision is for civil servants to engage in political activities apart from their working hours. I was going to ask Mr. Lewis if he really believes that a civil servant who takes an active part on behalf of a political party or candidate after working hours or weekends or days off would automatically cease his activity during the working hours.

Mr. LEWIS: Well, all I can say, Mr. Chairman, is that the people who make statements—and I am sure sincere statements—about the value, the decency and reliability of our public service—and all of those adjectives apply to them because we have a good civil service in Canada, one of the best in the world—and in the next breath suggest that the same person is unreliable—in every plant in this country, in every office in this country and with every newspaper of this country, you have people carrying out policy. Everwhere there are people who during their own hours away from work carry on activities—proper, legal, decent activities, which they have to lay aside when they come to work the next morning or on Monday. They do that all the time. There are millions of Canadians who do that. Do you think the public servants are lesser people, that they are unable to be loyal to their employer and their job on Monday because they spoke on certain political ideas on Saturday.

Mr. HYMMEN: But those people are not employed by the citizens of Canada.

Mr. LEWIS: So what.

Mr. WALKER: I do not think that we are going to convince one another, Mr. Chairman.

Mr. HYMMEN: I just wanted an answer to my question.

The JOINT CHAIRMAN (*Mr. Richard*): Is the committee ready for the question? The question is on Mr. Lewis' amendment, amending Mr. Walker's proposed clause 32. All those in favour of the amendment please indicate by raising your hand. All those against? I declare the amendment lost.

Mr. KNOWLES: Can we have the vote recorded, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the committee that the vote be recorded? Mr. Knowles has asked for a recording. Those for, will you please raise your hand? Those against?

Mr. KNOWLES: More parties voted for than against.

The JOINT CHAIRMAN (*Mr. Richard*): Ten to six. The question now is on the motion of Mr. Walker. Is the committee ready for the question?

Some hon. MEMBERS: Question?

Mr. LEWIS: Mr. Chairman, I think for the record, since the committee has voted down our amendment and since Mr. Walker's amendment gives something, I do not want to oppose it and get back to the status quo. I just want to explain that that seemed to me to be the logical and responsible thing to do.

The JOINT CHAIRMAN (*Mr. Richard*): Is the committee ready for the question?

Mr. BELL (*Carleton*): I would go further and suggest that perhaps, if this is what the House adopts, when we have seen Mr. Walker's amendment in operation over one election, a parliamentary committee should take a look at this whole subject again.

Mr. KNOWLES: It does not have to be in our report.

Mr. BELL (*Carleton*): I am suggesting that should be in our report, yes.

Mr. KNOWLES: Agreed.

Mr. LEWIS: I made the statement I did because I did not want the committee to misunderstand that if we vote for Mr. Walker's amendment and then make a fuss about this on the floor of the House when the bill gets back, which will happen, there is no conflict between the two.

The JOINT CHAIRMAN (*Mr. Richard*): All those in favour of motion?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): It is unanimous.

Mr. LEWIS: Record that.

Clause 34(1)(c) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall schedules A to D carry?

Mr. BELL (*Carleton*): Are there not two consequential amendments?

The JOINT CHAIRMAN (*Mr. Richard*): No, not now.

Mr. WALKER: Yes, there are two consequential amendments right on the back of my amendment, the last page.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Mr. Walker's amendments to clause 5(d) carry?

Amendments agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 6(1) as amended by Mr. Walker's amendment carry?

Clause as amended agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Schedules A to D carry?

Schedules A to D agreed to.

Clause 1 agreed to.

Preamble agreed to.

Title agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall I report the bill—

Some hon. MEMBERS: As amended.

The JOINT CHAIRMAN (*Mr. Richard*): —as amended and reprinted?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): This concludes the examination of Bill C-170, C-181, C-182 which will be reported with some recommendations, of course, and these recommendations will have to be submitted to this committee before I report these bills to the House.

Mr. LEWIS: Will the steering committee draft a report?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I will call the steering committee to a meeting on Thursday to consider the report.

Mr. BELL (*Carleton*): Have you had an opportunity to consider when we might get started with the other reference, Mr. Chairman? Many of us are anxiously awaiting?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I have foreseen your desire and that of some other members of the committee, including Mr. Knowles particularly; that is why, in anticipation of your wish, I reserved the committee room for next week. The Clerk might speak to this because he is the one who has been in touch with prospective witnesses.

Mr. KNOWLES: Mr. Chairman, before he speaks, it is clear, is it not, that the report we make on matters arising out of these bills is separate from any report we make regarding pensions?

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes.

Mr. KNOWLES: We could have a meeting, make a report on all these incidental things, such as bargaining on parliament hill and all the rest of it, and then later make the report on the pensions?

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes.

The CLERK: We have written to four different groups: the Public Service Alliance of Canada, the Professional Institute, the Canadian Labour Congress and the Federal Superannuates National Association asking whether they desire to present briefs. Three groups have so signified to date?

The JOINT CHAIRMAN (*Mr. Richard*): Who are they?

The CLERK: The Alliance, the Professional Institute and the Superannuates. I have asked them how soon they could have their briefs prepared and in our hands so that we can arrange their appearances.

Mr. KNOWLES: Have you had any correspondence from the R.C.M.P. veterans association?

The CLERK: No.

Mr. KNOWLES: I think they had written Mr. Benson.

Mr. BELL (*Carleton*): I think they sent a brief, to the Prime Minister.

The CLERK: I might point out that the order of reference refers only to retired civil servants.

Mr. KNOWLES: Are mounted policemen civil servants?

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. BELL (*Carleton*): That is an oversight we may have to rectify.

Mr. WALKER: Will the next meeting be at the call of the chair, when the briefs are in.

The JOINT CHAIRMAN (*Mr. Richard*): When the steering committee has completed this report it can discuss the meetings for that matter.

Mr. KNOWLES: It is agreed that we get at that—

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes.

Mr. BELL (*Carleton*): Are we in agreement though that we should get these bills back to the House just as fast as possible because if bargaining is to start by the 28th of February we had better be ready.

Mr. KNOWLES: But it is also agreed that we do not report the bills until we have our report on matters relating to the bills?

Mr. BELL (*Carleton*): Exactly.

Mr. KNOWLES: So that our full view is presented to the House at once.

Mr. WALKER: Right. Congratulations, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

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OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

No. 27

FRIDAY, FEBRUARY 3, 1967

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

Sixth, Seventh and Eighth Reports to the Senate and the House of Commons

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OTTAWA, 1967

25458—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,
Mr. Langlois (*Chicoutimi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

REPORTS TO THE SENATE

FRIDAY, February 3rd, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service makes its sixth Report as follows:

Your Committee to which was referred the Bill C-170, intituled: "An Act respecting employer and employee relations in the Public Service of Canada", having held forty-eight meetings and having heard the evidence of forty-seven witnesses, has in obedience to the order of reference of May 31, 1966, examined the said Bill and now reports the same with the following amendments:

Clause 2

Paragraph 2(j), delete "53" and substitute "52" therefor line 19 page 2.

Insert new subparagraph 2(m)(v) after line 46 page 2:

"2(m)(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,"

Re-number subparagraph 2(m)(v) as 2(m)(vi)

Re-number subparagraph 2(m)(vi) as 2(m)(vii)

Re-number subparagraph 2(m)(vii) page 3 as 2(m)(viii);

Insert in new subparagraph 2(m)(viii) the words "or confidential" before the word "capacity" line 1 page 3,

Substitute a comma for the semicolon at the end of line 1 page 3 and add the following words immediately thereafter:

"and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament;"

Paragraph 2(n), add the words "for the purposes of this Act" after the word "employees" line 5 page 3.

Subparagraph 2(o)(i), substitute "I" for "II" line 11 page 3, and substitute the words "Treasury Board" for "separate employer concerned" lines 12 and 13 page 3.

Subparagraph 2(o)(ii), reduce the capital letters in "Public Service" line 15 page 3 to lower case; delete the comma and words "the Treasury Board" on the same line and substitute the following words therefor: "of Canada specified in Part II of Schedule A, the separate employer concerned".

Paragraph 2(p), add the words "on his own behalf or on behalf of himself and one or more other employees" after the word "employee" line 18 page 3.

Subparagraph 2(p)(i), add the words "or confidential" before the word "capacity" line 24 page 3.

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Subparagraph 2(p)(ii), add the words "or confidential" before the word "capacity" line 33 page 3.

Paragraph 2(q), add the word "period" after the word "certification" in the marginal note; and delete all the words after the word "means" lines 34 to 39 inclusive page 3, substituting therefor: ", in respect of employees in any occupational category, the period ending on the day specified in Column III of Schedule B applicable to that occupational category;"

Subparagraph 2(r)(iii), add the words "and foreign service" after the word "administrative" line 44 page 3.

Paragraph 2(r), delete the words "specified and defined by the Governor in Council by any order made under subsection (1) of section 26 or thereafter" lines 48 to 50 page 3.

Paragraph 2(s), substitute the words "specified and defined by the Public Service Commission under subsection (1) of section 26" for the words "within an occupational category" line 2 page 4.

Paragraph 2(u), add the words "or confidential" after the word "managerial" in the marginal note and in line 9 page 4.

Subparagraph 2(u)(i), substitute the word "the" for the word "other" line 15 page 4, and insert the word "other" after the word "any" line 16 page 4.

Subparagraph 2(u)(iv), substitute the word "administrator" for the word "officer" line 33 page 4.

Subparagraph 2(u)(v), insert the words "on behalf of the employer" after the word "formally" line 38 page 4.

Subparagraph 2(u)(vii), substitute the words "who in the opinion of the Board should not be included" for the words "for whom membership" lines 45 and 46 page 4, and delete line 47 page 4.

Clause 5

Re-number old clause as sub-clause 5(1).

Delete from the old clause the words "Part I or Part II of" line 3 page 6.

Insert in the old clause the words "Part I or Part II thereof," after "Schedule A" line 3 page 6.

Delete the words ", unless there are no longer any employees employed in or under that portion or if it is a corporation excluded from the operation of Part I of the *Industrial Relations and Disputes Investigation Act*," lines 4 to 7 page 6, and add immediately after "Schedule A" the following words:

"except that where that portion

(*a*) no longer has any employees,

or

(*b*) is a corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*,

he is not required to add the name of that portion to the other part of Schedule A."

Add new sub-clause 5(2) together with marginal note:

"Where corporation deleted from one part of Schedule A and not added to other part.

(2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act* and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect."

Clause 7

Delete the words "to group and classify positions therein" lines 15 and 16 and substitute the words "and classify positions therein" for the word "employees" line 16 page 6.

Clause 8

Sub-clause 8(1), add the words "or confidential" after the word "managerial" line 17 page 6.

Sub-clause 8(2), add the words "or confidential" after the word "managerial" line 15 page 7.

Delete sub-clause 8(3) and marginal note.

Clause 9

Add the words "or confidential" after the word "managerial" in lines 23 and 27 page 7 sub-clauses 9(1) and (2).

Clause 13

Sub-clause 13(1) in the French version, substitute the words "n'est pas admissible à occuper un poste de" for the words "ne peut être nommée" line 9 page 9.

Clause 16

Paragraph 16(2)(b), substitute the words "in such a manner as to ensure that the number of members" for the words ", including one member" line 30, and substitute the words "equals the number of members" for the words "and one member" line 32 page 9.

Sub-clause 16(3), add the words ", except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote" after the word "be" line 38 page 9.

Clause 17

Sub-clause 17(1), delete the words "and has supervision over and direction of the work and the staff of the Board" lines 40 and 41 page 9, and substitute the following marginal note for the old one:

"Chairman to be chief executive officer."

Sub-clause 17(2), delete the words "and other staff" from the marginal note;

Delete the words "and such other officers and employees as the Board deems necessary for the performance of its duties" lines 1 to 3 page 10;

Substitute "*Public Service Employment Act*, who shall subject to the direction of the Chairman have supervision over and direction of the work and staff of the Board" for the words "Civil Service Act" line 4 page 10.

Add a new sub-clause 17(3) and marginal note:

"Other staff"

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the *Public Service Employment Act.*"

Re-number old sub-clause 17(3) as 17(4),

Delete the words "on behalf of the Board" line 5 page 10,

Delete the commas after the words "appoint" and "of" line 6, page 10,

Add the words ", subject to the approval of the Governor in Council," after the words "appoint and" line 6 page 10.

Clause 19

Paragraph 19(1)(f), add the words "in respect of a bargaining unit or any employee included therein" before the word "where" line 43 page 10;

Delete paragraph 19(1)(k) lines 24 to 29 page 11 and substitute therefor:

"(k) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;"

Clause 20

Sub-clause 20(1), substitute the word "shall" for "may" line 38 page 11.

Clause 23

Clause 23, delete the word "shall" line 29 page 13 and substitute therefor "or either of the parties may";

Substitute the words "but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof" for the words "and thereupon any proceedings in connection with that matter shall, unless the Board otherwise directs, be suspended until the question is decided by the Board" lines 31 to 34 page 13.

Clause 26

Delete Clause 26 in toto with marginal notes lines 1 to 29 inclusive page 14 and substitute therefor:

"Specification of occupational groups."

26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette.*

Groups to be specified on basis of program of classification revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Where objection filed.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

(a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining, and

(b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

Times relating to commencement of collective bargaining during initial certification period.

(6) During the initial certification period, in respect of each occupational category,

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of

employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

Other occupational categories.

(7) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purpose of this Act, the Board shall, at the time of making the determination,

(a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

Clause 27

Delete the ""s" at the end of the word "sections" and "29 and" line 33 page 14.

Clause 28

Delete the "s" at the end of the word "sections" and "29 and" line 3 page 15 sub-clause (1).

Delete paragraph 28(1)(b) lines 11 to 18 inclusive and substitute therefor:

"(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent."

Re-number sub-clause 28(3) as Clause 29 and insert the words "of section 28" after "subsection (2)" line 20 page 15.

Clause 29

Delete old Clause 29 in toto with marginal note lines 25 to 29 inclusive page 15.

Clause 31

Substitute the words "six months" in marginal note for the words "one year".

Clause 32

Sub-clause 32(1),

Substitute "4" for "3" in the brackets, line 33 page 16.

Sub-clause 32(3),

Delete therefrom, "or whose duties or responsibilities are such that in the opinion of the Board his inclusion in the bargaining unit as a member thereof would not be appropriate or advisable" lines 3 to 6 page 17.

Clause 34

Paragraph 34(d),

Delete the words "act for the members of the organization in the regulation of relations between the employer and such members" lines 33 to 36 page 17 and substitute therefor "make the application"

Clause 35

Paragraph 35(1)(b),

Add the word "and" after the semicolon line 9 page 18.

Paragraph 35(1)(c),

Delete the word "and" after the semicolon line 13 page 18.

Delete paragraph 35(1)(d) lines 14 to 17 inclusive.

Clause 36

Delete the words "as condition of certification" from marginal note.

Sub-clause 36(1)

Substitute "Subject to sub-section (2) of section 37, every" for the words "No employee organization shall be certified by the Board as" lines 34 and 35 page 18;

Delete the words "until the employee organization has specified" line 36 and substitute the word "shall" therefor;

Add the word "specify" after the word "prescribed" line 37;

Substitute the word "it" for the words "the employee organization" lines 39 and 40;

Substitute the words "in respect of" for the words "if it is subsequently certified by the Board as bargaining agent for that" lines 40 and 41.

Sub-clause 36(2)

Substitute the words "a bargaining agent" for the words "an employee organization" line 43 page 18;

Substitute the words "in respect of" for the words "if it is subsequently certified as bargaining agent for" lines 44 and 45;

Substitute the words "bargaining agent" for the words "employee organization and if it is satisfied that the other requirements for certification established by this Act are met" lines 47 to 49;

Substitute the words "bargaining agent" for the words "employee organization" line 1 page 19;

Substitute "bargaining agent" for "employee organization" lines 6 and 7.

Sub-clause 36(3)

Delete in toto with marginal note lines 8 to 13 inclusive page 19.

Clause 37

Sub-clause 37(1)

Delete the words "certification to record" from the marginal note and substitute the words "to be recorded" therefor, after the word "disputes";

Delete the old sub-clause 37(1) lines 14 to 18 inclusive and substitute

"(1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified."

Sub-clause 37(2)

Substitute the words "a bargaining agent" for "an employee organization" line 20, page 19;

Add the words "subsection (1) of" before the word "section" line 20;

Add the words "of this section shall" after the word "subsection (1)" line 21;

Delete the words "as part of its certification as bargaining agent for a bargaining unit shall, notwithstanding that another employee organization may subsequently be certified as bargaining agent for the same bargaining unit," lines 21 to 25;

Substitute the words "from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process" for the words "during the period of three years immediately following the day on which the first collective agreement or arbitral award binding on the employer and the bargaining agent that specified the process comes into force in respect of that bargaining unit" lines 26 to 31.

Clause 38

Sub-clause 38(2)

Delete in toto with marginal note lines 38 to 45 inclusive page 19 and substitute therefor:

"Alteration to be included.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute."

Sub-clause 38(3)

Delete in toto with marginal note lines 46 to 48 inclusive page 19 and substitute therefor:

"Effective date and duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2)."

Sub-clauses 38(4) and (5)

Delete sub-clauses 38(4) and (5) in toto with marginal notes lines 1 to 16 inclusive page 20.

Clause 39

Sub-clause 39(3)

Add the word "sex," after the word "of" line 36 page 20;

Substitute the word "national" for the words "creed, colour, nationality, ancestry or place of" line 37;

Add the words "colour or religion" after the word "origin" line 37.

Clause 43

Sub-clause 43(1)

Delete the words "it appears to" after the word "time" line 3 page 23;

Add the words "is satisfied" after the word "Board" line 3;

Substitute the word "shall" for the word "may" line 6.

Clause 49

Sub-clause 49(1)

Delete the words "the employees in" line 27 page 24,

Add the words "and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36," after the word "unit" line 28.

Clause 51

Paragraph 51(a)

Delete the words "the negotiating relationship between the parties has been terminated and" lines 25 to 27 page 25.

Subparagraph 51(a)(ii)

Add the words "a collective agreement has been entered into or" after the word "and" line 41 page 25.

Clause 52

Delete Clause 52 in toto with marginal notes lines 14 to 23 inclusive page 26.

Clause 53

Re-number as Clause 52.

Clause 54

Re-number as Clause 53.

Clause 55

Sub-clause 55(1)

Substitute the words "Treasury Board" for "Minister" in the marginal note;

Re-number as Clause 54;

Delete the words "Minister who presides over the" line 37 page 26;

Substitute the words "in such a manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the *Financial Administration Act*" for "on behalf of the Treasury Board and with the approval of the Governor in Council" lines 38 and 39.

Sub-clause 55(2)

Re-number as clause 55.

Clause 56

Paragraph 56(2)(b)

Substitute the letter "C" for the letter "B" after the words "Schedule" line 38 page 27.

Clause 57

Paragraph 57(2)(b)

Substitute "(6) of section 26" for "(3)" line 4 page 28;

Delete sub-clause 57(3) in toto with marginal note lines 7 to 16 inclusive page 28;

Delete sub-clause 57(4) in toto with marginal note lines 17 to 23 inclusive page 28;

Sub-clause 57(5)

Re-number as sub-clause 57(3) and delete "or (3)" line 24.

Clause 58

Add a comma after the word "employer" line 31 page 28;

Substitute the word "on" for "and" line 31;

Add the words "and its constituent elements," after the word "thereto" line 32.

Clause 63

Sub-clause 63(1)

Substitute the words "Secretary of the Board" for the word "Chairman" line 39 page 30.

Sub-clause 63(1) French version

Substitute the word "une" for the word "aucune" line 39 page 32.

Paragraph 63(1)(a)

Delete the words "the negotiating relationship between the parties has not been terminated" lines 1 to 3 page 31 and substitute therefor "no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining".

Clause 64

Substitute "Secretary of the Board" for the word "Chairman" line 19 page 31;

Substitute the word "Secretary" for the word "Chairman" lines 20 and 22;

Substitute the words "arbitration was requested" for "negotiating relationship between them was terminated" lines 25 and 26.

Clause 67

Re-number as sub-clause 67(1).

Add new sub-clause 67(2) and marginal note:

"Where agreement subsequently reached."

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters

in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof."

Clause 68

Delete the words "and have regard to" line 20 page 32.

Clause 70

Sub-clause 70(3)

Substitute the words "arbitration was requested in respect thereof" for "the negotiating relationship between them was terminated" lines 25 and 26 page 33;

Sub-clause 70(4)

Substitute the words "to be limited to bargaining unit" for "not to contain informational material" in the marginal note;

Delete the words "and shall not contain reasons or any material for informational purposes or otherwise that does not relate directly to the fixing of those terms and conditions" lines 30 to 32 page 33.

Clause 71

Sub-clause 71(2)

Delete the words "rendered by chairman" from the marginal note;

Substitute the words "A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof" for the words "Where not all the members of the Arbitration Trubunal agree on the terms of an arbitral award that is to be made" lines 38 to 40 page 33;

Substitute the word "of" for "rendered by" line 40.

Clause 72

Sub-clause 72(2)

Add a comma and two new paragraphs after the word "before" line 27 page 34:

"(a) in the case of an arbitral award rendered during the initial certification period, a day six months before the day specified in Column II of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case,"

Clause 73

Sub-clause 73(2)

Add the words "Subject to sub-section (6) of Section 26," before the word "no" line 9 page 35;

Add the words "or more than two years" after the word "year" line 12;

Delete sub-clause 73(3) and marginal note lines 14 to 24 inclusive page 35.

Clause 75

Delete the words "The Chairman may refer back to the Arbitration Tribunal any matter in dispute referred to the Arbitration Tribunal where it appears to him that the matter has not been resolved by the arbitral award made in consequence thereof" and substitute therefor "Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the matter back to the Arbitration Tribunal" Lines 35 to 39.

Clause 78

Paragraph 78(1)(a)

Substitute "52" for "53" line 22 page 36.

Sub-clause 78(2)

Add words, "but before establishing such a board the Chairman shall notify the parties of his intention to do so" after the word "agreement" line 40.

Clause 79

Sub-clause 79(5)

Substitute "Board" for the words "bargaining agent for the bargaining unit" line 41 page 37.

Clause 83

Delete the words "prepared by him" line 3 page 39.

Clause 94

Substitute the word "employee" for the word "person" lines 2, 10 and 19 page 43.

Clause 95

Sub-clause 95(1)

Add the words "Subject to any regulation made by the Board under paragraph (d) of sub-section (1) of section 99," before the word "no" line 26 page 43.

Clause 96

Paragraph 96(1)(a)

Delete marginal note and substitute therefor "Hearing of grievance."

Delete "(a)" line 3 page 44

Substitute a period for "; and" line 4.

Paragraph 96(1)(b)

Re-number as sub-clause 96(2) and add a new marginal note thereto "Decision on grievance."

Add the words "the adjudicator shall" before the word "render" line 5 page 44.

Substitute for the words "file it with the Board." after line 6 page 44 the following new paragraphs

"(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining

unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board."

Sub-clause 96(2)

Re-number as Sub-clause 96(3)

Delete "(a)" line 8 page 44

Substitute a comma for the semicolon line 9

Delete "(b)" and the words "of the board on a grievance" line 10

Delete the words", and shall be filed by him with the Board" lines 11 and 12

Delete old sub-clause 96(3) in toto with marginal note lines 13 to 19 inclusive page 44

Sub-clause 96(5)

Substitute the words "bargaining agent" for "employee organization" in the marginal note and lines 24-25 and 25-26 page 44.

Clause 97

Sub-clause 97(2)

Delete the words "the person whose grievance it is" line 42 page 44 and substitute therefor "and the employee whose grievance it is, is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent"

Add new sub-clause 97(3) after line 4 page 45 and marginal note

(3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person." "Recovery.

Clause 99

Delete marginal note of sub-clause 99(1) and substitute therefor "Regulations re procedures for presentation of grievances."

Delete the words "the adjudication of grievances and the conduct of hearings thereon and, without limiting the generality of the foregoing, may make" lines 27 to 30 page 45 sub-clause 99(1) and substitute the word "including" therefor.

Insert the word "and" after the semi-colon line 40 page 45 paragraph 99(1)(d).

Delete paragraphs 99(1)(e) to (j) lines 41 to 43 inclusive page 45 and lines 1 to 16 inclusive page 46.

Re-number paragraph 99(1)(k) line 17 page 46 as paragraph 99(1)(e).

Delete the semi-colon and the word "and" line 19 page 46 and substitute a period therefor.

Delete paragraph 99(1)(l) lines 20 to 23 inclusive page 46.

Re-number sub-clause 99(2) as Sub-clause 99(4).

Insert new Sub-clauses 99(2) and (3) and marginal notes:

"Application of regulations.

(2) Any regulations made by the Board under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

Regulations re adjudication of grievances.

(3) The Board may make regulations in relation to the adjudication of grievances, including regulations respecting

(a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chief adjudicator to an adjudicator;

(b) the manner in which and the time within which boards of adjudication are to be established;

(c) the procedure to be followed by adjudicators; and

(d) the form of decisions rendered by adjudicators."

Clause 103

Sub-clause 103(1)

Add the words ", after affording an opportunity to the employee organization to be heard on the application," after the word "Board" line 44 page 47.

Sub-clause 103(2)

Add the words ", after affording an opportunity to the employer to be heard on the application," after the word "Board" line 8 page 48.

Clause 109

Substitute "D" for "C" after the word "Schedule" line 11 page 49.

Clause 113

Sub-clause 113(2)

Substitute the words "excludes any corporation" for "acts to, or has heretofore acted to, exclude in whole or in part a corporation established to perform any function or duty on behalf of the Government of Canada" lines 9 to 12 page 50.

Substitute "shall" for "may" line 14

Substitute the words "add the name of that corporation to Part I or Part II of Schedule A" for "in respect of that corporation or part thereof,

(a) where it is added to Schedule A to this Act, apply, or

(b) where it is added to Schedule A to this Act, confirm its exclusion from,

the provisions of the said Part I"

Clause 114

Delete sub-clause 114(2) in toto with marginal note lines 24 to 26 inclusive page 50 and re-number sub-clause 114(1) as Clause 114.

Schedule A

Delete the words "(except the positions therein of members of the force)" after the words "Royal Canadian Mounted Police" page 51.

Schedule B

Reletter Schedule B as Schedule C

Delete *"Civil Service Act"*

Add "Public Service Employment Act" in alphabetical order page 53

Add new Schedule B

SCHEDULE B

Initial Certification Period

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agreement may be entered into or arbitral award rendered)	Column III (Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Feb. 28, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969

Schedule C

Reletter Schedule C as Schedule D page 53.

Your Committee is concerned about he position of public servants who, under the proposed legislation (Section 2(u)), will be excluded from bargaining units because of their managerial or executive responsibilities, or because they occupy positions confidential to management.

Under the administrative and legislative procedures now in effect, staff associations that are members of the National Joint Council are authorized to make representations to the Civil Service commission and the Treasury Board with respect to salaries and other terms and conditions of employment of classified civil servants, including many who, because they have managerial responsibilities, will be excluded from bargaining units under the provisions of this legislation.

Your Committee urges the Government to establish, not later than six months after this legislation comes into effect, special administrative mechanisms and procedures which will provide those who are excluded from bargaining units with an opportunity to make representations relating to their salaries and other terms and conditions of employment, in such manner and fashion as will provide assurance that their views on these matters are taken into account and have a bearing on the determination of their salaries and other terms and conditions of employment.

For this purpose, your Committee recommends the creation of an Advisory Committee, comparable to the Franks Committee (Standing Advisory Committee for higher grades in the Civil Service) in Great Britain, which should, in its terms of reference, be required to consider the salaries and other terms and conditions of persons excluded from bargaining units in a regular and systematic fashion, to afford representatives of such persons a full opportunity to be heard during its consideration of these matters, and, with due regard to the salaries and other terms and conditions of employment that have been established for employees as the result of collective bargaining, advise the Government on the appropriateness of the salaries and other conditions of employment applicable to such persons.

Your Committee has noted that the employees of the Senate, the House of Commons and the Library of Parliament are not included in Bill C-170 but are covered by other Acts.

Your Committee recommends that consideration be given to the introduction of legislation to amend the Senate and House of Commons Act, the House of Commons Act and the Library of Parliament Act to extend to the employees thereunder advantages and rights similar to those provided public servants under Bill C-170.

Your Committee recommends that the Government consider legislation to continue the Pay Research Bureau and to provide for the data collected thereby to be available to the bargaining parties under Bill C-170.

Your Committee has ordered a reprint of the Bill, as amended.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

FRIDAY, February 3rd, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service makes its seventh Report as follows:

Your Committee to which was referred the Bill C-181, intituled: "An Act respecting employment in the Public Service of Canada", has in obedience to the order of reference of June 6, 1966, examined the said Bill and now reports the same with the following amendments:

Clause 5

Paragraph 5(a), insert the words "or from within" after the word "to" line 14 page 4.

Insert new paragraph 5(d) after line 21 page 4:

"(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6, to render decisions on appeals made to such boards under sections 21 and 31 and to render decisions on matters referred to such boards under section 32;"

Re-letter paragraph 5(d) line 22 page 4 as paragraph 5(e).

Re-letter paragraph 5(e) line 27 page 4 as paragraph 5(f).

Clause 6

Insert the words "and inquiries under section 32" after "31" line 36 page 4 sub-clause 6(1) and delete the words "the conduct of" line 35 page 4.

Sub-clause 6(2), delete all the words after the word "opinion" line 37 page 4 and substitute the following therefor:

"(a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this section, does not have the qualifications that are necessary to perfom the duties of the position he occupies or would occupy, or

(b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted,

the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and may thereupon appoint that person at a level that in the opinion of the Commission is commensurate with his qualifications."

Insert new sub-clause 6(3) and marginal note before line 1 page 5:

"Idem. (3) An appointment from within the Public Service may be revoked by the Commission pursuant to subsection (2) only upon the recommendation of a board established by it to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard."

Re-number sub-clause 6(3) line 1 page 5 as sub-clause 6(4).

Delete sub-clause 6(4) lines 4 to 9 inclusive page 5 and substitute the following therefor:

"(5) Subject to subsection (6) a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform."

Re-number sub-clause 6(5) line 10 page 5 as sub-clause 6(6).

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Clause 7

Delete comma after the word "Commission" line 24 page 5 and substitute the word "or" therefor.

Delete the words "or an officer of the Commission" line 25 page 5.

Clause 8

Delete the words "of persons to the Public Service" line 31 page 5 and substitute the following therefor: "to or from within the Public Service of persons".

Clause 10

Insert the words "or from within" after the word "to" line 1 page 6.

Insert the words "of personnel selection designed to establish the merit of candidates" after the word "process" line 5.

Clause 12

Sub-clause 12(2), insert the word "sex" and a comma thereafter in line 24 page 6 after the word "of".

New sub-clause 12(3) and marginal note, insert after line 25 page 6:

"Consultation. (3) The Commission shall from time to time consult with representatives of any employee organization certified as bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that Act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable."

Clause 14

Delete Clause 14 and marginal note lines 37 to 40 inclusive page 6 and substitute the following therefor:

"Notice. 14. (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

Idem. (2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases."

Clause 16

Delete sub-clause 16(2) and marginal note lines 11 to 16 inclusive page 7 and substitute the following therefor:

"Languages in which examination to be conducted. (2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the

candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined."

Clause 21

Delete lines 23 to 32 inclusive page 9 and substitute the following therefor:

"may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment,

accordingly as the decision of the board requires."

Clause 22

Delete the words "notwithstanding any other Act," line 33 page 9.

Clause 26

Insert the words ", in writing," after the word "accepts" line 12 page 10.

Clause 27

Insert the words "for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than" after the word "than" line 15 page 10.

Clause 28

Delete sub-clause 28(4) and marginal note lines 38 to 42 inclusive page 10 and substitute the following therefor:

"Idem. (4) Where a deputy head gives notice that he intends to reject an employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

Idem. (5) Notwithstanding anything in this Act, a person who ceases to be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service, and

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

Clause 31

Delete sub-clause 31(3) lines 11 to 20 inclusive page 12 and substitute the following therefor:

"(3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the employee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(a) notify the deputy head concerned that his recommendation will not be acted upon, or

(b) appoint the employee to a position at a lower maximum rate of pay, or release the employee,

accordingly as the decision of the board requires."

Sub-clause 31(4), delete the words "taken to the Commission" line 21 page 12 and substitute the word "made" therefor.

Clause 32

Delete Clause 32 in toto with marginal notes lines 29 to 44 inclusive page 12 and substitute therefor:

"Political partisanship.

32. (1) No deputy head and, except as authorized under this section, no employee, shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or

(b) be a candidate for election as a member described in paragraph (a).

Excepted activities

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

Leave of absence.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate.

Notice.

(4) forthwith upon granting any leave of absence under subsection (3), the Commission shall cause notice of its action to be published in the *Canada Gazette*.

Effect of election.

(5) An employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon ceases to be an employee.

(6) Where any allegation is made to the Commission by a person who is or has been a candidate for election as a member described in paragraph (a) of subsection (1), that a deputy head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission, Inquiry.

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board had decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of an employee, may, if the board has decided that the employee has contravened subsection (1), dismiss the employee.

(7) In the application of subsection (6) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act." Application of ss. (6).

Clause 45

Insert the words "the nature of any action taken by it under subsection (1) or (4) of section 6," after the word "year" line 15 page 16.

Delete the word "of" after the word "and" line 16 page 16.

There was no provision in the original Bill allowing any political activity for employees of the Public Service. Your Committee has amended the said Bill to permit certain political rights. The consensus is that the whole question of political participation by public servants should be reviewed after the next general election in the light of experience and knowledge gained to that time. Interested groups might then wish to make more specific representations for the consideration of Parliament.

Your Committee has orderd a reprint of the Bill, as amended.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

FRIDAY, February 3rd, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service makes its eighth Report as follows:

Your Committee to which was referred the Bill C-182, intituled: "An Act to amend the Financial Administration Act", has in obedience to the order of reference of June 6, 1966, examined the said Bill and now reports the same with the following amendments:

Clause 3

Insert the words "including its responsibilities in relation to employer and employee relations" after the word "management" line 45 page 2.

Insert a comma after the word "service" line 45 page 2.

Delete the words "or dismiss" line 46 page 4.

Insert the words "or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person has been given an opportunity of being heard, to dismiss any such person" immediately after the word "service" line 47 page 4.

Your Committee has ordered a reprint of the Bill, as amended.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

REPORTS TO THE HOUSE OF COMMONS

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

SIXTH REPORT

Bill C-170, An Act respecting employer and employee relations in the Public Service of Canada, was referred to your Committee on Tuesday, May 31, 1966.

Since that date, your Committee has held forty-eight meetings and heard the evidence of forty-seven witnesses. Following most helpful representations by numerous groups and individuals within and without the Public Service of Canada, your Committee undertook a detailed study of the Bill.

Your Committee has agreed to report the said Bill with the following amendments:

Clause 2

Paragraph 2(j), delete "53" and substitute "52" therefor line 19 page 2.

Insert new subparagraph 2(m)(v) after line 46 page 2:

> "2(m)(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,"

Re-number subparagraph 2(m)(v) as 2(m)(vi)

Re-number subparagraph 2(m)(vi) as 2(m)(vii)

Re-number subparagraph 2(m)(vii) page 3 as 2(m)(viii);

Insert in new subparagraph 2(m)(viii) the words "or confidential" before the word "capacity" line 1 page 3,

Substitute a comma for the semicolon at the end of line 1 page 3 and add the following words immediately thereafter: "and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament;"

Paragraph 2(n), add the words "for the purposes of this Act" after word "employees" line 5 page 3.

Subparagraph 2(o)(i), substitute "I" for "II" line 11 page 3, and substitute the words "Treasury Board" for "separate employer concerned" lines 12 and 13 page 3.

Subparagraph 2(o)(ii), reduce the capital letters in "Public Service" line 15 page 3 to lower case; delete the comma and words "the Treasury Board" on the same line and substitute the following words therefor: "of Canada specified in Part II of Schedule A, the separate employer concerned".

Paragraph 2(p), add the words "on his own behalf or on behalf of himself and one or more other employees" after the word "employee" line 18 page 3.

Subparagraph 2(p)(i), add the words "or confidential" before the word "capacity" line 24 page 3.

Subparagraph 2(p)(ii), add the words "or confidential" before the word "capacity" line 33 page 3.

Paragraph 2(q), add the word "period" after the word "certification" in the marginal note; and delete all the words after the word "means" lines 34 to 39 inclusive page 3, substituting therefore: ", in respect of employees in any occupational category, the period ending on the day specified in Column III f Schedule B applicable to that occupational category;"

Subparagraph 2(r)(iii), add the words "and foreign service" after the word "administrative" line 44 page 3.

Paragraph 2(r), delete the words "specified and defined by the Governor in Council by any order made under subsection (1) of section 26 or thereafter" lines 48 to 50 page 3.

Paragraph 2(s), substitute the words "specified and defined by the Public Service Commission under subsection (1) of section 26" for the words "within an occupational category" line 2 page 4.

Paragraph 2(u), add the words "or confidential" after the word "managerial" in the marginal note and in line 9 page 4.

Subparagraph 2(u)(i), substitute the word "the" for the word "other" line 15 page 4, and insert the word "other" after the word "any" line 16 page 4.

Subparagraph 2(u)(iv), substitute the word "administrator" for the word "officer" line 33 page 4.

Subparagraph 2(u)(v), insert the words "on behalf of the employer" after the word "formally" line 38 page 4.

Subparagraph 2(u)(vii), substitute the words "who in the opinion of the Board should not be included" for the words "for whom membership" lines 45 and 46 page 4, and delete line 47 page 4.

Clause 5

Re-number old clause as sub-clause 5(1).

Delete from the old clause the words "Part I or Part II of" line 3 page 6.

Insert in the old clause the words "Part I or Part II thereof," after "Schedule "A" line 3 page 6.

Delete the words ", unless there are no longer any employees employed in or under that portion or if it is a corporation excluded from the operation of Part I of the *Industrial Relations and Disputes Investigation Act*," lines 4 to 7 page 6, and add immediately after "Schedule A" the following words:

"except that where that portion

(a) no longer has any employees, or

(b) is a corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*,

he is not required to add the name of that portion to the other part of Schedule A."

Add new sub-clause 5(2) together with marginal note:

"Where corporation deleted from one part of Schedule A and not added to other part."

(2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act* and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect."

Clause 7

Delete the words "to group and classify positions therein" lines 15 and 16 and substitute the words "and classify positions therein" for the word "employees" line 16 page 6.

Clause 8

Sub-clause 8(1), add the words "or confidential" after the word "managerial" line 17 page 6.

Sub-clause 8(2), add the words "or confidential" after the word "managerial" line 15 page 7.

Delete sub-clause 8(3) and marginal note.

Clause 9

Add the words "or confidential" after the word "managerial" in lines 23 and 27 page 7 sub-clauses 9(1) and (2).

Clause 13

Sub-clause 13(1) in the French version, substitute the words "n'est pas admissible à occuper un poste de" for the words "ne peut être nommée" line 9 page 9.

Clause 16

Paragraph 16(2)(b), substitute the words "in such a manner as to ensure that the number of members" for the words ", including one member" line 30, and substitute the words "equals the number of members" for the words "and one member" line 32 page 9.

Sub-clause 16(3), add the words ", except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote" after the word "be" line 38 page 9.

Clause 17

Sub-clause 17(1), delete the words "and has supervision over and direction of the work and the staff of the Board" lines 40 and 41 page 9, and substitute the following marginal note for the old one:

"Chairman to be chief executive officer."

Sub-clause 17(2), delete the words "and other staff from the marginal note;

Delete the words "and such other officers and employees as the Board deems necessary for the performance of its duties" lines 1 to 3 page 10;

Substitute "*Public Service Employment Act*, who shall subject to the direction of the Chairman have supervision over and direction of the work and staff of the Board" for the words "Civil Service Act" line 4 page 10.

Add a new sub-clause 17(3) and marginal note:

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the *Public Service Employment Act*." "Other staff"

Re-number old sub-clause 17(3) as 17(4),

Delete the words "on behalf of the Board" line 5 page 10,

Delete the commas after the words "appoint" and "of" line 6, page 10,

Add the words ", subject to the approval of the Governor in Council," after the words "appoint and" line 6 page 10.

Clause 19

Paragraph 19(1)(f), add the words "in respect of a bargaining unit or any employee included therein" before the word "where" line 43 page 10;

Delete paragraph 19(1)(k) lines 24 to 29 page 11 and substitute therefor:

"(k) the authority vested in council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;"

Clause 20

Sub-clause 20(1), substitute the word "shall" for "may" line 38 page 11.

Clause 23

Clause 23, delete the word "shall" line 29 page 13 and substitute therefor "or either of the parties may";

Substitute the words "but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof" for the words "and thereupon any proceedings in connection with that matter shall, unless the Board otherwise directs, be suspended until the question is decided by the Board" lines 31 to 34 page 13.

Clause 26

Delete clause 26 in toto with marginal notes lines 1 to 29 inclusive pages 14 and substitute therefor:

"Specification of occupational groups.

26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Where objection filed.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

(a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining, and

(b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

Times relating to commencement of collective bargaining during initial certification period.

(6) During the initial certification period, in respect of each occupational category,

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

Other occupational categories.

(7) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purpose of this Act, the Board shall, at the time of making the determination,

(a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

Clause 27

Delete the "s" at the end of the word "sections" and "29 and" line 33 page 14.

Clause 28

Delete the "s" at the end of the word "sections" and "29 and" line 3 page 15 sub-clause (1).

Delete paragraph 28(1)(b) lines 11 to 18 inclusive and substitute therefor:

"(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent."

Re-number sub-clause 28(3) as Clause 29 and insert the words "of section 28" after "subsection (2)" line 20 page 15.

Clause 29

Delete old Clause 29 in toto with marginal note lines 25 to 29 inclusive page 15.

Clause 31

Substitute the words "six months" in marginal note for the words "one year".

Clause 32

Sub-clause 32(1),

Substitute "4" for "3" in the brackets, line 33 page 16.

Sub-clause 32(3),

Delete therefrom ", or whose duties or responsibiilities are such that in the opinion of the Board his inclusion in the bargaining unit as a member thereof would not be appropriate or advisable" lines 3 to 6 page 17.

Clause 34

Paragraph 34(d),

Delete the words "act for the members of the organization in the regulation of relations between the employer and such members" lines 33 to 36 page 17 and substitute therefor "make the application"

Clause 35

Paragraph 35(1)(b),

Add the word "and" after the semicolon line 9 page 18.

Paragraph 35(1)(c),

Delete the word "and" after the semicolon line 13 page 18.

Delete paragraph 35(1)(d) lines 14 to 17 inclusive.

Clause 36

Delete the words "as condition of certification" from marginal note.

Sub-clause 36(1)

Substitute "Subject to sub-section (2) of section 37, every" for the words "No employee organization shall be certified by the Board as" lines 34 and 35 page 18;

Delete the words "until the employee organization has specified" line 36 and substitute the word "shall" therefor;

Add the word "specify" after the word "prescribed" line 37;

Substitute the word "it" for the words "the employee organization" lines 39 and 40;

Substitute the words "in respect of" for the words "if it is subsequently certified by the Board as bargaining agent for that" lines 40 and 41.

Sub-clause 36(2)

Substitute the words "a bargaining agent" for the words "an employee organization" line 43 page 18;

Substitute the words "in respect of" for the words "if it is subsequently certified as bargaining agent for" lines 44 and 45;

Substitute the words "bargaining agent" for the words "employee organization and if it is satisfied that the other requirements for certification established by this Act are met" line 47 to 49;

Substitute the words "bargaining agent" for the words "employee organization" line 1 page 19;

Substitute "bargaining agent" for "employee organization" lines 6 and 7.

Sub-clause 36(3)

Delete in toto with marginal note lines 8 to 13 inclusive page 19.

Clause 37

Sub-clause 37(1)

Delete the words "certification to record" from the marginal note and substitute the words "to be recorded" therefor, after the word "disputes";

Delete the old sub-clause 37(1) lines 14 to 18 inclusive and substitute

"(1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified."

Sub-clause 37(2)

Substitute the words "a bargaining agent" for "an employee organization" line 20, page 19;

Add the words "subsection (1) of" before the word "section" line 20;

Add the words "of this section shall" after the word "subsection (1)" line 21;

Delete the words "as part of its certification as bargaining agent for a bargaining unit shall, notwithstanding that another employee organization may subsequently be certified as bargaining agent for the same bargaining unit," lines 21 to 25;

Substitute the words "from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process" for the words "during the period of three years immediately following the day on which the first collective agreement or arbitral award binding on the employer and the bargaining agent that specified the process comes into force in respect of that bargaining unit" lines 26 to 31.

Clause 38

Sub-clause 38(2)

Delete in toto with marginal note lines 38 to 45 inclusive page 19 and substitute therefor:

"Alteration to be included.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute."

Sub-clause 38(3)

Delete in toto with marginal note lines 46 to 48 inclusive page 19 and substitute therefor:

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2)." "Effective date and duration."

Sub-clauses 38(4) and (5)

Delete sub-clauses 38(4) and (5) in toto with marginal notes lines 1 to 16 inclusive page 20.

Clause 39

Sub-clause 39(3)

Add the word "sex," after the word "of" line 36 page 20;

Substitute the word "national" for the words "creed, colour, nationality, ancestry or place of" line 37;

Add the words ", colour or religion" after the word "origin" line 37.

Clause 43

Sub-clause 43(1)

Delete the words "it appears to" after the word "time" line 3 page 23;

Add the words "is satisfied" after the word "Board" line 3;

Substitute the word "shall" for the word "may" line 6.

Clause 49

Sub-clause 49(1)

Delete the words "the employees in" line 27 page 24,

Add the words "and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36," after the word "unit" line 28.

Clause 51

Paragraph 51(a)

Delete the words "the negotiating relationship between the parties has been terminated and" lines 25 to 27 page 25.

Subparagraph 51(a)(ii)

Add the words "a collective agreement has been entered into or" after the word "and" line 41 page 25.

Clause 52

Delete Clause 52 in toto with marginal notes lines 14 to 23 inclusive page 26.

Clause 53

Re-number as Clause 52.

Clause 54

Re-number as Clause 53.

Clause 55

Sub-clause 55(1)

Substitute the words "Treasury Board" for "Minister" in the marginal note;

Re-number as Clause 54;

Delete the words "Minister who presides over the" line 37 page 26;

Substitute the words "in such manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the *Financial Administration Act*" for "on behalf of the Treasury Board and with the approval of the Governor in Council" lines 38 and 39.

Sub-clause 55(2)

Re-number as Clause 55.

Clause 56

Paragraph 56(2)(b)

Substitute the letter "C" for the letter "B" after the words "Schedule" line 38 page 27.

Clause 57

Paragraph 57(2)(b)

Substitute "(6) of section 26" for "(3)" line 4 page 28;

Delete sub-clause 57(3) in toto with marginal note lines 7 to 16 inclusive page 28;

Delete sub-clause 57(4) in toto with marginal note lines 17 to 23 inclusive page 28;

Sub-clause 57(5)

Re-number as sub-clause 57(3) and delete "or (3)" line 24.

Clause 58

Add a comma after the word "employer" line 31 page 28;

Substitute the word "on" for "and" line 31;

Add the words "and its constituent elements," after the word "thereto" line 32.

Clause 63

Sub-clause 63(1)

Substitute the words "Secretary of the Board" for the word "Chairman" line 39 page 30.

Sub-clause 63(1) French version

Substitute the word "une" for the word "aucune" line 39 page 32.

Paragraph 63(1)(a)

Delete the words "the negotiating relationship between the parties has not been terminated" lines 1 to 3 page 31 and substitute therefor "no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining".

Clause 64

Sub-clause 64(1)

Substitute "Secretary of the Board" for the word "Chairman" line 19 page 31;

Substitute the word "Secretary" for the word "Chairman" lines 20 and 22;

Substitute the words "arbitration was requested" for "negotiating relationship between them was terminated" lines 25 and 26.

Clause 67

Re-number as sub-clause 67(1).

Add new sub-clause 67(2) and marginal note:

"Where agreement subsequently reached.

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof."

Clause 68

Delete the words "and have regard to" line 20 page 32.

Clause 70

Sub-clause 70(3)

Substitute the words "arbitration was requested in respect thereof" for "the negotiating relationship between them was terminated" lines 25 and 26 page 33;

Sub-clause 70(4)

Substitute the words "to be limited to bargaining unit" for "not to contain informational material" in the marginal note;

Delete the words "and shall not contain reasons or any material for informational purposes or otherwise that does not relate directly to the fixing of those terms and conditions" lines 30 to 32 page 33.

Clause 71

Sub-clause 71(2)

Delete the words "rendered by chairman" from the marginal note;

Substitute the words "A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof" for the words "Where not all the members of the Arbitration Tribunal agree on the terms of an arbitral award that is to be made" lines 38 to 40 page 33;

Substitute the word "of" for "rendered by" line 40.

Clause 72

Sub-clause 72(2)

Add a comma and two new paragraphs after the word "before" line 27 page 34:

"(a) in the case of an arbitral award rendered during the initial certification period, a day six months before the day specified in Column II of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case,"

Clause 73

Sub-clause 73(2)

Add the words "Subject to sub-section (6) of Section 26," before the word "no" line 9 page 35;

Add the words "or more than two years" after the word "year" line 12;

Delete sub-clause 73(3) and marginal note lines 14 to 24 inclusive page 35.

Clause 75

Delete the words "The Chairman may refer back to the Arbitration Tribunal any matter in dispute referred to the Arbitration Tribunal where it appears to him that the matter has not been resolved by the arbitration award made in consequence thereof" and substitute therefor "Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the matter back to the Arbitration Tribunal" Lines 35 to 39.

Clause 78

Paragraph 78(1)(a)

Substitute "52" for "53" line 22 page 36.

Sub-clause 78(2)

Add the words, ", but before establishing such a board the Chairman shall notify the parties of his intention to do so" after the word "agreement" line 40.

Clause 79

Sub-clause 79(5)

Substitute "Board" for the words "bargaining agent for the bargaining unit" line 41 page 37.

Clause 83

Delete the words "prepared by him" line 3 page 39.

Clause 94

Substitute the word "employee" for the word "person" lines 2, 10 and 19 page 43.

Clause 95

Sub-clause 95(1)

Add the words "Subject to any regulation made by the Board under paragraph (d) of sub-section (1) of section 99," before the word "no" line 26 page 43.

Clause 96

Paragraph 96(1)(a)

Delete marginal note and substitute therefor "Hearing of grievance."

Delete "(a)" line 3 page 44

Substitute a period for "; and" line 4.

Paragraph 96(1)(b)

Re-number as sub-clause 96(2) and add a new marginal note thereto "Decision on grievance."

Add the words "the adjudicator shall" before the word "render" line 5 page 44.

Substitute for the words "file it with the Board." after line 6 page 44 the following new paragraphs

"(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board."

Sub-clause 96(2)

Re-number as Sub-clause 96(3)

Delete "(a)" line 8 page 44

Substitute a comma for the semicolon line 9

Delete "(b)" and the words "of the board on a grievance" line 10

Delete the words ", and shall be filed by him with the Board" lines 11 and 12

Delete old sub-clause 96(3) in toto with marginal note lines 13 to 19 inclusive page 44

Sub-clause 96(5)

Substitute the words "bargaining agent" for "employee organization" in the marginal note and lines 24-25 and 25-26 page 44.

Clause 97

Sub-clause 97(2)

Delete the words "the person whose grievance it is" line 42 page 44 and substitute therefor "and the employee whose grievance it is, is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent"

Add new sub-clause 97(3) after line 4 page 45 and marginal note

"Recovery. (3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person."

Clause 99

Delete marginal note of sub-clause 99(1) and substitute therefor "Regulations re procedures for presentation of grievances."

Delete the words "the adjudication of grievances and the conduct of hearings thereon and, without limiting the generality of the foregoing, may make" lines 27 to 30 page 45 sub-clause 99(1) and substitute the word "including" therefor.

Insert the word "and" after the semi-colon line 40 page 45 paragraph 99(1)(d).

Delete paragraphs 99(1)(e) to (j) lines 41 to 43 inclusive page 45 and lines 1 to 16 inclusive page 46.

Re-number paragraph 99(1)(k) line 17 page 46 as paragraph 99(1)(e).

Delete the semi-colon and the word "and" line 19 page 46 and substitute a period therefor.

Delete paragraph 99(1)(l) lines 20 to 23 inclusive page 46.

Re-number sub-clause 99(2) as Sub-clause 99(4).

Insert new Sub-clauses 99(2) and (3) and marginal notes:

"Application of regulations.

(2) Any regulations made by the Board under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

Regulations re adjudication of grievances.

(3) The Board may make regulations in relation to the adjudication of grievances, including regulations respecting

(a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chief adjudicator to an adjudicator;

(b) the manner in which and the time within which boards of adjudication are to be established;

(c) the procedure to be followed by adjudicators; and

(d) the form of decisions rendered by adjudicators."

Clause 103

Sub-clause 103(1)

Add the words ", after affording an opportunity to the employee organization to be heard on the application," after the word "Board" line 44 page 74.

Sub-clause 103(2)

Add the words ", after affording an opportunity to the employer to be heard on the application," after the word "Board" line 8 page 48.

Clause 109

Substitute "D" for "C" after the word "Schedule" line 11 page 49.

Clause 113

Sub-clause 113(2)

Substitute the words "excludes any corporation" for "acts to, or has heretofore acted to, exclude in whole or in part a corporation established to perform any function or duty on behalf of the Government of Canada" lines 9 to 12 page 50.

Substitute "shall" for "may" line 14

Substitute the words "add the name of that corporation to Part I or Part II of Schedule A" for "in respect of that corporation or part thereof,

(a) where it is added to Schedule A to this Act, apply, or

(b) where it is added to Schedule A to this Act, confirm its exclusion from,

the provisions of the said Part I"

Clause 114

Delete sub-clause 114(2) in toto with marginal note lines 24 to 26 inclusive page 50 and re-number sub-clause 114(1) as Clause 114.

Schedule A

Delete the words "(except the positions therein of members of the force)" after the words "Royal Canadian Mounted Police" page 51.

Schedule B

Reletter Schedule B as Schedule C

Delete "*Civil Service Act*"

Add "Public Service Employment Act" in alphabetical order page 53

Add new Schedule B

SCHEDULE B

Initial Certification Period

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agreement may be entered into or arbitral award rendered)	Column III (Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Feb. 28, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969

Schedule C

Reletter Schedule C as Schedule D page 53.

Your Committee is concerned about the position of public servants who, under the proposed legislation (Section 2(u)) will be excluded from bargaining units because of their managerial or executive responsibilities, or because they occupy positions confidential to management.

Under the administrative and legislative procedures now in effect, staff associations that are members of the National Joint Council are authorized to make representations to the Civil Service Commission and the Treasury Board with respect to salaries and other terms and conditions of employment of classified civil servants, including many who, because they have managerial responsibilities, will be excluded from bargaining units under the provisions of this legislation.

Your Committee urges the Government to establish, not later than six months after this legislation comes into effect, special administrative mechanisms and procedures which will provide those who are excluded from bargaining units with an opportunity to make representations relating to their salaries and other terms and conditions of employment, in such manner and fashion as will provide assurance that their views on these matters are taken into account and have a bearing on the determination of their salaries and other terms and conditions of employment.

For this purpose, your Committee recommends the creation of an Advisory Committee, comparable to the Franks Committee (Standing Advisory Committee for the higher grades in the Civil Service) in Great Britain, which should, in its terms of reference, be required to consider the salaries and other terms and conditions of persons excluded from bargaining units in a regular and systematic fashion, to afford representatives of such persons a full opportunity to be heard during its consideration of these matters, and, with due regard to the salaries and other terms and conditions of employment that have been established for employees as the result of collective bargaining, advise the Government on the appropriateness of the salaries and other conditions of employment applicable to such persons.

Your Committee has noted that the employees of the Senate, the House of Commons and the Library of Parliament are not included in Bill C-170 but are covered by other Acts.

Your Committee recommends that consideration be given to the introduction of legislation to amend the Senate and House of Commons Act, the House of Commons Act and the Library of Parliament Act to extend to the employees thereunder advantages and rights similar to those provided public servants under Bill C-170.

Your Committee recommends that the Government consider legislation to continue the Pay Research Bureau and to provide for the data collected thereby to be available to the bargaining parties under Bill C-170.

Your Committee has ordered a reprint of the Bill, as amended.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (*Issues Nos. 6 to 14 inclusive, 18 to 23 inclusive, 25 and 26*) is appended.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman.

Presented Friday, February 3, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

SEVENTH REPORT

Bill C-181, An Act respecting employment in the Public Service of Canada, was referred to your Committee on Monday, June 6, 1966.

Your Committee has agreed to report the said Bill with the following amendments:

Clause 5

Paragraph 5(a), insert the words "or from within" after the word "to" line 14 page 4.

Insert new paragraph 5(d) after line 21 page 4:

"(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6, to render decisions on appeals made to such boards under sections 21 and 31 and to render decisions on matters referred to such boards under section 32;"

Re-letter paragraph 5(d) line 22 page 4 as paragraph 5(e).

Re-letter paragraph 5(e) line 27 page 4 as paragraph 5(f).

Clause 6

Insert the words "and inquiries under section 32" after "31" line 36 page 4 sub-clause 6(1) and delete the words "the conduct of" line 35 page 4.

Sub-clause 6(2), delete all the words after the word "opinion" line 37 page 4 and substitute the following therefor:

"(a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this section, does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy, or

(b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted,

the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and may thereupon appoint that person at a level that in the opinion of the Commission is commensurate with his qualifications."

Insert new sub-clause 6(3) and marginal note before line 1 page 5:

"Idem. (3) An appointment from within the Public Service may be revoked by the Commission pursuant to subsection (2) only upon the recommendation of a board established by it to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard."

Re-number sub-clause 6(3) line 1 page 5 as sub-clause 6(4).

Delete sub-clause 6(4) lines 4 to 9 inclusive page 5 and substitute the following therefor:

"(5) Subject to subsection (6) a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform."

Re-number sub-clause 6(5) line 10 page 5 as sub-clause 6(6).

Clause 7

Delete comma after the word "Commission" line 24 page 5 and substitute the word "or" therefor.

Delete the words "or an officer of the Commission" line 25 page 5.

Clause 8

Delete the words "of persons to the Public Service" line 31 page 5 and substitute the following therefor: "to or from within the Public Service of persons".

Clause 10

Insert the words "or from within" after the word "to" line 1 page 6.

Insert the words "of personnel selection designed to establish the merit of candidates" after the word "process" line 5.

Clause 12

Sub-clause 12(2), insert the word "sex" and a comma thereafter in line 24 page 6 after the word "of".

New sub-clause 12(3) and marginal note, insert after line 25 page 6:

"Consultation. (3) The Commission shall from time to time consult with representatives of any employee organization certified as bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that Act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of

employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable."

Clause 14

Delete Clause 14 and marginal note lines 37 to 40 inclusive page 6 and substitute the following therefor:

"Notice.

14. (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

Idem.

(2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases."

Clause 16

Delete sub-clause 16(2) and marginal note lines 11 to 16 inclusive page 7 and substitute the following therefor:

"Languages in which examination to be conducted.

(2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined."

Clause 21

Delete lines 23 to 32 inclusive page 9 and substitute the following therefor:

"may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment,

accordingly as the decision of the board requires."

Clause 22

Delete the words "notwithstanding any other Act," line 33 page 9.

Clause 26

Insert the words ", in writing," after the word "accepts" line 12 page 10.

Clause 27

Insert the words "for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than" after the word "than" line 15 page 10.

Clause 28

Delete sub-clause 28(4) and marginal note lines 38 to 42 inclusive page 10 and substitute the following therefor:

"Idem. (4) Where a deputy head gives notice that he intends to reject an employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

Idem. (5) Notwithstanding anything in this Act, a person who ceases to be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service, and

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

Clause 31

Delete sub-clause 31(3) lines 11 to 20 inclusive page 12 and substitute the following therefor:

"(3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the employee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(a) notify the deputy head concerned that his recommendation will not be acted upon, or

(b) appoint the employee to a position at a lower maximum rate of pay, or release the employee,

accordingly as the decision of the board requires."

Sub-clause 31(4), delete the words "taken to the Commission" line 21 page 12 and substitute the word "made" therefor.

Clause 32

Delete Clause 32 in toto with marginal notes lines 29 to 44 inclusive page 12 and substitute therefor:

"Political partisanship. 32. (1) No deputy head and, except as authorized under this section, no employee, shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or

(b) be a candidate for election as a member described in paragraph (a).

Excepted activities.

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

Leave of absence.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate.

Notice.

(4) Forthwith upon granting any leave of absence under subsection (3), the Commission shall cause notice of its action to be published in the *Canada Gazette*.

Effect of election.

(5) An employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon ceases to be an employee.

Inquiry.

(6) Where any allegation is made to the Commission by a person who is or has been a candidate for election as a member described in paragraph (a) of subsection (1), that a deputy head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of an employee, may, if the board has decided that the employee has contravened subsection (1), dismiss the employee.

Application of ss. 6.

(7) In the application of subsection (6) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act."

Clause 45

Insert the words "the nature of any action taken by it under subsection (1) or (4) of section 6," after the word "year" line 15 page 16.

Delete the word "of" after the word "and" line 16 page 16.

There was no provision in the original Bill allowing any political activity for employees of the Public Service. Your Committee has amended the said Bill to permit certain political rights. The consensus is that the whole question of political participation by public servants should be reviewed after the next general election in the light of experience and knowledge gained to that time. Interested groups might then wish to make more specific representations for the consideration of Parliament.

Your Committee has ordered a reprint of the Bill, as amended.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (Issues Nos. 6 to 8 inclusive, 10 to 12 inclusive, 14 to 17 inclusive, 23, 25 and 26) is appended.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman.

Presented Friday, February 3, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

EIGHTH REPORT

Bill C-182, An Act to amend the Financial Administration Act was referred to your Committee on Monday, June 6, 1966.

Your Committee has agreed to report the said Bill with the following amendments:

Clause 3

Insert the words "including its responsibilities in relation to employer and employee relations" after the word "management" line 45 page 2.

Insert a comma after the word "service" line 45 page 2.

Delete the words "or dismiss" line 46 page 4.

Insert the words "or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person has been given an opportunity of being heard, to dismiss any such person" immediately after the word "service" line 47 page 4.

Your Committee has ordered a reprint of the Bill, as amended.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (Issues Nos. 6 to 8 inclusive, 13, 14, 24 to 26 inclusive) is appended.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman.

Presented Friday, February 3, 1967.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

Copies and complete sets are available to the public by subscription to the Queen's Printer. Cost varies according to Committees.

Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

No. 28

THURSDAY, FEBRUARY 9, 1967

Respecting

PENSIONS

WITNESSES:

Messrs. H. D. Clark, Director of Pensions and Social Insurance Division; C. E. Caron, Assistant Director, Superannuation Branch, Department of Finance; E. E. Clarke, Chief Actuary, Insurance Department.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25474—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Éthier,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Tardif,
Mr. MacKenzie,	Mr. Hymmen,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(HOUSE OF COMMONS)

TUESDAY, January 10, 1967.

Ordered,—That the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be empowered to inquire into and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act; and

That a Messsage be sent to the Senate informing Their Honours of this resolution and requesting that House, if it concurs, to authorize the committee to inquire into and report upon this matter.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

(SENATE)

WEDNESDAY, February 1, 1967.

The Honourable Senator Bourget, P.C., moved, seconded by the Honourable Senator Macdonald, P.C.:

That the Senate do agree that the Special Joint Committee of the Senate and House of Commons on the Public Service be empowered to inquiry into and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The question being put on the motion, it was—

Resolved in the affirmative.

25474—1½

MINUTES OF PROCEEDINGS

THURSDAY, February 9, 1967.
(49)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.12 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Fergusson, MacKenzie (5)

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Hymmen, Knowles, Lewis, McCleave, Orange, Patterson, Richard, Tardif, Walker (12).

In attendance: Messrs. H. D. Clark, Director of Pensions and Social Insurance, and C. E. Caron, Assistant Director, Superannuation Branch, Department of Finance; Mr. E. E. Clarke, Chief Actuary, Department of Insurance.

The representatives of the Departments of Finance and Insurance briefed the Committee on the Superannuation Act and Account.

The Committee agreed to print the Report on the Administration of the Public Service Superannuation Act for the Fiscal Year ended March 31, 1966, as an appendix to the proceedings. (*See Appendix W*)

The Clerk of the Committee advised that certificates had been filed by Mr. Chatterton requesting the presence of certain officials of the Federal Superannuates National Association as witnesses.

Moved by Mr. Knowles, seconded by Mr Bell,

Resolved,—That reasonable living and travelling expenses be paid to the 1st Vice-President, the 2nd Vice-President and the National Secretary-Treasurer of the Federal Superannuates National Association, who have been called to appear before the Committee on Tuesday, February 14, 1967.

At 12.28 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY February 9, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Madame senator, honourable senators and members of the House of Commons, this joint Committee—which is one of the most active committees in the history of the House so far as the order of reference to civil servants is concerned—will, after having completed this order, have covered for the first time in the history of this Parliament, all the relationships of civil servants to government. At this time, I would like to recall that last year we did deal with the Superannuation Act, and we have now reported to the House three other bills which are of a new character in the relationship of civil servants to government and to Parliament.

This morning, the order of reference reads that the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be empowered to inquire and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act. If we are successful in completing our inquiry that would, I think, be the crowning effort of this Committee because at that time we will have inquired into all phases of the activities of civil servants in Canada.

Mr. WALKER: In office hours.

The JOINT CHAIRMAN (*Mr Richard*): There is, however, another group. I do not want to anticipate more work, but there is another group which the Minister has just referred to me a few days ago in a letter of February 3. In his letter he mentions, I think, it was clearly an oversight as a supplementary reference to this matter that it did not include a reference to the armed forces and the Royal Canadian Mounted Police. With the permission of the Committee, therefore, I think I should be allowed to request the Minister to enlarge his order of reference so that at some time after we dispose of the first order, we should be allowed to examine the case of superannuated members of the armed forces and the Royal Canadian Mounted Police.

Mr. KNOWLES: While we are enlarging it, are there any others in the category of retired employees of the government?

The JOINT CHAIRMAN (*Mr. Richard*): I do not wish to make suggestions, but I think Mr. Knowles has in mind some of the problems which we all have individually, and I as wondering whether we could not ask the Minister to give us an even broader reference as a third group anybody else who might be classified as a pensioner—if that is the proper term—of the government in any activities or employment that he may have had with the government.

Mr. KNOWLES: Anyone who is a pensioner of the government on the basis of employment.

The JOINT CHAIRMAN (*Mr. Richard*): That is right.

Mr. MCCLEAVE: That includes, for example, certain widows; some of former cabinet ministers' some of former mounted police officers who lost their lives at an early age of service. Did you have this in mind, Mr. Chairman?

The JOINT CHAIRMAN (*Mr Richard*): I did not have this in mind particularly—

Mr. MCCLEAVE: These are usually statutory.

The JOINT CHAIRMAN (*Mr. Richard*): —although I see we have one with us no—Mr. Bell is a former cabinet minister—but I do not know; there will be no widow for a long time.

Mr. MCCLEAVE: The statutory payments, for example, to the widow of a former minister of national defence who is one of those receiving a statutory pension seem very, very small to me. I was wondering whether the terms would be broad enough to include her?

The JOINT CHAIRMAN (*Mr. Richard*): I would hesitate to place this Committee in the position that we are inquiring really into that type of problem. As I understood in the beginning, we are applying ourselves more to the problem of regular employees of the Crown and pensioners of the crown.

Mr. KNOWLES: I think there are a number of other acts that came into the schedule when we were dealing with bill No. C-191 last year concerning diplomatic employees and maybe some others. All I am suggesting is that Mr. Benson's further term of reference name not just two other acts, but the kind of reference that would include any persons on pensions based on employment with the government.

The JOINT CHAIRMAN (*Mr Richard*): You want an omnibus reference, would not that be satisfactory?

Mr. KNOWLES: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): That does not stop us at a future time if we have time to sit—

Mr. KNOWLES: I am sure we are all very glad that Mr. Benson made the suggestion that the RCMP and armed forces pensioners be included.

The JOINT CHAIRMAN (*Mr. Richard*): Now, this morning, with us are Mr. H. D. Clark, Director of Pensions and Social Insurance, Mr. E. E. Clarke, the actuary, and Mr. C. E. Caron who is in charge of administration. I understand Mr. Clark, the Director, has an opening statement which he wishes to make at this time.

Mr. H. D. Clark (Director of Pensions and Social Insurance, Department of Finance): Thank you, Mr. Chairman, honourable senators and members of the House of Commons. I have been requested to prepare an explanation of the various superannuation provisions applying to retired civil servants or their surviving dependents. In doing so, I thought it would be helpful to members of this Committee if I were to sketch as briefly as possible the development of the more important of these provisions over the years since Confederation.

The first Civil Service Superannuation Act was passed in 1870 and was intended primarily to provide an easy means of dispensing with the services of

employees after they had passed their useful periods of employment. The benefits under this first Act were based on the average salary over the last three years of service and were calculated at the rate of 2 per cent of this average for each year of service up to a maximum of 35 years.

At that time there was no provision for dependents' benefits nor, in fact, were such provisions made for over 50 years. Employees were required to contribute 4 per cent of salary when the salary was $600 and over, or 2½ per cent if the salary was less than $600. So you will appreciate the average salary level with which they were dealing in those days. It was thought at the time that no other contribution would be required, and so there was no provision for a government contribution or the crediting of interest on the fund created by the excess of contributions over the benefits. The optimistic point of view was again evident in 1873 when, presumably, because of the size of the initial excess of contributions over benefits, the Act was amended by reducing the already low contribution rates to 2 per cent when the salary was $600 or over, and to 1¼ per cent if it was below $600.

However, this optimism was short lived, for over the next 20 years the picture changed completely. By 1892, the fund was losing heavily, for in that year some $250,000 was paid out in benefits compared to contributions of only some $50,000. Of course, they were dealing in much smaller figures in those days, but a loss of $200,000 was a matter of great concern. This was too much for the Parliament of the day, so that steps were taken in 1893 to increase the revenues of the fund by raising the contribution rates for future entrants, but only to 3½ per cent for those earning $600 and over and to 3 per cent for lower salaries. In addition, provision was made for the crediting of interest to the fund for the first time.

These measures did not substantially improve the financial position of the superannuation fund, with the result that in 1898 Parliament took the perhaps extreme step of closing the original act to new entrants for whose benefit a new Civil Service Retirement Act was enacted in its place. This new Act avoided the unexpected deficits of its predecessor by establishing a retirement fund which still exists and provided for contributions by the employees alone, while the government credited interest on their contributions year by year. The sole benefit which an employee received from this fund on retirement was, then, a return of his contributions together with the interest which they had earned.

However, as you would expect, the absence of pension benefits under this new legislation brought back the problems which had led to the original act in 1870. As time went on and this post-1898 group of permanent employees increased and reached normal retirement age, departments were understandably reluctant to retire them without a pension and so retained many of them in the service after they should have been retired either on account of age or ill health.

This situation led to the passage of the Public Service Retirement Act of 1920 as an interim measure to make it possible to retire these older people on pension. By way of illustrating this problem, that Act made it possible to retire 679 employees who were then over the age of 70. Of these 12 were aged 85 to 89 and 4 were 90 to 92, so that the retirement fund approach obviously failed.

The ensuing years saw the preparation and ultimately the passing of the second Civil Service Superannuation Act of 1924, which was designed so as to

overcome both the financing and the staff retirement problems which had plagued the previous legislation. Accordingly, contributions were set at the higher level of 5 per cent of salary by the employees and the old benefit formula was changed to provide for the calculation of the average salary on the last ten instead of on the last three years for new permanent employees. On the other hand, as an improvement, benefits for widows and surviving children were introduced to the benefit picture for the first time. As a transitional measure, certain permanent employees who were not covered by the original Civil Service Superannuation Act of 1870, but who joined the new plan by July 19, 1927, were given the benefit of the five-year average salary formula for calculating their benefits.

At that time it was anticipated that the combination of a less favourable benefit formula together with the higher rate of contributions by employees which were to be matched by the government and the payment of interest on the balance of the fund, would avoid the deficits of the original Act. However, by 1939-40, Parliament was satisfied once again that this higher rate of contribution was still too low in the case of male employees, and so approved a sliding scale of contributions of 5, 5½ and 6 per cent depending on the salary level in the case of new male contributors.

As several members of this Committee will recall, the Civil Service Superannuation Act of 1924 was replaced on January 1, 1954, by the present Public Service Superannuation Act. It, by the way, has been subsequently amended, but the title is the same as in 1954. In so far as contributions and the benefit formula were concerned, the principle change was to increase the contribution rates for all male employees to 6 per cent. The only change in the benefit formula was to provide for the calculation of the average salary over the best ten years instead of the last ten years. More recently, it will be recalled, the benefit formula for persons retiring on and after July 13, 1960, was improved by reducing the number of years over which the average salary was calculated from the best ten to the best six. At the same time, the male contribution rate was increased to 6½ per cent, while it was still found possible to leave the rate for female employees at 5 per cent.

Since then the major amendments to the Public Service Superannuation Act were those relating to co-ordination with the Canada Pension Plan which were approved earlier in this session of Parliament following consideration of them by this Committee.

From the foregoing, Mr. Chairman, you will have observed that the original concept of paying for the benefits, so far as possible, out of the contributions of active employees no longer proved acceptable when Parliament found that in time it had to appropriate far greater amounts in order to pay the pensions of retired civil servants. This led to the development of the new Civil Service Superannuation Act in 1924 which was intended to provide a funded pension plan under which the employees and the government would pay equal contributions in respect of current service and interest would be credited by the government on the balance of the fund.

It was hoped that this approach would prevent the recurrence of the situation which existed around the end of the last century when the government was faced with budgetary expenses far in excess of employee contributions in

order to pay the pensions of those who had retired. As members of the Committee will know from reading the various annual reports on the administration of the Act, as well as the reports on the quinquennial valuation of the Superannuation account, these hopes did not materialize. A number of factors combine to require much higher contributions from the government than those resulting from a matching of the employee contributions in order to meet the liabilities of this plan. This became evident to Parliament and the public as a whole at the time of the tabling of the actuarial report on the fund during the year 1951. This led to the adoption of the policy of showing, in the statement of the accounts of the fund, the full known liability as estimated by the chief actuary of the Department of Insurance, and as reported to the Minister and, in turn, to parliament from time to time.

Just by way of illustration, before this new policy started, on March 31, 1950, the balance to the credit of the superannuation account was $103.5 million and in the annual report, which was tabled yesterday, the balances at March 31, 1966, had gone up to $2,390 million; in other words, an increase of about $2.3 billion over the 16 years since the new policy was adopted. This of course largely represents credits by the government from time to time over the years, but it reflects the additional liability on which Mr. Ted Clarke, the chief actuary of the Department of Insurance, will be speaking later this morning.

One of the more important of the factors which contributed to this situation was the series of general salary increases which commenced in the late 1940's and led to the payment of pensions much higher than the normal contribution structure was intended to cover. This in turn led to the statutory requirements which now appear in the Act for additional contributions by the government from time to time as reflected in the estimates, the public accounts, and the annual reports, the latest of which as I mentioned earlier, was tabled only yesterday in the House of Commons.

This brings me to the end of the somewhat abbreviated history of almost a hundred years of superannuation for federal civil servants, and I might say here that looking at the terms of reference of the committee I dealt only with the basic provisions in the various superannuation and retirement Acts. Any question of providing for an increase in pensions after retirement has been regarded as one which should be considered apart from the basic Acts and the status of the various superannuation accounts.

Thus, the present Public Service Pension Adjustment Act provides for certain increases in pensions with the cost of these increases being treated as a budgetary charge quite independent of the superannuation account to which the basic pension itself is charged. This Act of 1959 which replaced regulations made under a vote in an Appropriation Act in 1958, provided increases in pensions of up to 32 per cent in the cases of those who retired before June 1, 1953. This was subject, however, to the limitation that the pension in the case of the former contributor would not be increased beyond $3,000 and in the case of a widow beyond $1,500, subject also to maximum increases of $640 in the case of the former civil servant or $320 in the case of the widow. The way in which these percentages were applied, as you will recall from the legislation of the time, was on a sliding scale which decreased from the maxinum of 32 per cent for those who retired in 1945 and earlier to zero at a variety of dates depending upon the pension formula which applied to these employees.

Just to sum up, the percentage adjustments were made on a series of sliding scales which depended upon the date of retirement and the pension formula applicable to the pensioner. Since the basic pension formula gave a better pension to a person whose pension was based on his average salary, for example, over six years rather than over ten, the Pension Adjustment Act provided a more favourable adjustment in respect of those whose average salary was based on the longer period, thus compensating for the greater increase in the cost of living and, incidentally, of salary during the period over which this calculation was made.

Now, just to give you an idea of the amounts involved, I have mentioned the 32 per cent ceiling for those that retired in 1945 and earlier coming down to zero, in some cases, in 1953 and in other cases as early as 1948, where the pension was based on the salary at the date of retirement. The increased benefits were originally estimated to cost about $3 million a year and then these costs would taper off over the years. These estimates have proven very accurate. I believe the figure is now down around $2 million a year that is being spent on these increases under the old legislation.

Now, I should also mention, as you will recall from what the Chairman said at the start of the meeting, that the Pension Adjustment Act was not confined to civil servants and so it had to reflect the provision of other statutes relating, for example, to members of the armed forces and the RCMP. I do not recall that we had to apply it to any former members of the diplomatic corps who were under the Diplomatic Service Superannuation Act, and I know it did not apply to former members of Parliament under the Members of Parliament Retiring Allowances Act. I doubt very much that it applied to the Judges Act which is another one which might come in the category which you would consider, but this is something that could be examined later.

Thus, there was, as you will recall, a somewhat complex series of tables included in the law. All in all there were six columns of different percentages based on the pension formula, but these were required to give effect to the pension adjustment policy in relation to the variety of formulae which were developed over the years as described in the earlier part of my explanation.

Mr. Chairman, I feel that this is the extent of what, at least for this morning, I was asked to cover. Mr. Caron is going to speak in relation to the annual report that was tabled yesterday and other administrative matters, and we thought that Mr. Ted Clarke then would speak on the actuarial position of the accounts.

The JOINT CHAIRMAN (*Mr. Richard*): I suggest to the Committee that we proceed with these gentlemen so we will have a full picture.

Mr. KNOWLES: This is not a question of substance; may I just ask whether copies of that report which was tabled in the House yesterday are available to us?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: Could we have them?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. The next witness is Mr. Caron.

Mr. WALKER: Are you ready, Mr. Caron?

The JOINT CHAIRMAN (*Mr. Richard*): Wait until the reports have been distributed.

Mr. C. E. Caron (Assistant Director, Superannuation Branch, Comptroller of the Treasury): Mr. Chairman, honourable senators, members of the House of Commons, I thought that if this was the wish of the Committee, before speaking on the annual report it might be useful to recapitulate briefly the benefit provisions of the Public Service Superannuation Act and the basis on which these benefits are determined, and then we could just very rapidly go through the highlights of this report which was tabled yesterday. If this is the Committee's wish, I will proceed accordingly.

The JOINT CHAIRMAN (*Mr. Richard*): Proceed.

Mr. CARON: I would like to say first that basically we have four types of benefits under the Public Service Superannuation Act. The first one is an immediate annuity hich, by definition, is payable to the former contributor, immediately upon his becoming entitled to it. The second one is a deferred annuity; that is, an annuity that becomes payable at age 60 or, if you wish, its actuarial equivalent payable as early as age 50. Thirdly, we have what we call a cash termination allowance. I should qualify this statement at this point by saying that the expression is now used in lieu of the old expression "cash gratuity" which was used before and, as far as the annual report is concerned, we should perhaps be talking in terms of cash gratuities if we speak on that question, because the people who have retired in the year ending March 31, 1966, retired prior to the amendments which were approved by Parliament last summer. The fourth type of benefit—if one wants to call it a benefit is simply a return of contributions which represent the refund of all moneys paid by a contributor into the superannuation account.

Generally speaking, an immediate annuity may be paid to an employee who ceases to be employed in the public service having reached 60 years of age or by reason of having become disabled. The deferred annuity may be paid to an employee who ceases to be employed in the public service for any reason other than disability or misconduct and who has to his credit, five or more years of pensionable service. The gratuity may be paid at the option of a disabled contributor in lieu of an immediate annuity. Finally, a return of contributions is automatically paid to one who has to his credit less than five years of pensionable service or, under certain circumstances, to one who has five or more years of service. There are, of course, benefits too for widows and children, but I will not go into them at this time.

Subject to the adjustments which now have to be made as a result of the amendments to the plan occasioned, as you know, by its integration with the Canada Pension Plan or the Quebec Pension Plan annuities, both immediate and deferred, are calculated on the basis of two per cent of the contributor's average salary during his best six consecutive years multiplied by his years of pensionable service up to a maximum of 35 years.

The concept of the public service superannuation plan as it now stands, therefore, is one where the pension is earned by the public servant as a direct consequence of his salary level and his years of service with the maximum

pension benefit obtainable by any contributor being 70 per cent of his salary during his six best consecutive years of pensionable service. Accordingly, combinations of the salary and service factors can produce a relatively high or low pension depending upon the weight of these two variables. There are other variables, but I think these are the two key ones. For example, a low salary and very few years of pensionable service obviously will produce a very low pension. Conversely, a very high salary and a long period of service would yield a high pension level. What is important to note, however, is that an extremely low level of either of these two factors—that is, years of service, or salary—will definitely tend to bring down the pension level even though the other factor may be high.

As an example, a man who had an average salary of, say, $6,000 at retirement would, if he had six years of pensionable service, be entitled to a pension equal to 12 per cent of $6,000, or $720 per year. On the other hand, approximately the same pension level could be obtained if a man had 35 years of pensionable service and, let us say for the purpose of this example, never earned more than $1,000 a year as his best six-year average salary.

Now, if I may, after this introduction, move into an examination of the annual report, I will assume that the Committee is primarily interested this morning in the pension situation of retired public servants, and I will, therefore, concentrate my attention on that side of the picture in the annual report which discusses this subject. I propose, therefore, to skip over the references to the retirement fund supplementary death benefits to which we may come back later if members of the Committee are interested and, after a quick reference to the financial position in TABLE 1, I would suggest that we spend most of our time on those tables that give us some insight into the benefit picture, and I will mainly be referring to TABLES 2, 3, 4, 7 and 8.

Now before moving into the examination of these tables, it might be useful to quote from the annual report in order to have the general picture on the membership and on the annuities. If you refer to page 1, you will note that:

> In the course of the year, 26,583 employees became contributors while 18,452 employees ceased to contribute resulting in an increase of 8,131 contributors. As at March 31, 1966, there were 185,045 active contributors under the Public Service Superannuation Act.
>
> During 1965-66 3,279 immediate annuities, 106 deferred annuities, and 21 actuarial equivalent allowances became payable. Also, 1,446 widows' allowances and 608 children's allowances became payable. As at March 31, 1966, there were 49,440 persons receiving pension benefits payable out of the Superannuation Account. These include 30,923 former employees, 15,252 widows and 3,265 children.

Mr. LEWIS: Earlier you mentioned the fact the some employees ceased to contribute. I imagine that includes those who were retired and some who had 35 years of service and were continuing in employment.

Mr. CARON: Yes, we will go into the details of those who have retired when we go to the tables.

Mr. LEWIS: All right.

Mr. CARON: There are, of course, people who simply cease to continue to contribute and they are included in the global figure of employees who cease to contribute to the fund.

> The average annuity which became payable to employees was $1,949. Widows, on the other hand, received an average allowance of $855 and children $156. These annuities would be much higher if the employees concerned had all completed thirty-five or more years of service, as can be seen from the following table:

You will note in the table on page 1 that there is a tendancy for the average immediate annuity to go down in value as the years of service equally go down themselves, so that many who retire after comparatively short periods of service receive annuities which are much smaller than would otherwise be the case.

Now, if you wish I would like briefly to go over tables that I mentioned earlier, TABLES 1, 2, 3, 4, 7 and 8, and just highlight the main features.

If you refer to TABLE 1, I will just mention here, or highlight if you wish, the fact that the employee contributions during the fiscal year 1965-1966 amounted to $66.7 million. This represents almost a doubling of the contributions that were being received in 1956-57.

Mr. WALKER: Excuse me; what table are you working on?

Mr. CARON: Table 1.

Mr. BELL (*Carleton*): I wonder whether or not the proceedings will be intelligible to readers today and whether these tables that are being referred to ought not to be an appendix to the preceedings?

The JOINT CHAIRMAN (*Mr. Richard*): I was going to suggest that the whole report as tabled should be an appendix to our proceedings today. Is that agreed?

Some Hon. MEMBERS: Agreed.

Mr. CARON: Now, if we quickly refer to Part 2 of TABLE 1 just to compare the employee contributions—that is, the income picture with the expenditure picture you will note in the first column of Part 2 of TABLE 1 which is entitled, "Expenditures and Balance to the Credit of Account", that the annuities in pay in the fiscal year 1965-66 amounted to $57.7 million and if you compare this with 1956-57, you will see that this amount has really more than doubled. Do you follow me?...

If you wish, I will, now move on to TABLE 2. From TABLE 2 in column one, you will note that the total pension payroll, or total beneficiaries, as at March 31, 1966, was 49,440. This again represents a very substantial increase over the total pension payroll in the year 1956-57. which was at that time only 21,880. If you will now refer to the next column...

Senator MACKENZIE: Which table are you on?

Mr. CARON: TABLE 2. I suggest you might be careful not to confuse TABLE 2 with Part 2 of TABLE 1. Now, we will move on to the next column, on the annuities becoming payable to contributors. You will note that the total number of males—the male pensioners—in 1965-66 was 2,580. This represented over the last ten years an increase of 44 per cent in the total number of male pensioners. On the other hand, if you look at the total number of female pensioners to whom,

of course, annuities became payable, you will find that the figure increased from 259 in 1956-57 to 826 in 1965-66; so that, on the basis of these figures the female pensioners population has more than tripled in the last ten years also, for every female pensioner that you have today, you have about three male pensioners. Now, the annual value...

Mr. LEWIS: Mr. Caron, I think I understand; your first column is a cumulative one. Is that right?

Mr. CARON: No, it is not a cumulative one; it is just the total number of employees as of a given date.

Mr. LEWIS: But your next column is only for the particular year, the additions in that year.

Mr. CARON: No, it is the total number of people who became entitled to a benefit in that year.

Mr. LEWIS: Under males, where are the new ones?

Mr. CARON: Oh, you mean the first one is a cumulative one; is that what you were saying?

Mr. LEWIS: Yes, I am saying that if you take 21,880 for 56-57 that was the total number accumulated over the years on the beneficiary payroll that year, and your next column is the total number of people who became entitled to benefits in the one year.

Mr. CARON: This is correct.

Mr. WALKER: Excuse me, now you have confused me. In that first column, are these figures not in the same category? Very simply, is the 21,880 not the total number of people as of that particular date, and the 24,000 is the total number of people as of that date, reflecting an increase of the difference between the two figures?

Mr. CARON: That is correct. Now, if we move to the annual value of the pensions, you will note here that the average pension, as I mentioned earlier, in 1965-1966, is $1,949. This represents an increase in pension value, on an average basis again, of 86 per cent over that which was being paid in 1956-57, which was $1,510.

Mr. KNOWLES: But this includes in it the higher pensions that are being paid in later years.

Mr. CARON: This is the average pension paid to the people to whom annuities became payable in that particular year.

Mr. KNOWLES: Oh, I get it.

Mr. CHATTERTON: Would that be mainly attributable to increases in pay?

Mr. CARON: It could be attributable to many factors; it could be increases in pay, it could also be in years of service. It depends on the two variables I mentioned earlier. If we have in the year 1965-66 a larger number of employees retiring with, say, an average number of years of service which is greater than it was in the previous years, obviously this would tend to increase the average pension. Similarly, of course, if salaries have tended to increase, this would also

tend to increase the pension value. I would say also—Mr. Clark is drawing to my attention a significant fact, too—that in 1960, as he mentioned in his statement the 6-year average came into effect. Prior to 1960, the average was a ten-year average. The other factor that we might mention also is that as of 1960 the $15,000 ceiling was removed for calculation of pension, which again would tend to increase the pension value of those retiring today.

Mr. WALKER: What did you say the percentage increase was between 1956 and 1965 for the average pension?

Mr. CARON: I said 86 per cent. I am just comparing—

Mr. WALKER: It cannot be 86 per cent.

Mr. CARON: Well, 1,949 less 1,510 will give you $439.

Mr. WALKER: Yes, $439. It is about 30 per cent.

Mr. CARON: Maybe I made a mistake.

Senator BOURGET: If you calculate 30 per cent of $1,500, that will give you about $450—

Mr. CARON: Yes, you are right.

Senator BOURGET: —and if you add it, that will make it about $1,950.

Mr. CARON: If I now refer to the allowance becoming payable to dependents—widows and children—you will note that these pensions have equally increased by almost 50 per cent over the last 10 years. The widows population moved from 771 in 1956-57 to the level of 1,446, in the last fiscal year and the children from $312 per annum to $608. Now, I think that is all I am going to say TABLE 2. I will move on to TABLE 3.

Mr. HYMMEN: Mr. Chairman, on the last statement I think there was some confusion. So that the record is straight, that is 312 children and not $312 per annum.

Mr. CARON: Did I say dollars?

Mr. HYMMEN: Yes.

Mr. CARON: Well, I meant to talk about an increase in the population. I am sorry. Can we move on to TABLE 3 now? TABLE 3 gives you comparative statistics which we refer to as benefits other than immediate annuities to which contributors became entitled. The only point I would like to make here is that if you were to sum up the totals of the population of retired public servants—those who were retired in the last fiscal year—you would have the following picture: of the employees who became entitled to a benefit other than a lump sum benefit during the last fiscal year, 78 per cent became entitled to an immediate annuity because of age.

Mr. KNOWLES: Mr. Chairman, it is difficult to concentrate when there is a speech I want to hear at this end and a conversation down at that end. If those two are not interested, may I call it to your attention?

The JOINT CHAIRMAN (*Mr. Richard*): Order. I would ask the indulgence of the Committee, but at the same time I would ask for the co-operation of others to give us a chance to hear the witness, because it is a very difficult room

in which to listen to a witness without any other hearing facilities, and any disturbances are bound also to disturb those who are listening.

Mr. CARON: If I may start again, just to give you an idea of the distribution of the population, I was saying that 78.3 per cent of those who retired in the last fiscal year with a benefit other than a lump sum benefit with an immediate annuity on account of age; 9.1 per cent retired with an immediate annuity but on account of disability, and 12 per cent retired with deferred annuities, and, finally, a very small number—.6 per cent—retired with actuarial equivalents. This just gives you a broad picture of the types of continuing benefits that we have had in the last fiscal year.

Now, in TABLE 4, all I would like to point out, perhaps, would be the average benefit in the last column of that table. You will recall that we mentioned earlier that the average annuity payable was $1,949. Now, if you look at the various types of benefits, you will note that the annuities payable on account of age are slightly higher; they are $2,002. This is the last column on the right. The average immediate annuity on account of disability tends, of course, to be lower; it is $1,734. If I refer now to deferred annuities becoming payable, you will find that the average is $1,408 and the average of those becoming payable due to disability is $550. Now, the other point that I might stress in this table is in column 3, Total Number. I might point out here that we have about 80 per cent of employees who ceased to be contributors and who left the service with a return of contributions.

An hon. MEMBER: Will you repeat that, please.

Mr. CARON: Well, do you see that figure in the third column, 13,933? This is the lump sum payments—returns of contributions. This represents approximately 75 or 80 per cent of our people who ceased to be employed and who received a return of contributions.

Mr. KNOWLES: Do you mean 75 to 80 per cent of those who ceased to be employed in that year?

Mr. CARON: That is correct.

Mr. KNOWLES: While you are at that point, Mr. Caron, would you indicate the difference between gratuities and return of contributions? I know gratuities is what you called the cash termination allowance. I do not think you gave us detail on that.

Mr. CARON: The gratuity is, in the terms of the old legislation, an amount of money which is paid to the former contributor. It is equal to one month's pay for each year of pensionable service up to 10 years and the amount is calculated on the basis of the salary at the time of termination of employment. So, let us assume, for example, that we have an employee who would have a salary of $500 a month. Well, then, a gratuity could go up as high as 10 times that—$5,000.

Mr. KNOWLES: Is this the equivalent of a pension where the amount is really too low to provide a pension?

Mr. CARON: This is normally paid—I am subject to correction, Mr. Clark—as part of an option to those who are retired on account of disability if they anticipate that their pension might otherwise be too low.

Mr. CHATTERTON: Personally, I am not quite clear. Is this gratuity in lieu of return of contributions?

Mr. CARON: Well, it is not necessarily in lieu of; it depends on what type of contributors you are dealing with. The gratuity is really part of an option that is offered to a person who is about to retire on account of disability. That person may choose between certain types of benefits one of which is a gratuity, and it is a lump sum payment.

Mr. KNOWLES: That person has to have been employed for five years?

Mr. CARON: In order to—

Mr. KNOWLES: If it is less than five years, all he gets is a return of contributions.

Mr. WALKER: If he gets a return of contributions, does he get interest on the money?

Mr. CARON: No, they just get their money back—no interest.

Mr. CHATTERTON: Mr. Chairman, does he have any figures to indicate to us the difference between the return of contributions and the actual actuarial present-day value if they had taken a deferred annuity? Do you know what I mean?

Mr. CARON: I am not sure I follow that.

Mr. CHATTERTON: It seems to me that the number of people who are taking the return of contributions would be better off financially if they had taken a deferred pension, because by taking a deferred pension, the government's contribution stays in there, does it not, and the interest? Is there any indication of the difference between the actual return of contributions and what the value would have been—the present day value—if they had taken a deferred annuity to age 60?

Mr. CARON: I am afraid I would have to leave that to the chief actuary to answer.

The JOINT CHAIRMAN (*Mr. Richard*): Members of the Committee will appreciate that we will also have Mr. Clarke who is in charge of the valuation, and I was wondering whether we should have not too many questions, except in clarification?

Mr. KNOWLES: One point in clarification; does this question not arise in the case of persons with less than five years service? You have no option, have you, but to return the contributions if you have less than five years service?

Mr. CLARK: If I might speak, Mr. Chairman, there is a situation under section 10 of the Act where a choice is given to either an immediate annuity or a return of contributions. The retiring employee must decide which he prefers. Certainly, as between the gratuity and the return of contributions, the higher is paid, but he has to make the decision as to whether he wants to take a very small annuity or a lump sum payment if he has less than five years service under the relatively few sets of circumstances where that option is available. Mind you, they are very few; but that option does exist in the circumstances listed in section 10.

Mr. LEWIS: But in most cases the return of contributions goes to the person with less than five years service?

Mr. CLARK: That is right. I would guess over 99 per cent of the cases it would be a return of contributions.

Mr. ORANGE: Of this 13,933 who received return of contributions, what percentage of these would be under five years' service?

Mr. CARON: I am afraid I do not have this figure. I think you are really referring to those people with less than five years; that is, they have no option but to receive nothing but a return, and all others with more than five years would have taken this as part of the option.

Mr. ORANGE: Right.

Mr. CARON: I do not think I have the answer to this one. We have not kept figures, but if I remember correctly from a previous report, in 1962 a guess was ventured earlier, and this figure was of the order of 85 per cent.

Mr. CLARK: At one time we had statistics which showed that 90 per cent who had the option took the return of contributions. Now, this has probably decreased; in other words, a higher percentage is taking a deferred annuity than used to be the case but that is the order of it in any case.

Mr. CHATTERTON: Those that had the option—

Mr. CLARK: Between the return of contributions and a deferred annuity, at the last time we had an accurate figure, 90 per cent took the return of contributions.

Mr. LEWIS: For further clarification on the question of the return of contributions, is there anything in the legislation that provides that interest will not be paid on these returns?

Mr. CLARK: Mr. Chairman, section 8 (1) (e) of the Act defines a return of contributions and it ends up by saying "without interest", so that in answer to Mr. Walker's question, there is a specific bar to the addition of interest on the contributions.

Mr. WALKER: But the fund itself earns interest?

Mr. CLARK: That is right.

Mr. KNOWLES: Do you know, Mr. Caron, with respect to this 13,933, how many took return of contributions because they had no option?

Mr. ÉMARD: Mr. Chairman, on a point of order. You just mentioned before that we were supposed to wait for questions, except for clarification. This is further than clarification. For the last fifteen minutes I have had a lot of questions to ask also. Well, let us make up our minds; do we want to ask questions, or do we want to hear the witnesses first?

Mr. KNOWLES: I think it is a point of clarification you would like to have, Mr. Émard. You ask the questions.

The JOINT CHAIRMAN (*Mr. Richard*): We will be going into this more deeply. I am sure many members would like to ask quite a few questions on each table.

Mr. CARON: I think, as time is running, we will now move on to TABLE 7, with your permission, and then to TABLE 8. TABLE 7, as its title says, refers to contributors retiring on account of age—and that would mean 60 years of age—and becoming entitled to an immediate annuity during the fiscal year April 1, 1965 to March 31, 1966. This table classifies these people according to amount of annuity and years of pensionable service. There are, perhaps, two or three points I would like to highlight in this table. First, I would recall from TABLE 4 that the average pension of the group of people referred to in this table is $2,002 a year. Now, if you look at the total distribution, by years of pensionable service, you will note that 2,938 employees retired on account of age and became entitled to an immediate annuity. If you make a brief analysis of these proportions, you will find that 457—this is approximately 15 per cent only—did retire with the full number of years of pensionable service; that is, only 15 per cent retiring on account of age did so with a full 70 per cent pension.

If you look at the other extreme of the table, you will find that 502 employees retired after 5 to 9 years of pensionable service, and this represents about 18 per cent of those retiring on account of age with an immediate annuity. If you now look at the levels of the pensions and at the distribution of the population in the last vertical column which starts with the figure 37, you will find that—if you were to work out the cumulative total—approximately 33 per cent of these people did retire with an annuity of $2,161 and higher and, I would add that about 25 per cent retired with an annuity of $720 and less.

Now, if you were to make a detailed analysis of this table you would find that the distribution of the population, follows a curve which indicates a reasonably high positive correlation between years of service and amounts of annuities. That is, if years of service go up, the annuities will tend to go up and the reverse is equally true. You will note that if 50 per cent of our pensioners here do receive a pension which is less than, say, $1,500 per year, one third of those who have retired in that group retired with only 5 to 9 years of service and approximately one half retired with 10 to 14 years of service. This tends to explain again that the low number of years of service would tend to generate relatively low pension levels. That is all I have to say on TABLE 7 and I would like now to—

Mr. KNOWLES: May I ask a question in clarification with regard to the breakdown between males and females? I gather from the total of 2,280 that all the figures above that line are male. You just have not given us the breakdown of females among levels of pension?

Mr. CARON: Mr. Knowles, the breakdown above these lines includes both males and females. If you were to take the cumulative total starting at 37, you would find that this would probably add up to 2,938.

Mr. KNOWLES: Oh.

Mr. CARON: If I may move on to the last table for the purpose of this trip through the annual report, this table refers to the same population that we have just been really looking at in TABLE 7 except that it is a distribution according to age at retirement. I would like to show here that, if you take the population by age at retirement from 66 years of age and up—that is, starting with the column headed 66, where the total is 450 and taking a cumulative total up to the 73 years

of age and over—you will find that this comprises approximately 35 per cent of those people who, in the last fiscal year, retired on account of age and became entitled to an immediate annuity.

Then if you look at the column 65 years of age, where you have a total of 1,070, you will find that this represents approximately 36 per cent of those who have retired in that group retired with only 5 to 9 years of service and approxi- the sum total of all those retiring at 65 and over 65, you find that this represents roughly 70 to 71 per cent of all the contributors who retired in the last fiscal year on account of age and became entitled to an immediate annuity. The balance of those retiring prior to age 65, that is from 60 to 64, makes up about 29 to 30 per cent of the population.

Mr. WALKER: Well, did the 60 to 64 retire on account of age?

Mr. CARON: Yes, because you can retire on account of age at 60 years of age.

An hon. MEMBER: When you are sick.

Mr. WALKER: No, not sickness—age. Can they retire voluntarily?

Mr. CARON: Yes, that is right.

An hon. MEMBER: So long as they have enough years in.

The JOINT CHAIRMAN (*Mr. Richard*): It is not age; it is on account of enough years service.

Mr. CARON: If it is age, of course you have to have five years of pensionable service. If you join the service at 59, you will not be able to retire with a pension at 60; you will have to wait until you are 64, that is, until you have accumulated 5 years of pensionable service in order to draw a pension.

This, Mr. Chairman, brings me to the end. I think if members have any questions I could go on further, but I find that time is running.

The JOINT CHAIRMAN (*Mr. Richard*): I think we decided earlier that we would also proceed with the other member of our witness group, Mr. E. E. Clarke, the actuary.

Mr. E. E. Clarke (Chief Actuary, Department of Insurance): Mr. Chairman, honourable senators and members of the House of Commons, actuarial concepts of any kind are seldom easy to understand and I think that the actuarial aspects of pension planning and pension plans are the most difficult of all. I was very forcibly reminded of this. . .

Mr. LEWIS: I am intimidated.

The JOINT CHAIRMAN (*Mr. Richard*): One moment; are copies of these statements of yours available?

Mr. CLARKE: Those are copies of our last actuarial report on the examination of the account. This is not the statement I am going to make.

The JOINT CHAIRMAN (*Mr. Richard*): But is this statement here available to the members?

Mr. CLARKE: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Should we distribute it then?

Mr. CLARKE: I will not be dealing with that report directly in these remarks, Mr. Chairman. The copies can be distributed afterwards if you like.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Mr. KNOWLES: He will confuse us enough without adding that.

Mr. CLARKE: I was going to say that I was very forcibly reminded of the fact that pension plan actuarial aspects are most difficult by Charles Lynch in his column after the actuarial report on the Canada Pension Plan was released. He said that the report was probably the most indecipherable document that had ever been placed before Parliament in all its history. Now, this set me back quite a bit because I had spent a great deal of time trying to put it into language—the main part of the actuarial report—that could be understood and read by anybody.

Mr. KNOWLES: Do not feel badly; we all have trouble with Charles Lynch.

Mr. CLARKE: In any event, I have tried to do the same thing again. I will try to make these remarks in language that is understandable, but I do not know how much success I will have.

Now, the actuarial aspects which I have tried to cover are those that deal with statements and contentions that have been made from time to time in the press, in letters to the editor, in letters to the members of Parliament and in staff association periodicals. I thought, however, that I should first say a few words about the actuarial examinations of the superannuation account. Section 33 of the Public Service Superannuation Act requires that the Minister of Finance shall lay before Parliament at least once in every five years an actuarial report on the state of the superannuation account. These reports are prepared by the chief actuary ex officio of the Department of Insurance on the basis of actuarial examinations of the account made by the actuarial staff of the insurance department. The latest report, which was tabled in Parliament on November 10, 1964, was based on an examination of the state of the account as at December 31, 1962. The next report will be based on an examination of the account as at the end of 1967—this year.

In general, the actuarial report contains the following information: A description of benefits and contributions under the superannuation plan as at the valuation date and a description of the more important changes that have been effected in the plan during the preceding five years; detailed statistical data in respect of the current membership of the plan and changes that have taken place in membership during the preceding five years; description of the actuarial assumptions used in determining the values of future benefits and contributions; estimates of average contribution rates required in respect of new members to provide future benefits for themselves and their dependants; balance sheets showing assets and liabilities in detail; an analysis of any deficit or surplus that appears in the balance sheet; and a summary of the main items determined or estimated during the examination that bear on the state of the account.

Copies of the 1962 report are available here if any of the members should wish to have them.

The next general aspect that I have covered in my remarks is an attempt at explanation of the balance of the superannuation account; the assets, liabilities and what is meant by required contribution rates. The balance of the account

at any point in time may be considered as an asset of the plan at that time. As Mr. Clark mentioned when he was speaking, at March 31, 1966, the balance of the account was $2,390 million.

While this may seem to be just a paper figure, as has been suggested on numerous occasions, it does represent a real asset backed by all the taxation and borrowing powers of the federal government. In effect, the plan holds long-term federal government securities yielding four per cent interest, equal in amount to the balance of the account. The fact that there are no pieces of paper held in a vault in no way affects the security of the asset. The other main asset of the plan consists of the value of contributions to be received in the future from current members, together with matching employer credits. The sole liability of the plan consists of the value of all future benefits payable, or that will become payable, in respect of current contributors and pensioners and their dependants in accordance with the terms of the plan.

Now, what is a deficit? If the benefit liability exceeds the balance in the account plus the value of future contributions, the account is in a deficit position. The contribution rate required in respect of new members is that percentage of salary that will, on the average, provide all future benefits for those members and their dependants. Estimates of the required contribution rate for new members depend to a very considerable extent on how salaries are assumed to increase in the future.

Mr. LEWIS: Excuse me, Mr. Chairman, when you say contribution rate, does that include the employer's contribution?

Mr. CLARKE: Yes, I mean both.

Mr. LEWIS: The composite contribution.

Mr. CLARKE: Yes, the total required contribution rate. It has been noted in the 1962 actuarial report that if no account is taken of increases in salary, other than ordinary promotional increases—that is, if no account is taken of general salary or cyclical salary increases—it is estimated that member contributions equal to 6½ per cent of salary for male members together with matching 6½ per cent credits from the employer are sufficient to provide for future benefits. That is, if we had no general salary increases at all or, as we have now, cyclical salary increases, the contributions presently being paid by male members and the matching employer contributions should be sufficient to pay for benefits.

However, the fact cannot be ignored that there have been and continue to be substantial general or cyclical salary increases. Over the decade ended in 1957, salary increases averaged about 5 per cent yearly and, since that time, such increases have, according to our estimates, averaged roughly 4 per cent yearly. When such increases in salary are taken into account, a total contribution rate of 13 per cent is far short of that required to provide benefits.

For example, for the 1962 report estimates were made of the average contribution rate that would be required in respect of new members if salaries were to increase in the future at 3 per cent yearly. The estimates indicated that under such an increase pattern—that is, increases at 3 per cent yearly—contributions at the rate of 18 per cent of salary for male members and 16 per cent of salary for female members would be required to provide for future benefits. Since the employer—that is, the government—bears total responsibility for the

additional liabilities that are created by salary increases, it is clear that the employer's benefit obligations resulting from salary increases alone are equivalent in value to continuing contributions of some 5 per cent to 10 per cent of salary. This is in addition to the employer's ordinary matching contributions.

Now we come to a subject that is very much in the news at the moment, and I am sure you will hear about it next week during your meetings—this subject that relates to a change in the interest rate used for purposes of the superannuation account. In determining the present value of future income or future expenditures for any business, the higher the rate of interest that is assumed to apply over future years, the lower is the present value. Thus, if the present values of future benefits and future contributions under the superannuation plan were calculated on the basis of an interest rate higher than 4 per cent per annum, those values would be less than values calculated on the basis of 4 per cent, the rate that has been used for this purpose over the years and which is still in use.

Since the value of future benefits is much greater than the value of future contributions, it would follow that the net liability that is, the difference between the two, which is ordinarily closely represented by the balance of the account, would be reduced by an increase in the valuation rate of interest. This is the point which I am sure will be made to you from time to time.

Mr. KNOWLES: Will you try that again so that Charles Lynch and I can understand it?

Mr. CLARKE: Just you, Mr. Knowles.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure there are other members who would also want an explanation besides Mr. Lynch.

An hon. MEMBER: No doubt.

The JOINT CHAIRMAN (*Mr. Richard*): We are going to have an awful lot of problems if we take this to heart, if I may say so.

Mr. WALKER: I had to spend an awful lot of time with slow learners.

Mr. KNOWLES: I would ask you to explain again how a higher rate of interest produces a lower value, or have I said the wrong thing?

Mr. CLARKE: This is true. Let us suppose you were to take out a mortgage, Mr. Knowles, for $10,000 and the rate to interest were 8 per cent, then the payments you have to make would be considerably higher than if you had a mortgage at 5 per cent.

Suppose you were paying the same payment of $100 a year under two mortgages; in discounting the payments back to the present time to determine the present value, payments of $100 discounted at 8 per cent interest would result in a very much lower value than would be the case for the payments discounted back at 5 per cent. How can I explain this?

Mr. LEWIS: A larger proportion of your $100 is interest rather than capital.

Mr. CLARKE: True, so that the value at the present time of each future payment discounted at 8 per cent interest is very much lower than if it were discounted at 5 per cent interest. Do you see?

Mr. CHATTERTON: Lower to the person who is paying the mortgage; to the person who is holding the mortgage the value is higher.

Mr. CLARKE: For instance, if the mortage of one person were $10,000 and he was paying 8 per cent interest and on another mortgage of $8,000 he was paying 5 per cent interest—no this does not work out.

Senator CAMERON: Is it not just like discounting a note at the bank?

Mr. CLARKE: Oh, it is exactly that; but I am trying to explain the financial effect of such transaction. If you discount a note at the bank, the higher the rate of interest, the lower the amount of money you are going to get.

Senator CAMERON: So if it is 8 per cent, you get $92, that is all it is worth; if it is 5 per cent, you get $95.

Mr. KNOWLES: It seems to me there is a difference between my position if it is my house and I have the mortgage, and the position of the company that lent me the money. From the standpoint of the company, it is going to get more money because I pay 8 per cent than if I were paying 5 per cent. It will take longer to get it. I suppose what you are saying to me is that if I wanted to sell my house with the 8 per cent mortgage, the value that I have in it is less?

Mr. CLARKE: The payments that you are making at 8 per cent on the $10,000 amounts to far more than if you wre paying at 5 per cent. So, the value of these payments to the insurance company are much greater on the 8 per cent basis than on the 5 per cent basis, you see. Thinking of these payments, not of the initial amount of money, the value of all the payments is much greater to the insurance company and much less to you at an 8 per cent rate than at a 5 per cent rate.

Mr. KNOWLES: That is what I was thinking a moment ago, but now translate that into the case of the pension fund. Who is the insurance company and who is the home owner?

Mr. CLARKE: If we think of all the future pension obligations which go on throughout the years and suppose that ten years from now there is $10,000 paid out in pensions, then the value of that $10,000 at a 5 per cent rate of interest is lower than at a 4 per cent rate of interest. If we discount that payment 10 years hence at 5 per cent interest, the value now is lower than when discounted at 4 per cent. The value might be, let us say, $4,000 under a 5 per cent rate of interest and $5,000 under a 4 per cent rate of interest. It is higher under the 4 per cent rate of interest.

Mr. CHATTERTON: Higher to the government but lower to the—

Mr. CLARKE: The value is lower now because more interest is paid later.

Mr. LEWIS: You mean that 6 per cent on $5,000 after a certain number of years may equal—it does not matter whether it is mathematically right or not—as much as 5 per cent now on $7,000?

Mr. CLARKE: This is true. Thinking of the present value of $4,000 now, if you should get 6 per cent on it from the government, instead of 4 per cent, then the amounts of money that have to go in year by year are greater. The higher the rate of interest, the more money has to be paid out on any amount that is applicable at the moment, so that if we were to value all benefits at a 5 per cent

rate of interest, the present value of those benefits would be lower than if they were valued at a 4 per cent rate.

Mr. LEWIS: Mr. Chairman, am I right in saying that you are now talking as the mortgagee of the fund, namely, the government that has to pay the interest, and you are saying that for the mortgagee, namely the government, the higher the rate of interest the lower the value now, because they have to pay more into it to reach the same result?

Mr. CLARKE: You should have been the actuary.

Mr. LEWIS: I always thought the government was the mortgagee.

Mr. KNOWLES: But let us look at it now as in the case of the beneficiaries of the fund. Maybe it is of less value to the government, but will there not be more money in the fund available for the paying of pensions if the government has had to pay 5 per cent instead of 4 per cent?

Senator MACKENZIE: You earn interest on the contributions. If you earned 7 per cent instead of 5 per cent, you would have more in the till.

Mr. CLARKE: This is true only about the employee contributions that are coming in; if the rate of interest applicable is 7 per cent instead of 5 per cent, then there would be more money eventually in the fund; right.

Mr. MCCLEAVE: Do you think we should get up a column for Charles Lynch?

Mr. CHATTERTON: Ask the Creditistes. They probably—

Mr. CLARKE: Interest is credited by the government on the total amount in the account.

Senator MACKENZIE: I think if you do not establish a fund on which you earn a current rate of interest, that is, the government contribution and the annuities contribution; if you did and the market interest rate was 7 per cent and you were only paying out 5 per cent you would be making a lot of money.

Mr. KNOWLES: This government is saving money because it has to pay only 4 per cent on this money compared with the higher rate that it has to pay on money that it borrows in the market.

Mr. CLARKE: This is true, but it also paid 4 per cent when the rate that it had to pay for money borrowed elsewhere was 2 or 3 per cent.

Mr. LEWIS: You are still talking like a mortgagee.

Mr. CLARKE: I think I have probably covered that point in these remarks, Mr. Knowles.

Mr. KNOWLES: Did you say you have or will?

Mr. CLARKE: I think I will.

Mr. KNOWLES: You anticipate the questions that are coming next week and they will probably still come.

Mr. CLARKE: Exactly; that is true.

For the past several years, money has earned interest at relatively high rates—we are talking about the money market now. For example, long-term federal government bonds are selling to yield some 5½ per cent per annum. As a result of the current high rates of interest, it is suggested in some areas that a

rate higher than 4 per cent should be used in determining the net liability of the superannuation account and in estimating the contribution rates required to pay for future benefits in respect of new members, and that any consequent reductions in the net liability or in the required contribution rates could be used for the benefit of the plan members.

For example, if use of a 5 per cent per annum rate were to reduce the present liability of some $2 billion by some $200 million and reduce the effective required contributions rate for new members by 10 per cent—by that I mean that if the required contribution rate is now 20 per cent it would be reduced to 18 per cent—such reductions could be passed on in the form of benefits to members. This is the contention that will be made. For instance, if we were to value the benefits that are now obligations of the superannuation fund at the rate of 5 per cent interest instead of 4 per cent, then it might be that we need only $2 billion in the account instead of $2.4 billion, or something like that.

There seem to be two main fallacies in the proposals that the rate used for purposes of the superannuation account should be increased above four per cent and any resulting reduction in the net liability and required contribution rate could be used for the benefit of plan members. In the first place, it would appear to me, at least, that a valuation rate higher than 4 per cent per annum would be neither warranted nor wise. In this regard it is often not realised that the rate of interest used in calculating values of benefits and contributions under any pension plan must apply over very long periods of time. For instance, in respect of a contributor now aged 30, the rate used must be applicable for a period of some 40 or 45 years.

It is perhaps inevitable that in extended periods of high or low interest rates, there is a human tendency to forget or ignore the fact that such rates are subject to cyclical trends. In the late 1940's and early 1950's, after many years of low and continually decreasing rates, it appeared to many people that high rates would never again prevail, but they did. I can remember, back around 1950, having dinner with a couple of very prominent actuaries who are still with the Department—and one of them could not be more prominent in the Department—and they were seriously discussing whether or not rates would go down to the point where a zero rate of interest would be applicable for the valuation of insurance contracts and annuity contracts. This was only about 15 years ago. At the present time, after many years of high rates, it is not easy to remember that such rates will not continue throughout the future, but they will not. I am speaking from historical experience.

Historically, since the beginning of this century, yields on long term government bonds have averaged about 4 per cent and have fluctuated above and below that rate on a number of occasions. Thus, just as there was considered to be no good reason, when current interest yields were running at 2 per cent to 3 per cent per annum, to reduce the interest rate for superannuation purposes below 4 per cent per annum, there would seem to be no reason to believe that interest rates will remain at the current high level and to increase currently the rate used for superannuation purposes above 4 per cent per annum.

It may be relevant to note here that for the valuation of privately-funded pension plans, the usual rate of interest now being used by consulting actuaries is in the range of 4 per cent to 4½ per cent per annum, although the assets of the funds are presently yielding an average rate considerably higher than that. Now

in the second place, even if an interest rate higher than 4 per cent per annum were currently considered appropriate for superannuation purposes, it is difficult to see that any resulting reduction in the net liability or in the required contribution rate for new members could be considered applicable for the benefit of the plan members.

Even if the estimated benefit liability should be reduced by introduction of a higher interest rate for calculation purposes by, say, $200 million, the employer would surely consider this as a partial offset to the many hundreds of millions of dollars worth of additional benefit obligations created by salary increases over the last couple of decades that have been assumed in whole by the employer. Again, even if the estimated total required contribution rate for new members should be reduced by some 10 per cent as a result of the use of a higher interest rate in its calculations, it is unlikely that the employer would consider that the employee contribution rate should be reduced below the current level in view of the additional benefit liabilities assumed by the employer as a result of salary increases.

It may be of interest that at the present time an average 10 per cent salary increase for plan members would create additional net benefit obligations for the employer of a value of some $150 million. That is, if today there were a 10 per cent increase, then besides the increase in salaries themselves, there would be additional obligations assumed by the employer worth about $150 million.

Now, in the last part of these remarks, I have taken some statements or contentions that have actually been made from time to time and tried to provide some answer to them. One contention is that in view of the current large balance in the superannuation account, and the fact that current annual employee contributions and government credits to the account exceed payments out of the account, surpluses are emerging sufficient to provide for increases in pensions to superannuated persons.

My comments are that the superannuation account is operated in accordance with principles of funding generally accepted for employer-employee pension plans and with those implicit in the pension benefits legislation now in effect in three provinces, and implicit in the bill that was given first reading in the House of Commons here—the Pension Benefits Standards bill.

Under usual pension arrangements, pension benefits are regarded as deferred compensation, and contribution rates are set and contributions are collected at the levels estimated to be required to accumulate enough funds during the active life-time of contributors to provide for specified retirement pensions and subsidiary benefits in respect of those contributors. If the number of employees in the public service were stationary, and the superannuation plan were in a mature state, annual employee contributions and government credits, including interest credits, should theoretically just equal benefit payments. With increasing membership in the plan, current contributions and credits to the account must necessarily exceed current benefit payments and the account must continue to increase.

This growth in the account simply reflects the growing liabilities in respect of active contributors and pensioners. It does not indicate emerging surplus. In simple terms, the balance in the superannuation account at any time represents

the equity of current active contributors and pensioners in respect of benefits accrued and accruing to them. There is no known margin for provision of additional benefits.

Now, another contention that has been made is that the excess of employee contributions and government credits over benefit payments has been used and is being used for current revenue purposes by the government of the day. The contention is, of course, valid. Since the superannuation account is simply an account in the consolidated revenue fund, the current excesses or receipts or disbursements are available to the government for the financing of government projects or costs of administration. There is, however, nothing sinister or suspect in this situation. For any employer-employee pension plan, current excesses of receipts or disbursements which are not needed for immediate payment of pensions are available for the financing requirements of governments, government guaranteed enterprises, and private corporations through ordinary investment processes, that is, the purchase of bonds or stocks of businesses or governments.

Of course, such funds are ordinarily invested in marketable securities of entreprises other than the employer's own business since it would be unwise to have the pension security of employees rest solely on the survival of a single private employer's entreprise. However, in the case of the public service, there is little reason to doubt the survival of the employer and if that employer does not survive, pensions will not matter at all.

Mr. WALKER: Are you talking about the present employer?

Mr. KNOWLES: He is talking about the Establishment.

Mr. CLARKE: Also, clearly, there can be no safer investment than one supported by an obligation of the government of Canada. The balance in the superannuation account may be considered such an investment backed by the obligation of the government to pay benefits to public service contributors and their dependants in accordance with the provision of the Public Service Superannuation Act. The balance in the superannuation account is simply a measure of the size of the government's obligation. Now, in my comments here I ask a question (In respect of the other contentions, I had several questions and several answers, but time is going.) But, the question here is—just turning this contention into a question—does the fact that the amount of money represented by the balance in the account is not in the hands of a chartered bank, or an equivalent amount of gold not buried under the Parliament buildings, jeopardize future benefit payments under the superannuation plan?

Obviously the answer is, no. Benefits under the Public Service Superannuation Act are guaranteed as a right by government legislation. Thus, as long as parliament has the power of taxation and recourse to borrowing, the benefits provided for in the legislation will be paid. Theoretically, a future Parliament could reduce or cancel all benefits by amendments to the Public Service Superannuation Act. However, at least theoretically, Parliament could also void benefit payments under any pension plan in the country by direct legislation. Such action simply is not conceivable.

Now, another contention that has been made—it may not be made next week—concerns the fact that there are deficits in the account from time to time,

and these are the result of the employer not matching employees' contributions. From time to time in the past there were cases where liabilities were shown either by actuarial examinations or as a result of salary increases that were not immediately credited to the account. But by amendments in 1965, it is specified that any additional liabilities arising as the result of salary increases, will be liquidated by five equal annual instalments commencing in the year of the salary increase. So this contention does not hold. It never did hold as far as matching contributions were concerned and it does not hold in any way at all now. That is all I have to say, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): I do not know whether you wish to proceed by witnesses or to examine one of the particular aspects of the presentation. We have about half an hour more to go, so members might decide whether they want to start with the first Mr. Clark.

Senator MACKENZIE: Could I ask one basic question, Mr. Chairman? Is this reference up to those who have already retired and are receiving pensions, or is it an examination of the total pensions?

The JOINT CHAIRMAN (*Mr. Richard*): No, it is a reference to those who have already retired.

Senator MACKENZIE: And who may not be receiving sufficient?

The JOINT CHAIRMAN (*Mr. Richard*): In our opinion.

Senator MACKENZIE: I could ask questions for weeks with advantage to myself—not to others—but I feel it is our concern to examine whether or not the pension receipts of retired civil servants are adequate; if they are not, how much more should be added to them, and where that money is going to come from. Is this more or less our problem?

Mr. LEWIS: I would imagine the present Mr. Clarke is telling this Committee that as far as he, as an actuary, is concerned the alleged surplus in the present pension fund is merely adequate to meet the pension fund's liabilities, and no additional payments can come out of it. That is really the substance of the actuary's presentation.

Senator MACKENZIE: As far as I am concerned, as I see it, if more money is made available to those who require it, it will have to come either out of supplementary grants by the government or out of the fund which is increased by additional payments which will go to these people who are not contributing, and will be a contribution by the present contributors and a partial contribution by the government. Is that right?

The JOINT CHAIRMAN (*Mr. Richard*): I would have thought also that the first presentation and the second presentation were very important because it showed how many people were superannuated, what was their situation, and that is the main problem of this Committee—to establish how many people are affected, how badly they are affected, and then to find out the means to do something about it. I do not want to direct the Committee but I was wondering how many questions at this stage we should ask of these witnesses. I would have thought it might be good to hear those who have a problem, and have these witnesses come back at a later date unless it is for clarification of their briefs at the present time, because I would imagine these gentlemen should be called back at a later date.

Mr. BELL (*Carleton*): Mr. Chairman, may I raise a question in relation to that point? Is Mr. Clark now in a position, or would be in a position at a future meeting, to give us the benefit of his research as to what has been done in relation to increases in the provinces, in other countries, in the United States, in the United Kingdom, and in France principally? I have endeavoured to do a bit of research on this myself. I have put what benefit of such research as I have on the records in the House when this was discussed, but I am sure that Mr. Clark has much greater detail and I think, for purposes of comparison, it would be most useful to the Committee to have a rather elaborate statement of what legislative provision has been made in the provinces and in other countries.

Mr. CLARK: Mr. Chairman, while I have a great deal of that information with me today if, as Mr. Bell says, a somewhat elaborate statement is desired, I would prefer to prepare that for a subsequent meeting.

Mr. BELL (*Carleton*): Could we have that as a memorandum?

Mr. CLARK: Yes, if that is desired.

Mr. WALKER: The other information I would like to have is a comparison between the way this fund of ours is being administered and a private pension fund.

Senator MACKENZIE: This is not our problem at the moment, is it?

Mr. WALKER: I think it is very pertinent. It will take some time, perhaps, to get this information, but I feel it is very pertinent.

Senator MACKENZIE: It will not help those who have retired.

Mr. WALKER: Oh yes; it might well.

Mr. CLARKE: Mr. Walker, I can say now that the administration of the fund is just as if this were a private pension plan.

Mr. LEWIS: That is what I understood Mr. Clarke to say.

Mr. CLARKE: As far as assets are concerned, private pension funds hold pieces of paper from various concerns while we have just figures in an account which, in effect, as I was trying to point out, are government securities. Other than that, the administration is exactly the same as for ordinary private pension plans.

Mr. WALKER: I was thinking of the administration of these types of funds that are handled by large life insurance companies for instance. I wonder if we could get a comparison? Do they set a four per cent as we do or do they go on the market and earn money with their funds. I would like to have this sort of comparison, if there are differences at all, in the administration of the fund.

The JOINT CHAIRMAN (*Mr. Richard*): I think Mr. Walker would appreciate, even if I am not an expert, that there is a great deal of difference between a life insurance arrangement and the one with the government because the return is guaranteed by life insurance companies; they can project their earnings from a fund; they do not give all the benefits that the government would give, but I suppose that is a clarification you would like to have.

Mr. WALKER: Yes, indeed; very much.

Mr. KNOWLES: Mr. Chairman, I agree with you and Senator MacKenzie that our terms of reference and our concern relate to the persons who are now on the pension, but I think it is highly relevant to that that we understand our present set-up and I think what Mr. Ted Clarke has been giving us is particularly relevant to any decision that we may make. In fact he knows, and I think he was wise to say what he did this morning, that the arguments which he is trying to answer will certainly be made next week about the money that is in the fund, the interest that could be paid and all the rest of it.

I say this as one who terribly wants us to do something and to do something generous, as you do Mr. Chairman, but we have to consider what the effect of changes that we may recommend may have on the whole plan. I mean, if we recommend some payments that are outside the scope of the plan, that raises the whole question of what is the future of the plan. I know it is late to proceed now, but I would like to hear from either Mr. H. D. Clark or Mr. E. E. Clarke on the whole question of whether funding versus a pay-as-you-go arrangement is still a good idea.

I know that Mr. H. D. Clark gave us the hundred years history and it finally got to this point, but I began to wonder after I listened to Mr. Ted Clarke—and it is not the first time I have wondered if—whether all of this bookkeeping and funding just does not create an intellectual problem, getting away from the fact that what we are doing is collecting a certain amount from people and providing deferred compensation.

Mr. CLARKE: As far as the superannuation plan for the federal civil service is concerned, this is true. Is is, in effect, a pay-as-you-go plan. It is administered as if it were a privately funded pension plan. The figure in the account shows the governement obligation. In the future the government is going to have to pay pensions and it is going to collect so much money. Our calculations show what the value of the benefits are, which is what amount of money would be required in the fund for a pension plan of a private employer. For information purposes it is well to have this information, but the fact is that the money must come from the consolidated revenue fund to pay pensions as the need arises.

Mr. KNOWLES: I think you have said it, that for information purposes all these figures are good, but in point of fact we have a pay-as-you-go plan, we have deferred compensation, and what we have to decide in this Committee is whether the deferred compensation that retired people are now getting is adequate, and whether we recommend that there be some increase.

Mr. CLARKE: All I have been trying to point out is that, considering this as a privately funded pension plan, there would be no facility for adding benefits, unless—

Mr. KNOWLES: Under the plan as it is set up.

Mr. CLARK: That is right.

Mr. KNOWLES: If this is done it will be as a deliberate act of the Parliament of Canada.

Mr. CLARKE: That is right just as the last pension adjustments were for the superannuated persons.

Mr. KNOWLES: When we get through all this, I hope that is what we do.

Mr. ÉMARD: I would like to see a comparison of the government superannuation fund and the benefits that are paid between this fund and—excuse me, my English is not as regular as it should be. I should like to see a comparison of the benefits paid by the superannuation fund, the benefits that are paid by private funds in industries and in the larger funds administered by the unions. I know we have already received some briefs from older employees who have retired, and every time they submitted to us a comparison of what they received and what was being received by employees in outside industries. Also, even with Bill C-170, this plan is not going to be a bargaining item. I think that you will receive in the future many requests from the Alliance and the other unions representing the employees to make this fund comparable to the funds that are prevailing in industry today.

Senator CAMERON: Mr. Chairman, I was wondering if Mr. Clark who has all of the information necessary with respect to the current problem—that is, bringing the benefits of the people who have retired up to a reasonable standard— could submit to us two or three theoretical projections of what it might be necessary to do. In other words, it might save us some time if you say, all right, we have X number of civil servants who have retired and there is a deficiency between what they are getting and what they need and we estimate you might do it on two or three bases—that we will need to put into a fund X dollars to make up that deficit. Could he do that? Would it be right to ask him to do that?

Senator MACKENZIE: I was thinking, if I might ask Senator Cameron, do you mean a flat increase or a percentage increase?

Senator CAMERON: I would leave it to him. That is the reason I suggested two or three theoretical propositions.

The JOINT CHAIRMAN (*Mr. Richard*): I think the suggestion has been made at times—I do not want to interfere here—that consideration should be given also to certain levels of pensions that are already being paid; for example, people who only get $60, $75 or $125, maybe a plan that would cover people like that, like the plan of 1958 or 1959 which was for people who received up to $300. It would have to be, because if it included everybody who received even a $12,000 a year pension, the contribution would be out of line completely, I suppose, and that is up to the Committee to decide at a later date if they want to increase all pensions of anyone who receives a large amount or a small amount.

Senator MACKENZIE: Could you also include for my benefit, at least and there may be others—what pensioners receive in addition from government sources such as the old age pension, and the Canada pension. Those who are now 70 do not get in on the Canada pension at all; they are limited to the old age pension. Those coming up do get in, so these, due to the fact these are to be paid by the government, out of taxes should be considered in the total retirement benefits.

Mr. WALKER: A supplementary question to Senator Cameron; what does the employer contribute—dollar for dollar?

Mr. CLARK: Mr. Chairman, on the current contributions, the employer does contribute dollar for dollar, but then there are these annual salary increases and so on which give rise to additional contributions which, last year I think, amounted to some $24 million on this five-year amortization basis, and more will

be paid this year, so that you do get the picture as indicated on TABLE 1 of the report where, as a budgetary charge, the government has put in some $250 million more dollars than the employees and, in addition to that, there are the so-called deferred charges of some $590 million that have been put in from time to time and disposed of.

Senator MACKENZIE: These are salary increases projected into the future when he retires.

Mr. CLARK: These are related to salary increases and other causes but the big item is the salary increases that Mr. Ted Clarke mentioned.

Senator MACKENZIE: They must be projected into the future.

Mr. CLARK: Yes, that is right.

Mr. WALKER: The employees' contributions will increase if they take their ten best earning years, also. Is that figure reflected?

Mr. CLARKE: This is the net between the additional benefit liability and the additional value of contributions.

Mr. ÉMARD: I would like to gather more information with regard to these employees with 5 to 20 years service who are getting a pension. I was amazed to find that in the government, after only five years of service, you can get a pension. I do not think this is generally done in the industry, because I think that in most industries the requirement is 20 years of service. If you have not served 20 years of service, you are not entitled to a pension in most places. I would like to see how many employees have 5 years, 6 years, 7 years and so on, right up to 20 years service.

Senator MACKENZIE: I think that practice is changing, Mr. Émard. I think the tendency is to give pension rights—annuity rights—to employees within a very short time when they are, in a sense, on a permanent payroll. This is part of the turnover, and this is important in terms of portable pensions. If you have portable pensions, then you want to begin to provide a pension within the first year of your employment and not wait for 20 years.

Mr. LEWIS: Not provide pension, but provide pension entitlement. You do not get it. You carry your pension entitlement from job to job, and you get your pension when you reach the age.

Senator MACKENZIE: That is so; quite right.

Mr. KNOWLES: I think we had statistics on that when we had the Canada Pension Plan before Committee, did we not, Mr. Chairman? I wonder if they could be reproduced for Mr. Émard? I think the Department of Health and Welfare had them, did they not? The pattern of industrial pensions compared with the pattern of civil service pensions.

Mr. CLARK: Yes, we have quite a bit of information on that Mr. Knowles, and—

Senator MACKENZIE: Just one other general question; I take it that at the present time government pensions are not portable?

Mr. CLARK: On the contrary, they are more portable than most. We are really the pioneers in portability.

Senator MACKENZIE: If a civil servant, after seven years transfers to industry, does he transfer more than his contribution?

Mr. CLARK: The concept of portability means that you can carry with you an entitlement to pension in the plan of your old employer.

Senator MACKENZIE: And you keep that until it becomes payable.

Mr. CLARK: Yes, this is reflected in the number of deferred annuities becoming payable which Mr. Caron mentioned, and we have had this since 1947.

Senator MACKENZIE: And in that sense it is portable?

Mr. CLARK: That is right.

Senator MACKENZIE: So you carry all the benefits that are accrued to your new job.

Mr. CLARK: This is done, at the moment, at the employee's own choice.

Senator MACKENZIE: And this is his own contribution and the government's contribution, plus interest.

Mr. CLARK: It is not related to X dollars of contributions. He can carry with him the entitlement—

Senator MACKENZIE: For the number of years at the going rate.

Mr. CLARK: Related to salary and pension, that is correct.

Mr. LEWIS: I know nothing about this. Does he carry that with him, or are you saying that if I resign from the government at age 50 and I have fifteen years of service that I leave with the government my pension entitlement of a certain amount which I can then draw upon when I reach age 60?

Mr. CLARK: That is what happens in the normal case, Mr. Lewis, but we do also have an increasing number of what we call reciprocal transfer agreements whereby there is a physical transfer of cash—employer-employee contributions plus interest—to the new employer and then that is used to purchase an entitlement under the new employer's pension plan. Vice versa, an employee coming from that employer, can transfer his entitlement.

Mr. LEWIS: What he has in his old fund over to you?

Mr. CLARK: Yes.

Mr. WALKER: Most of these arrangements are made with other governments, are they not?

Mr. CLARK: With other governments and universities and, through the amendments that were approved in the summer we can, in effect, make such an agreement with any so-called "approved employer," which really means one that has met the requirements of the Department of National Revenue. Here again, I hate to be sort of blowing up our plan, but we are the pioneers in this as well as in the matter of the ordinary portability and we have tried to encourage this with other employers across the country. Currently we are negotiating, perhaps, fifteen such agreements and we are hoping that more will be considered.

Senator MACKENZIE: Your entitlement is 5 years' service?

Mr. CLARK: Five years is the normal requirement to qualify for a pension.

Senator MACKENZIE: If you leave before that, you can take with you your contributions?

Mr. CLARK: That is right, we have one of these agreements to which I referred, a person with less than five years can transfer even the two years credits.

Mr. LEWIS: If he is below five years, does he have what I know as vesting rights; namely that when he transfers he transfers not only his contribution but the government's matching contribution plus interest?

Mr. CLARK: Under these agreements that is what happens.

Mr. LEWIS: Even under five years?

Mr. CLARK: Under these agreements, yes.

Mr. KNOWLES: Sir, may I remind members of the Committee that this is on the records of this Committee when we dealt with Bill No. C-391 some time in 1966. We were given a list of the agencies with which reciprocal agreements had been made. I think we were given a sample agreement.

The JOINT CHAIRMAN (*Mr. Richard*): Members of the Committee may go along with me when I say that the primary purpose of this Committee is to enquire into and report upon the matter of pensions paid to retired civil servants. I am afraid that we may at this time be going off on a tangent into an examination of the Public Service Superannuation Fund and its workings and not into the very matter which we are anxious to inquire into—at least some of us, I am sure. I imagine that if this Committee had been set up to examine the pension fund, it would have been set up as such in another manner, I am sure. We are here to inquire into and find out what can be done to relieve some people who have been superannuated, but not to re-establish the whole pension fund or to inquire into it which was done at great length last year in May and June, if I recall, as Mr. Knowles said. I know that there is a background, but I am sure that it is not a purpose of some of the questions to redraft the whole pension act and that is why I am very much interested like other members in all this.

Mr. KNOWLES: Next week will bring us to the real problem.

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I was wondering, if it is not for the purpose of clarification at the present time, if we could not agree that these gentlemen could come back with the type of information which would relate to the problem at hand, especially after having heard the witnesses who will, I hope, limit their testimony also to the problem which was presented to Parliament and, in the light of that, give us some information as to what suggestions they have to make to afford—not relief—but right to superannuate civil servants to adjust their pension in the light of the cost of living of 1967 and future years. I am sure that members will agree to that.

Mr. ÉMARD: Mr. President, I have a question which I think is pertinent to the matter we have to deal with. I would like to know if the present government plan has a disability clause.

Mr. CLARK: Yes, sir.

Mr. ÉMARD: You have?

Mr. CLARK: Again, after five years of service, a pension is payable on retirement on grounds of disability.

Mr. WALKER: One more question: Can a superannuated person, 60 years old, take his annuity with him if he has an opportunity to work for one of these other agencies with which you have a reciprocal agreement?

Mr. CLARK: He can have transfer made of the contributions which he has made, the employer's contributions, plus the interest.

Mr. WALKER: He can reactivate his pension in order to get more?

Mr. CLARK: Yes.

Senator MACKENZIE: He can draw his pension and get his new wages as well.

Mr. WALKER: No, that was not my question.

Can he increase his present superannuation pension by accepting employment with one of the agencies where you have portability arrangements?

Mr. CLARK: Only if he transfers it to that other employer and the effect of the other employer's pension plan is to increase that service credit.

Mr. WALKER: But it is not an increase within our own plan?

Mr. CLARK: No.

Mr. KNOWLES: There is nothing to stop a retired civil servant drawing pension from going to work for some non-government agency.

Mr. CLARK: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): On Tuesday, February 14, there will be a presentation by the Federal Superannuates National Association at 9:30 in this room.

Senator MACKENZIE: Does it have to be 9:30 Mr. Chairman? There is correspondence we have to look after.

The JOINT CHAIRMAN (*Mr. Richard*): Well, a lesser trouble that we have just now is to adjust our Committees to the other committees that are already sitting, such as, national defence, banking broadcasting and so on.

Mr. KNOWLES: Do we have to get out at 11, or something?

The JOINT CHAIRMAN (*Mr. Richard*): We have to get out at 11 o'clock, so we have to be here by 9:30. The Clerk has suggested that there should be a motion to pay travel expenses for the Superannuates; would you explain that to us Mr. Thomas?

The CLERK OF THE COMMITTEE: Mr. Chatterton has written to us asking that we pay the travelling expenses of the first and second vice-presidents and the secretary-treasurer of the Superannuates. This was done for them when they appeared before the Canada Pension Plan committee.

Mr. KNOWLES: I so move.

Mr. BELL (*Carleton*): I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed?

Mr. LEWIS: What is it?

The CLERK OF THE COMMITTEE: Reasonable living and travelling expenses.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Clark, Mr. Caron and Mr. Clarke. The meeting is adjourned.

APPENDIX "W"

REPORT ON THE ADMINISTRATION OF THE PUBLIC SERVICE SUPERANNUATION ACT FOR THE FISCAL YEAR ENDED MARCH 31, 1966

SUPERANNUATION PLAN

The Public Service Superannuation Act applies, with few exceptions, to public servants engaged in employment of a full-time continuous nature at an annual salary of $900 or more. Contribution rates are set at the levels estimated to be required to accumulate enough funds during the working lifetime of contributors to provide for specified retirement pensions and subsidiary benefits. The balance in the Superannuation Account is the amount which, together with future contributions from present contributors, the matching contributions by the Government and interest earnings, should be sufficient to provide all benefits to past and present contributors and their dependents as stipulated in the Act on the assumption that retirements, deaths, cash withdrawals, proportions of contributors married, relative ages of widows and so on, of those who are contributors on a particular date will essentially follow the pattern of the past. In addition to matching employee contributions, the Government credits the account with interest and assumes responsibility for any actuarial deficits. The Superannuation Account is operated in accordance with principles of funding generally accepted for employee-employer pension plans.

Membership

In the course of the year, 26,583 employees became contributors while 18,452 employees ceased to contribute resulting in an increase of 8,131 contributors. As at March 31, 1966, there were 185,045 active contributors under the Public Service Superannuation Act.

Annuities

During 1965-66, 3,279 immediate annuities, 106 deferred annuities, and 21 actuarial equivalent allowances became payable. Also, 1,446 widows' allowances and 608 children's allowances became payable. As at March 31, 1966, there were 49,440 persons receiving pension benefits payable out of the Superannuation Account. These include 30,923 former employees, 15,252 widows and 3,265 children.

The average annuity which became payable to employees was $1,949. Widows, on the other hand, received an average allowance of $855 and children $156. These annuities would be much higher if the employees concerned had all completed thirty-five or more years of service, as can be seen from the following table:

Pensionable Service	*Approximate Average Immediate Annuity*
35 years	$ 3,868
30-34 "	3,591
25-29 "	2,798
20-24 "	2,319
15-19 "	1,568
10-14 "	1,022
5- 9 "	607

Thus, many who retire after comparatively short periods of service receive annuities which are much smaller than would otherwise be the case.

SUPERANNUATION ACCOUNT

Income

Income for the year included $66.7 million in employee contributions and $89.5 million in interest. The Federal Government's matching contributions amounted to $57.8 million while the Crown Corporations' matching contributions amounted to $3.7 million. The amounts transferred from other pension funds to the Superannuation Account amounted to $1.2 million. In addition an amount of $79.6 million was credited as a deferred charge in respect of the actuarial liability arising out of salary revisions in 1965-1966 and credited to the Superannuation Account.

A new policy was introduced in the 1964-65 fiscal year whereby actuarial deficiencies arising out of pay increases in the preceding year were to be amortized over a five-year period commencing in 1964-65 and those arising out of pay increases authorized in 1964-65 and subsequent years were to be amortized over a five-year period commencing in the year in which the increase is authorized. Under this arrangement there was a Government budgetary contribution in the year 1965-66 of $10.0 million in respect of the outstanding deferred charge as at March 31, 1965 and $15.9 million in respect of the deferred charge for the fiscal year 1965-66.

Expenditure

Expenditure included $57.7 million in annuities, $106,571 in gratuities and $209,000 in residual amounts. Refunds of contributions amounted to $11.3 million while transfers to other pension funds amounted to $600,000. The total expenditure for the year amounted to $69.9 million.

Retirement Fund

Before being designated as a contributor to the Superannuation Account a prevailing rate employee or a seasonal employee engaged in full-time employment at an annual salary of $900 or more during 1965-66 was required to contribute 6½ per cent of his salary or 5 per cent of her salary to the Retirement Fund. These contributions earn interest at the rate of 4 per cent per annum on the total amount to the employee's credit as at December 31 each year. As at March 31, 1966 there were 7,665 contributors to the Retirement Fund.

Contributions to the Retirement Fund totalled $1.8 million and interest in the amount of $225,000 was credited to the Fund. Expenditures were $1.5 million transferred to the Superannuation Account in respect of employees who became contributors to that Account and $1.1 million paid to employees who separated from the service. The balance in the Fund as at March 31, 1966 was $5.2 million.

SUPPLEMENTARY DEATH BENEFIT PLAN

The Supplementary Death Benefit Plan (Part II of the Public Service Superannuation Act) provides a lump sum benefit which is related to the salary of the contributor, and, as at March 31, 1966 was subject to a maximum of $5,000. Contributions are made at the rate of 10 cents a month for each $250 of coverage. The plan was applicable to the Armed Forces as well as the Public Service.

Membership

As at March 31, 1966, there were 174,161 Public Service participants, 102,904 Regular Forces participants, and 26,889 retired elective participants.

Benefits

During the year, 1,491 death benefits were paid from the Public Service Death Benefit Account while 258 death benefits were paid from the Regular Forces Death Benefit Account.

PUBLIC SERVICE DEATH BENEFIT ACCOUNT

Income

The income of the Public Service Death Benefit Account included $3.95 million for employee contributions, $1.3 million for Federal Government and Crown Corporation contributions and $416,000 for interest. The total income for the year amounted to $5.6 million.

Expenditure

Expenditures from the Public Service Death Benefit Account included $4.3 million for benefits and $7,500 for refund of contributions.

REGULAR FORCES DEATH BENEFIT ACCOUNT

Income

The income of the Regular Forces Death Benefit Account included $2.0 million for employee contributions, $172,000 for the Federal Government contributions and $624,000 for interest. The total income for the year amounted to $2.7 million.

Expenditure

Benefits paid from the Regular Forces Death Benefit Account amounted to $1,025,300.

The following are the statements on the Public Service Superannuation Account, the Public Service Death Benefit Account and the Regular Forces Death Benefit Account for the period April 1, 1965 to March 31, 1966.

PUBLIC SERVICE SUPERANNUATION ACCOUNT

Balance as at April 1, 1965			$ 2,161,828,359
Income			
Contributions			
Employee	$ 66,019,010		
Retired Employee	706,019		
		$ 66,725,029	
Matching Contributions			
Government	57,778,086		
Crown Corporations .	3,680,055		
		61,458,141	
Transferred from other pension funds		1,179,391	
Interest		89,499,085	
Actuarial Liability Adjustment		79,600,000	
		298,461,646	
Expenditure			
Annuities		57,674,369	
Gratuities		106,571	
Residual Amounts ...		209,141	
Returns of Contributions		11,316,605	
Transferred to other pension funds		600,228	
		69,906,914	
Excess of income over expenditure			228,554,732
Balance as at March 31, 1966			$ 2,390,383,091

PUBLIC SERVICE DEATH BENEFIT ACCOUNT

Balance as at April 1, 1965			$ 9,875,938
Income			
Contributions			
Employee—Government and Crown Corporation		$ 3,951,068	
Government			
One-sixth of ordinary benefit payments	$ 666,788		
Single premium for $500 death benefit coverage for life	588,771		
		1,255,559	
Crown Corporations		19,273	
Interest		415,938	
		5,641,838	
Expenditure			
Benefit Payments			
Subject to Ordinary Premiums	4,000,730		
Paid-up Benefits	302,235		
Other	10,000		
		4,312,965	
Refund of Contributions		7,547	
		4,320,512	
Excess of income over expenditure			1,321,326
Balance as at March 31, 1966			$11,197,264

REGULAR FORCES DEATH BENEFIT ACCOUNT

Balance as of April 1, 1965	$	$	$15,009,923
Income			
Contributions			
Employee		1,936,381	
Government			
One-sixth of ordinary benefit payments	169,883		
Single premium for $500 death benefit coverage for life	2,170		
		172,053	
Interest		623,815	
		2,732,249	
Expenditure			
Benefit Payments			
Subject to Ordinary Premiums ..	1,019,300		
Other	6,000		
		1,025,300	
Excess of income over expenditure ...			1,706,949
Balance as at March 31, 1966			16,716,872

The details of the year's operations are given in the Statistical Tables appended to this Report.

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TABLE 1

SUPERANNUATION ACCOUNT

COMPARATIVE STATISTICS, APRIL 1, 1924 TO MARCH 31, 1966

Part 1—Receipts

Fiscal Year	Income						
			Government Contributions				
	Employee Contributions[1]	Interest	Budgetary Charges	Deferred Charges	Outstanding Deferred Charges	Other Contributions[2]	Total
	$	$	$	$	$	$	$
1924–56	251,946,705	163,739,772	412,712,002	214,000,000	189,000,000	8,581,008	1,025,979,487[3]
1956–57	34,931,788	34,944,194	122,359,994[4]		139,000,000	1,197,466	143,433,442
1957–58	38,849,667	39,784,219	78,083,186[5]			1,307,570	158,024,642
1958–59	41,265,557	43,717,482	37,646,322			1,425,355	124,054,716
1959–60	43,011,989	47,418,569	40,001,080			1,917,306	132,348,944
1960–61	48,771,576	51,253,931	41,444,857	137,661,000	276,661,000[6]	2,010,813	281,142,177[6]
1961–62	53,578,678	61,169,348	46,930,410			2,595,924	164,274,360
1962–63	57,732,045	66,361,541	51,076,449			13,832,785	189,002,820
1963–64	59,938,280	71,756,270	54,015,701			3,389,175	189,099,426
1964–65	61,817,545	78,715,785	65,602,340[7]	159,477,000[7]	39,921,000[7]	3,968,695	369,581,365[7]
1965–66	66,725,029	89,499,085	83,678,286[8]	63,680,000[8]	93,620,800[8]	4,859,446	298,461,646[8]
	758,568,859	748,360,196	1,033,550,627	590,738,000		45,085,543	3,075,403,025

[1] Includes amounts consisting of employee contributions and interest earned, that are transferred from the Retirement Fund.

[2] Includes the matching contributions of Crown Corporations, amounts credited to the Account from the Canadian Forces Superannuation Account and the Royal Canadian Mounted Police Superannuation Account, and amounts transferred to the Superannuation Account pursuant to the Reciprocal Transfer Agreements that have been made with other public service employers.

[3] This amount includes a credit of $214 million set up as a deferred charge during the fiscal year 1951–52 equal to the actuarial deficit then existing in the Account. This deferred charge was reduced to $189 million by a special vote on March 31, 1953.

[4] Includes $40.8 million credited to the Account in respect of the additional liability arising out of the general salary increase of April 1, 1956 and $50 million to reduce the deferred charge.

[5] Includes $44.3 million credited to the Account in respect of the general salary increase of May 1, 1957.

[6] Includes $137,661 million, representing the actuarial deficit in the Account as of December 31, 1957, credited to the Account as an additional deferred charge during the fiscal year 1960–61.

[7] In this year, $119,556,000 was credited as a deferred charge in respect of the actuarial liability reported as at December 31, 1962 and $49,901,000 in respect of the actuarial liability arising out of salary revisions in 1963–64 and 1964–65. An amount of $396,217,000 equal to the sum of the previous deferred charges of $276,661,000 and the new one of $119,556,000 was then written off to net debt while a Government budgetary contribution of $9,980,000 was made under the policy described on page 2. The result of these transactions was to leave a deferred charge of $39,921,000 outstanding as at March 31, 1956.

[8] In this year, $79,600,000 was credited as a deferred charge in respect of the actuarial liability arising out of salary increases in 1965–66. A Government budgetary contribution of one-fifth of this amount, $15,920,000, was made, as well as the second instalment of $9,980,000 which was applied against the deferred charge of $39,921,000 mentioned in footnote 7. The outstanding deferred charge as at March 31, 1966 is therefore $93,620,800.

TABLE 1

SUPERANNUATION ACCOUNT

COMPARATIVE STATISTICS, APRIL 1, 1924 TO MARCH 31, 1966

Part 2—Expenditure and Balance to the Credit of the Account

Fiscal Year	Expenditure				Net Increase in the Account	Balance to the Credit of the Account
	Annuities	Gratuities	Withdrawals and Transfers[1]	Total		
	$	$	$	$	$	$
1924–56	201,184,698	3,437,072	17,121,434	221,743,204		
1956–57	22,936,066	67,453	5,722,220	28,725,739	114,707,703	918,943,986
1957–58	25,682,058	49,825	5,476,306	31,208,189	126,816,453	1,045,760,439
1958–59	28,480,852	74,442	5,237,998	33,793,292	90,261,424	1,136,021,863
1959–60	31,668,764	47,187	7,034,534	38,750,485	93,598,459	1,229,620,322
1960–61	35,241,095	53,673	6,619,623	41,914,391	239,227,786	1,468,848,108
1961–62	39,104,311	58,241	7,030,518	46,193,070	118,081,290	1,586,929,398
1962–63	43,586,185	63,966	8,165,963	51,816,114	137,186,706	1,724,116,104
1963–64	47,823,640	75,967	8,908,301	56,807,908	132,291,518	1,856,407,623
1964–65	52,586,584	124,482	11,449,563	64,160,629	305,420,736	2,161,828,358
1965–66	57,674,369	106,571	12,125,974	69,906,914	228,554,732	2,390,383,091
	585,986,622	4,158,879	94,892,434	685,019,935		

[1] Includes returns of contributions, transfers to other pension funds and residual amounts.

TABLE 2

SUPERANNUATION ACCOUNT

COMPARATIVE STATISTICS, APRIL 1, 1956 TO MARCH 31, 1966—ANNUITIES PAYABLE AND ANNUITIES BECOMING PAYABLE

Fiscal Year	Total Pension Payroll or Total Beneficiaries[1] as at March 31	Annuities Becoming Payable to Contributors				Allowances Becoming Payable to Dependents				
				Annual Value				Annual Value		
		Males	Females	Total	Average	Widows	Children	Total	Average Allowance	Average Allowance per Family
				$	$			$	$	$
1956–57	21,880	1,729	259	3,002,296	1,510	771	312	481,113	444	624
1957–58	24,045	1,848	316	3,250,289	1,502	955	350	636,984	488	659
1958–59	26,051	1,992	307	3,327,874	1,448	718	287	513,875	511	707
1959–60	31,109	1,732	288	3,053,627	1,512	835	314	613,656	534	733
1960–61	34,574	2,739	477	5,334,627	1,659	1,247	513	903,625	513	713
1961–62	37,501	2,304	449	4,876,297	1,771	1,128	473	923,870	577	808
1962–63	40,256	1,926	463	4,537,610	1,899	1,289	537	1,056,538	579	813
1963–64	43,361	2,320	616	5,756,760	1,961	1,316	598	1,289,714	674	965
1964–65	46,377	2,638	662	5,967,966	1,808	1,438	584	1,287,103	637	886
1965–66	49,440	2,580	826	6,638,559	1,949	1,446	608	1,330,525	648	908

[1] Prior to 1959–60, these figures were the total number of cheques issued. This number was smaller than the number of beneficiaries since a widow receiving an allowance on behalf of her children counted as one. After 1959–60, the figures are the total number of beneficiaries.

TABLE 3

SUPERANNUATION ACCOUNT

COMPARATIVE STATISTICS, APRIL 1, 1956 TO MARCH 31, 1966—BENEFITS OTHER THAN IMMEDIATE ANNUITIES TO WHICH CONTRIBUTORS BECAME ENTITLED

Fiscal Year	Actuarial Equivalent Allowances Which Became Payable			Deferred Annuities to Which Contributors Became Entitled			Deferred Annuities Which Became Payable			Lump Sum Payments[1]	
	Males	Females	Average Allowance	Males	Females	Average Annuity	Males	Females	Average Annuity	Number	Amount
			$			$			$		$
1956–57.....	6	2	1,224	139	67		11	6	955	13,833	5,628,583
1957–58.....	6	2	1,337	107	65		10	9	889	17,468	5,358,755
1958–59.....	10	1	831	43	30	1,013	17	16	839	13,369	5,149,994
1959–60.....	3	1	709	122	73	1,093	17	13	883	14,695	6,967,279
1960–61.....	11	2	598	222	149	1,074	46	19	1,006	12,947	6,373,067
1961–62.....	6	5	1,226	167	82	1,341	25	22	956	11,970	6,958,372
1962–63.....	8	4	1,287	141	76	1,424	36	31	1,102	11,496	7,925,667
1963–64.....	18	1	1,179	166	107	1,358	41	25	1,025	12,081	8,653,104
1964–65.....	38	3	800	342	184	1,456	72	30	1,164	13,883	10,679,465
1965–66.....	17	4	927	294	153	1,481	53	49	1,408	14,188	11,887,693

[1] Includes gratuities and returns of contributions to contributors and dependents.

TABLE 4

SUPERANNUATION ACCOUNT

TYPES OF BENEFITS TO WHICH CONTRIBUTORS BECAME ENTITLED, APRIL 1, 1965 TO MARCH 31, 1966

Type of Benefit	See Also	Total Number	Males	Females	Total Annual Rate or Actual Value* of New Benefits	Average Benefit
					$	$
Benefits Becoming Payable						
Annuities and Annual Allowances						
Immediate Annuities						
Age	Tables 7 and 8	2,938	2,280	658	5,882,094	2,002
Disability	Table 9	341	229	112	591,200	1,734
Deferred Annuities[1]						
Becoming Payable	Table 12	102	53	49	143,600	1,408
Payable Due to Disability	Table 12A	4	1	3	2,201	550
Immediate and Deferred Actuarial Equivalent Allowances[2]	Table 11	21	17	4	19,464	927
Total		3,406	2,580	826	6,638,559	1,949
Lump Sum Payments						
Gratuities	Table 15	34	27	7	97,132*	2,857
Returns of Contributions	Table 15	13,933	7,722	6,211	11,475,532*	824
Total		13,967	7,749	6,218	11,572,664*	829
Deferred Benefits to Which Contributors Became Entitled						
Deferred Annuities and Actuarial Equivalent Allowances	Table 10	447	294	153	662,012	1,481

[1] A contributor may choose a deferred annuity if he retires before age sixty with five years of pensionable service.
[2] Actuarial equivalent allowances are adjusted annuities that may be granted by the Treasury Board.

TABLE 5

SUPERANNUATION ACCOUNT

TYPE OF BENEFIT BECOMING PAYABLE TO DEPENDENTS OF CONTRIBUTORS, APRIL 1, 1965 TO MARCH 31, 1966

Type of Benefit	See Also	Total Number	Number According to Time of Contributor's Death		Total Annual Rate or Actual Value* of New Benefits	Average Benefit
			Death in the Service	Death After Retirement		
					$	$
Annual Allowances						
Widows' Allowances	Table 13	1,446	498	948	1,235,853	855
Children's Allowances	Table 13	608	519	89	94,672	156
Total		2,054	1,017	1,037	1,330,525	648
Lump Sum Payments						
Returns of Contributions[1]	Table 15	221	221	0	412,161*	1,865
Residual Amounts[2]		127	0	127	202,490*	1,516
Total		348	221	127	614,651	1,766

[1] No annuity is involved.

[2] If upon the death of a person who was in receipt of an annuity benefit there is no one to whom an annuity benefit may be paid, the balance to the credit of the contributor, a residual amount, is paid to the estate of the contributor or if less than $500 as authorized by the Treasury Board.

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TABLE 6

SUPERANNUATION ACCOUNT

BENEFITS TERMINATED, APRIL 1, 1965 TO MARCH 31, 1966

Type of Benefit	See Also	Terminated for Reason of					Total Annual Rate
		Death	Re-employed[1]	Regained Health	Remarriage	Reached Age 18	
							$
Benefits in Payment							
To Former Contributors	Table 16	1,489	0	1			2,306,222
To Widows	Table 17	382			75		286,578
To Children	Table 17					450	53,281
Total		1,871	0	1	75	450	2,646,081
Deferred Benefits	Table 18	4					2,856

[1] Figures cited here include only those annuities totally suspended and not reinstated during the fiscal year.

TABLE 7

SUPERANNUATION ACCOUNT

CONTRIBUTORS RETIRING ON ACCOUNT OF AGE AND BECOMING ENTITLED TO IMMEDIATE ANNUITIES, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND YEARS OF PENSIONABLE SERVICE

Amount of Annuity	Years of Pensionable Service							Total
	5–9	10–14	15-19	20–24	25–29	30–34	35*	
$								
0 to 360	33	2	1	1				37
361 to 720	385	110	3	5	2	1	1	507
721 to 1,080	66	417	55	6	2	2	1	549
1,081 to 1,440	12	133	177	39	2		1	364
1,441 to 1,800	2	39	122	98	12	1		269
1,801 to 2,160	1	12	49	104	46	2		214
2,161 to 2,520	1	8	22	66	55	5	7	164
2,521 to 2,880		2	12	45	35	26	25	145
2,881 to 3,240	2		5	23	25	21	111	187
3,241 to 3,600		2	4	16	21	9	83	135
3,601 to 3,960			2	10	8	6	49	75
3,961 to 4,320			4	8	5	9	38	64
4,321 to 4,680		1		5	4	7	35	52
4,681 to 5,040			1	5	2	3	22	33
5,041 to 5,400			1	3	1	2	17	24
Over 5,400				15	17	20	67	119
Total Males	383	574	367	311	202	93	350	2,280
Total Females	119	152	91	133	35	21	107	658
Total	502	726	458	444	237	114	457	2,938

*Maximum years of pensionable service.

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TABLE 8

SUPERANNUATION ACCOUNT

CONTRIBUTORS RETIRING ON ACCOUNT OF AGE AND BECOMING ENTITLED TO IMMEDIATE ANNUITIES, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity	Age at Retirement														
	60	61	62	63	64	65	66	67	68	69	70	71	72	73 and over	Total
$															
0 to 360	4		1	4	4	10	4	5		3	2				37
361 to 720	25	21	26	17	18	163	85	65	42	24	18	2		1	507
721 to 1,080	22	23	21	22	25	193	96	57	43	31	14	2			549
1,081 to 1,440	20	22	9	24	24	136	53	22	28	12	13	1			364
1,441 to 1,800	19	5	9	10	10	124	50	14	13	5	10				269
1,801 to 2,160	21	11	7	10	5	87	40	12	9	5	6	1			214
2,161 to 2,520	19	16	6	8	14	56	21	13	5	5	1				164
2,521 to 2,880	24	6	9	9	4	63	15	8	4	3					145
2,881 to 3,240	32	12	12	17	13	64	21	9	2	3	1		1		187
3,241 to 3,600	19	10	5	11	14	63	8	2	1	2					135
3,601 to 3,960	13	3	5	10	5	20	13	2	2	2					75
3,961 to 4,320	7	3	8	8	3	21	9	4		1					64
4,321 to 4,680	5		6	7	4	16	9	5							52
4,681 to 5,040	4	4	2	4	1	12	6								33
5,041 to 5,400	4	1	1		3	9	3	3							24
Over 5,400	19	6	7	4	7	33	17	8	6	4	7	1			119
Total Males	191	97	92	118	107	869	364	173	117	88	57	5	1	1	2,280
Total Females	66	46	42	47	47	201	86	56	38	12	15	2			658
Total	257	143	134	165	154	1,070	450	229	155	100	72	7	1	1	2,938

TABLE 9

SUPERANNUATION ACCOUNT

CONTRIBUTORS RETIRING ON ACCOUNT OF DISABILITY AND BECOMING ENTITLED TO IMMEDIATE ANNUITIES, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity	Age at Retirement						
	Under 35	35–39	40–44	45–49	50–54	55–59	Total
$							
0 to 360			2		1	4	7
361 to 720	1	1	5	6	12	25	50
721 to 1,080		2	6	8	12	22	50
1,081 to 1,440	1		3	5	18	19	46
1,441 to 1,800		2	5	13	13	22	55
1,801 to 2,160	1		3	9	7	17	37
2,161 to 2,520			1	5	7	11	24
2,521 to 2,880				2	7	13	22
2,881 to 3,240				1	6	10	17
3,241 to 3,600				1	1	13	15
3,601 to 3,960			1			8	9
3,961 to 4,320							
4,321 to 4,680						4	4
4,681 to 5,040						2	2
5,041 to 5,400						1	1
Over 5,400						2	2
Total Males	2	4	16	35	55	117	229
Total Females	1	1	10	15	29	56	112
Total	3	5	26	50	84	173	341

NOTE. Of those retiring on account of disability, 42 were classified as requiring a medical re-examination at the end of a probationary period to determine their eligibility to continue to receive a disability pension. As a result of 41 medical re-examinations of contributors receiving disability pensions, 32 were classified as permanently disabled and still eligible to receive a pension, 7 were classified as still disabled but requiring another re-examination at the end of a further probationary period while 2 regained their health.

TABLE 10

SUPERANNUATION ACCOUNT

CONTRIBUTORS BECOMING ENTITLED[1] TO DEFERRED ANNUITIES, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity	Age at Retirement							
	Under 30	30–34	35–39	40–44	45–49	50–54	55–59	Total
$								
0 to 360	1			1		2	1	5
361 to 720	5	7	11	4	10	22	29	88
721 to 1,080	2	9	9	20	9	19	22	90
1,081 to 1,440		6	14	17	19	15	15	86
1,441 to 1,800		1	8	15	11	12	10	57
1,801 to 2,160	1		2	13	12	8	8	44
2,161 to 2,520		1	2	5	5	3	3	19
2,521 to 2,880			2	7	3	7	3	22
2,881 to 3,240				5	3		3	11
3,241 to 3,600			1	1	3	1	5	11
3,601 to 3,960			1	1	1			3
3,961 to 4,320				1	1		2	4
4,321 to 4,680					1			1
4,681 to 5,040						1	1	2
5,041 to 5,400								
Over 5,400						2	2	4
Total Males	5	17	32	69	58	58	55	294
Total Females	4	7	18	21	20	34	49	153
Total	9	24	50	90	78	92	104	447

[1] Deferred annuities are payable at age sixty or earlier in case of disability. The deferred annuities becoming payable during the fiscal year are shown in the extreme right hand column of Table 12.

TABLE 11

SUPERANNUATION ACCOUNT

CONTRIBUTORS BECOMING ENTITLED TO ACTUARIAL EQUIVALENT ALLOWANCES, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity	Age at Retirement					
	Deferred Actuarial Equivalent Allowances[1]			Immediate Actuarial Equivalent Allowances		
	Under 45	45–49	Total	50–54	55–59	Total
$						
0 to 360				2		2
361 to 720				6	3	9
721 to 1,080				2	3	5
1,081 to 1,440				2		2
1,441 to 1,800						
1,081 to 2,160						
2,161 to 2,520					2	2
2,521 to 2,880					1	1
2,881 to 3,240						
3,241 to 3,600						
3,601 to 3,960						
3,961 to 4,320						
4,321 to 4,680						
4,681 to 5,040						
5,041 to 5,400						
Over 5,400						
Total Males	0	0	0	9	8	17
Total Females	0	0	0	3	1	4
Total	0	0	0	12	9	21

[1] Actuarial equivalent allowances granted prior to age fifty do not become payable until age fifty.

TABLE 12

SUPERANNUATION ACCOUNT

CONTRIBUTORS TO WHOM ACTUARIAL EQUIVALENT ALLOWANCES OR DEFERRED ANNUITIES BECAME PAYABLE, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT WHICH PAYMENT COMMENCED

Amount of Annuity	Age at Which Payment Commenced											
	50	51	52	53	54	55	56	57	58	59	60[1]	Total
$												
0 to 360	1			1							10	12
361 to 720	3	1		1	1	1		1	1		22	31
721 to 1,080	1			1			1	1	1		20	25
1,081 to 1,440				1	1						20	22
1,441 to 1,800											6	6
1,801 to 2,160											4	4
2,161 to 2,520							1	1			9	11
2,521 to 2,880						1					2	3
2,881 to 3,240											3	3
3,241 to 3,600											1	1
3,601 to 3,960												
3,961 to 4,320											1	1
4,321 to 4,680												
4,681 to 5,040											1	1
5,041 to 5,400											1	1
Over 5,400											2	2
Total Males	2	1	0	4	2	1	2	3	2	0	53	70
Total Females	3	0	0	0	0	1	0	0	0	0	49	53
Total	5	1	0	4	2	2	2	3	2	0	102	123

[1] Allowances becoming payable at age sixty are deferred annuities while the other allowances are actuarial equivalent allowances.

TABLE 12A

SUPERANNUATION ACCOUNT

CONTRIBUTORS TO WHOM DEFERRED ANNUITIES BECAME PAYABLE BEFORE AGE SIXTY ON ACCOUNT OF DISABILITY, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT WHICH PAYMENT COMMENCED

Amount of Annuity	Age at Which Payment Commenced										
	50 and under	51	52	53	54	55	56	57	58	59	Total
$											
0 to 360	1										1
361 to 720			1			1					2
721 to 1,080								1			1
1,081 to 1,440											
1,441 to 1,800											
1,801 to 2,160											
2,161 to 2,520											
2,521 to 2,880											
2,881 to 3,240											
3,241 to 3,600											
3,601 to 3,960											
3,961 to 4,320											
4,321 to 4,680											
4,681 to 5,040											
5,041 to 5,400											
Over 5,400											
Total Males	0	0	0	0	0	0	0	1	0	0	1
Total Females	1	0	1	0	0	1	0	0	0	0	3
Total	1	0	1	0	0	1	0	1	0	0	4

TABLE 13

SUPERANNUATION ACCOUNT

WIDOWS AND CHILDREN TO WHOM ANNUAL ALLOWANCES BECAME PAYABLE, APRIL 1, 1965 TO MARCH 31, 1966 —CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND TIME OF CONTRIBUTOR'S DEATH

Amount of Allowance	Time of Contributor's Death					
	Death in the Service			Death After Retirement		
	Widows	Non-orphaned Children	Orphaned Children	Widows	Non-orphaned Children	Orphaned Children
$						
0 to 360	90	473	15	205	82	5
361 to 720	174	24	3	289		1
721 to 1,080	96	3		183	1	
1,081 to 1,440	63			132		
1,441 to 1,800	34		1	68		
1,801 to 2,160	18			38		
2,161 to 2,520	8			15		
2,521 to 2,880				6		
2,881 to 3,240	8			6		
3,241 to 3,600	4			3		
3,601 to 3,960	1			1		
3,961 to 4,320	2			1		
4,321 to 4,680						
4,681 to 5,040						
5,041 to 5,400				1		
Over 5,400						
Total	498	500	19	948	83	6

TABLE 14

SUPERANNUATION ACCOUNT, RETIREMENT FUND AND DEATH BENEFIT ACCOUNTS

POPULATION CHANGES, APRIL 1, 1965 TO MARCH 31, 1966

	See Also	Number, April 1, 1965	Additions	Deletions	Number, March 31, 1966
		Superannuation Account			
Contributors	Table 15	176,914	26,583	18,452	185,045
Ex-contributors on pension	Table 16	29,007	3,396	1,490	30,913
Widows on pension	Table 17	14,263	1,446	457	15,252
Children on pension	Table 17	3,107	608	450	3,265
Deferred Annuitants not on pension	Table 18	2,350	447	106	2,691
		Retirement Fund			
Contributors		9,825	—*	—	7,665
		Death Benefit Accounts			
Public Service					
Active Participants	Table 20	165,782	26,192	17,813	174,161
Retired Participants	Table 20	14,388	3,269	762	16,895
Regular Forces					
Active Participants	Table 20	109,303	9,960	16,359	102,904
Retired Participants	Table 20	7,865	2,558	429	9,994

*A dash indicates that the figures are not available.

TABLE 15

SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF ACTIVE CONTRIBUTORS TO THE SUPERANNUATION ACCOUNT, APRIL 1, 1965 TO MARCH 31, 1966

	Males	Females	Total
Number of Active Contributors, April 1, 1965	135,212	41,702	176,914
Additions			
Classified	13,962	9,453	23,415
Prevailing Rate	2,147	310	2,457
Seasonal	257	2	259
Sessional	6	0	6
Clerk of Works	1	5	6
Casual	3	6	9
Assistant Revenue Postmaster	100	331	431
Total	16,476	10,107	26,583
Deletions			
Employees Leaving the Public Service			
Returns of contributions paid	7,722	6,211	13,933
Gratuities paid	27	7	34
Pensions paid[1]	2,526	774	3,300
Chose deferred annuities	294	153	447
Death in the Public Service			
Returns of contributions paid to dependents	114	107	221
Pensions paid to dependents	517	0	517
Total	11,200	7,252	18,452
Number of Active Contributors, March 31, 1966	140,488	44,557	185,045

[1] Excludes deferred annuities becoming payable during the fiscal year.

TABLE 16

SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF CONTRIBUTORS ON PENSION, APRIL 1, 1965 TO MARCH 31, 1966

Number of Contributors on Pension, April 1, 1965		29,007
Additions		
Retirements on Pension	3,300	
Deferred Annuities Becoming Payable	102	
Deferred Annuities Changed to Disability Pension	4	3,406
		32,413
Deletions		
Died	1,489	
Health Regained	1	1,490
Number of Contributors on Pension, March 31, 1966		30,923

TABLE 17

SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF WIDOWS AND CHILDREN ON PENSION APRIL 1, 1965 TO MARCH 31, 1966

Widows		
Number of Widows on Pension, April 1, 1965		14,263
Additions		
Death in the Service	498	
Death after Retirement	948	
		1,446
		15,709
Deletions		
Death	382	
Remarriage	75	
		457
Number of Widows on Pension, March 31, 1966		15,252
Children		
Number of Children on Pension, April 1, 1965		3,107
Additions		
Death in the Service	519	
Death after Retirement	89	
		608
		3,715
Deletions		
Reached Age 18	450	
Other	0	450
Number of Children on Pension, March 31, 1966		3,265

TABLE 18

SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF DEFERRED ANNUITANTS, INCLUDING ACTUARIAL EQUIVALENT ANNUITANTS, APRIL 1, 1965 TO MARCH 31, 1966

Number of Deferred Annuitants, April 1, 1965		2,350
Additions		
Deferred Annuitants	447	
Deferred Actuarial Equivalent Annuitants	0	
		447
		2,797
Deletions		
Death	0	
Re-employment	0	
Annuities Becoming Payable	106	
		106
Number of Deferred Annuitants, March 31, 1966		2,691

TABLE 19

DEATH BENEFIT ACCOUNTS

COMPARATIVE STATISTICS, APRIL 1, 1956 TO MARCH 31, 1966—THE NUMBER OF PARTICIPANTS AND THE DEATH BENEFITS PAID

Fiscal Year	Active Participants[1]			Retired Participants[2]			Death Benefits Paid			
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Amount Paid
										$
Public Service										
1956–57	138,119	103,866	34,253	1,834	—*	—	649	596	53	2,133,086
1957–58	144,878	110,851	34,027	2,955	—	—	847	806	41	2,594,358
1958–59	149,919	114,925	34,994	3,982	—	—	951	891	60	3,006,758
1959–60	155,693	120,096	35,597	5,010	—	—	865	794	71	2,831,097
1960–61	163,091	123,170	39,921	6,570	5,990	580	1,062	968	94	3,412,139
1961–62	169,897	129,237	40,660	8,480	7,669	811	1,365	1,229	136	3,412,653
1962–63	172,477	132,595	39,882	10,161	9,010	1,151	1,215	1,094	121	3,637,798
1963–64	163,729[4]	129,071[4]	34,658[4]	12,045	10,573	1,472	1,225	1,055	170	3,714,450
1964–65	165,782	130,121	35,661	14,388	12,391	1,997	1,363	1,244	119	4,025,075
1965–66	174,161	135,484	38,677	16,895[3]	14,254	2,641	1,491	1,338	153	4,312,965
Regular Forces										
1956–57	109,121	106,309	2,812	457	—	—	252	250	2	951,000
1957–58	115,014	112,226	2,788	1,019	1,018	1	227	226	1	825,100
1958–59	113,205	110,253	2,952	1,299	1,294	5	223	223	0	827,000
1959–60	114,094	110,826	3,268	1,634	1,630	4	229	229	0	848,100
1960–61	114,547	111,140	3,407	2,445	2,440	5	220	219	1	798,500
1961–62	121,977	118,681	3,296	3,461	3,454	7	252	248	4	886,900
1962–63	119,134	116,599	2,535	4,499	4,485	14	265	262	3	895,900
1963–64	115,915	114,086	1,829	5,875	5,859	16	248	248	0	909,000[4]
1964–65	109,303	107,891	1,412	7,865	7,836	29	236	233	3	953,500
1965–66	102,904	101,643	1,262	9,994	9,956	38	258	254	4	1,025,300

[1] Contributors in the Public Service or the Regular Forces.
[2] Contributors who have left the Public Service or Regular Forces and retained their Supplementary Death Benefit coverage.
[3] During the year, 167 participants reduced their coverage to the $500 paid-up death benefit.
[4] Amended from 1963–64 Annual Report.
*Dash indicates figures not available.

TABLE 20

DEATH BENEFIT ACCOUNTS

CHANGES IN THE NUMBER OF DEATH BENEFIT PARTICIPANTS, APRIL 1, 1965 TO MARCH 31, 1966

	Public Service Death Benefit Account			Regular Forces Death Benefit Account		
	Males	Females	Total	Males	Females	Total
Active Participants						
Number of Active Participants, April 1, 1965	130,121	35,661	165,782	107,891	1,412	109,303
Additions	16,159	10,033	26,192	9,790	170	9,960
Deletions	10,796	7,017	17,813	16,038	321	16,359
Numbeer of Active Participants, March 31, 1966	135,484	38,677	174,161	101,643	1,261	102,904
Retired Participants						
Number of Retired Participants, April 1, 1965	12,391	1,997	14,388	7,836	29	7,865
Additions						
On Annuities	2,487	725	3,212	2,522	9	2,531
Commercial Rate	41	16	57	26	1	27
Total	2,528	741	3,269	2,548	10	2,558
Deletions						
Death	642	89	731	73	0	73
Other	23	8	31	355	1	356
Total	665	97	762	428	1	429
Number of Retired Participants, March 31, 1966	14,254	2,641	16,895	9,956	38	9,994

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

No. 29

TUESDAY, FEBRUARY 14, 1967

Respecting

PENSIONS

WITNESSES:

Messrs. J. S. Forsyth, President, C. F. May, 1st Vice-President, F. W. Whitehouse, National Secretary-Treasurer, H. Lecours, President, Montreal Branch, Federal Superannuates National Association.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25476—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Éthier,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Tardif,
Mr. MacKenzie,	Mr. Hymmen,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, February 14, 1967
(50)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.45 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Émard, Knowles, McCleave, Patterson, Richard, Walker (8).

In attendance: Messrs. J. S. Forsyth, President, C. F. Way, 1st Vice-President, F. G. O'Brien, 2nd Vice-President, F. W. Whitehouse, National Secretary-Treasurer, H. Lecours, President, Montreal Branch, Federal Superannuates National Association.

Moved by Mr. Émard, seconded by Mr. Walker,

Agreed,—That reasonable living and travelling expenses be paid to the President of the Montreal Branch of the Federal Superannuates National Association, who was called to appear before the Committee this day.

The Committee questioned the representatives of the Federal Superannuates National Association on their brief.

The Committee agreed to print the table displayed at page 12400 of Hansard, January 30, 1967, showing amounts of pensions paid retired civil servants as an appendix to the proceedings. (*See Appendix X*)

At 12.06 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

25476—1½

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, February 14, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Order. We have a quorum, gentlemen.

(Translation)

Mr. ÉMARD: Mr. Chairman, I have been infrmed that Mr. Lecours of Montreal is accompanying the delegation of Federal Superannuates this morning, I would like to suggest that his expenses be paid just as they are paid for the other representatives.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Is that agreed?

Some Hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Our first presentation this morning is from the Federal Superannuation National Association, represented by Mr. Forsyth and Mr. Whitehouse who are, respectively, its president and secretary-treasurer.

I hope that the Committee again realizes that we are not making a study in depth of the superannuation act at this time. That is not our mandate, and I hope that we will not go off on that tangent.

We are inquiring into the situation of superannuates, retired civil servants, or at least that was the intention of those who made the proposition in the House of Commons at the time, on the ground that many people who have been in the service are not at the present time receiving an adequate pension.

On the whole problem of superannuation, I am sure that at a later time, when collective bargaining is in effect and when the associations have taken root they will make the necessary representations if they feel that the whole structure should be revamped and handled in another way. That is not to say, of course, that we should not look at the superannuation fund and the workings of the act to find if there are any ways whereby our ends can be attained, but I hope that our deliberations will not be delayed. We will not attain our ends by going off on the tangent of getting into the structure of the superannuation act.

I would invite comments on this from other members of the Committee so that I will not have to repeat it.

Mr. KNOWLES: Well, I certainly agree with you, Mr. Chairman, that under our terms of reference the only area in which we can now make a recommendation would be on what can be done for those already retired.

I think it was helpful the other day that the officials took us into the act, so that we might understand. Certainly any recommendation that we make is within the limited area that you have described.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Now I will call on Mr. Whitehouse.

(*Translation*)

Mr. Whitehouse will present the Brief of the Federal Superannuates National Association.

(*English*)

Mr. WHITEHOUSE (*Secretary-Treasurer, Federal Superannuates National Association*): Mr. Chairman, ladies and gentlemen, first of all I would like to express the very sincere appreciation of the association we represent, which is comprised solely of retired federal civil servants and retired personnel of the armed forces and RCMP.

I am glad, Mr. Chairman, that in your introductory remarks to the members of your Committee you made it very clear that you were dealing only with the problems of retired civil servants, because that is why we are here. That is the one subject that we are interested in. We cover in our brief why we think that some serious thought and consideration, and, we hope, favourable decision, will be made in the interests of literally thousands of retired federal civil servants and the widows of retired federal civil servants.

I do not think I am stretching the truth too much when I say that we have been endeavouring for 20 years now to try to convince our former employer, the Canadian government, that something should be done. It is not something unique that we are asking. Other countries all over the world, including Great Britain, the United States of America, Australia, New Zealand and countries on the continent recognized this responsibility some years ago and implemented upward adjustments in the pensions of their retired people. We do not have to go any farther afield their our country. Several provinces of the Dominion of Canada have already done this. Quite recently the province of Ontario, has announced, through the Provincial Treasurer, that retired personalities of the province of Ontario would reveive an upward adjustment in pensions effective January 1 of this year (1967). Many large corporations across the country have also seen fit to do this. Therefore, Mr. Chairman, we are not, as I say, asking for anything unique. We are simply asking that our former employer, the Canadian government, recognize its obligation to its retired employees, and, we hope, do something about it.

With your indulgence, Mr. Chairman, I would now like to read the brief.

This brief is to the joint chairmen and members of the joint committee of the senate and of the house of commons on the public service of Canada. This brief has been prepared and is presented by the Federal Superannuates National Association. It is applicable to members of the association and to all other persons now in receipt of pensions under the Public Service Superannuation Act.

The association has members who have established branches in every province of Canada. Due to lack of cooperation by the government authorities, the recruitment of members has been seriously impeded. We believe that all persons receiving pensions should have their case fully and carefully considered. If this is done we are satisfied that the merit of their claim will be recognized.

The Public Service Superannuation Act was first enacted in 1924. It replaced a retirement plan and employees participating in this were permitted to elect to come under the new superannuation act, and all but a very few did so. The scheme established under the 1924 legislation was similar to the present one, the chief difference being that the pension was first based on the average salary of

the last five years of employment, later changed to 10 years, and in 1960 to the present basis of the average of any selected 6 consecutive years.

A pension has been defined as a "reward for services rendered to an employer? A Scottish judge once called it "a payment to a servant who deserved well of his master". This is in the olden days I assume. A true pension is therefore provided solely by the employer. When the plan is contributory, and the employees contribute, either voluntarily or compulsory, such contributions cannot be considered as a reward for service rendered, but are in fact personal savings.

The contribution of personal savings to the superannuation fund is done upon a reasonable assumption that such savings will be applied in a manner best suited to accomplish its purpose. This purpose is to provide the maximum benefit in the form of pension payments. The only way this can be done is by investing the fund to produce the maximum return. As the funds are deposited in the superannuation account, the interest accrued is the rate by which the actuary valued the fund. This rate is always 1 to 2 per cent centage points below the current yield of first class securities. The effect of using a lower rate is to create a hidden reserve which in the case of a fund guaranteed by the government is absurd. By contrast, when valuing a private pension fund, the actuary uses a rate more nearly approximating the actual yield. The effect of this is to lower the cost of the pension.

There is no good reason for not valuing the superannuation fund at an interest rate closer to the actual prevailing rate. While this will not eliminate the book deficit due to the failure of the government to contribute its full share of the cost and interest on the funds, it can and should provide the means for bettering the pension benefit. If this were not done by private trustees, they could be held to be negligent, and suffer accordingly. Employees contribute 40 per cent of the cost of the pension, and in a fund of two billion dollars, this share would be $800,000,000. It is obvious that the loss of a true interest return is considerable.

The problem of the present generation of pensioners is inflation. Efforts by the government to promote full employment by the use of fiscal and monetory policies have created an expectation (presently fully realised) that price levels will creep upwards. Other benefits now being provided for employees, such as hospital insurance, are paid for currently and are therefore not affected by inflation. Pensions are a notable exception. A price rise of 2 per cent per year reduces the real value of a pension by one third in twenty years. The current wages may be expected to increase proportionately over the same period owing to the continuing improvements in production, the accumulation of capital and the successful result of government policies. The effect is that the government, when it retires a civil servant with a pension, pursues a policy that if successful will result in a serious reduction in the real value of every pension.

The use of a terminal earning base for determining the amount of pension has been said to provide a hedge against inflation. This concept may have had merit in a period of a fluctuating economy. It does not apply under the present condition of a continuously rising economy for which the government is not modest for claiming credit. It is assumed in the absence of other criteria that the change of base of determining pensions from 10 years to 6 years was due to the continuously rising economy and general prosperity; but it is the efforts of the preceeding generation that have created the productivity and prosperity of the

present generation, but only the latter derive any benefit from it. This problem will become increasingly more pressing as increasing wealth in the community makes early retirement more prevalent. The proper answer and the only answer is escalation of the pension.

The actual report of December 31, 1962, made to the Minister in accordance with section 33 of the Public Service Superannuation Act contains a statement of interest at the bottom of page 10. This statement reads:

> "There are two main forces that tend to generate increases in the salary of an individual during his working life. The first may be thought of as a 'promotional' force. As an employee gains experience and attains new or higher skills in his work, he is normally rewarded by periodic increases in his salary. Such increases are hereinafter referred to as a 'promotional' increase. The second force is the result of the diverse forces that produce increases in the level of salaries generally or for certain classes of employees only. Increases in salary resulting from this force are hereinafter referred to as 'economic' increases."

I may say, Mr. Chairman, that my national president, who will be answering the questions after the reading of the brief, would like to add a further paragraph to this from a report recently put out.

Accordingly, the actuary has adopted an average rate of 3 per cent of salary increases as arising from "economic" forces. The combined "promotional" and "economic" increases are in the area of 5 per cent of salaries every year. In effect this is escalation clause similar to what this association is asking in respect of pensions. Certainly, economic changes have effect whom both employees and retired pensioners. The distinction is that retired pensioners do not get the relief given to the present employees.

The adoption in 1960 of a selected 6 year's salary as a base for determining pensions has cost, according to the actuarial reports, some $31,000,000. At that time the number of contributors employed in the civil service was 179,587. The number of persons receiving a pension, excluding 2,565 children but including 11,443 widows, was 27,318, or about 15 per cent of the contributors. On the same ratio the cost of giving pensioners the benefit of the six year average would be 4.6 million dollars, a small amount in comparison to the saving made by the inclusion of the Canada Pension Plan as part of future pensions.

The increases in pension payments authorized in 1958 were applicable only to superannuates retired prior to 1953. Their pensions were based on the 10 year average and would include the war years. Salaries were frozen during the war as part of the war effort. Superannuates eligible for the 1958 increases did, and if still alive are still carrying part of the war effort. The other victims of the war—the disabled veterans—are now receiving appropriate and well deserved increased pensions.

The dollars paid by the present superannuates during their period of service are now being returned to them. But due to economic changes these dollars have been so eroded that in purchasing power they are only a fraction of those dollars paid in. It is this condition that should be corrected.

If a pension plan is viewed objectively as an instrument devised for a certain purpose, the attainment of that purpose should be of paramount impor-

tance. Very substantial changes have been made in past years to accomplish this. Some of the changes are:

(a) elimination of any provision depriving the employee of a return of his own contribution if he leaves the employment prior to attaining retirement age;

(b) elimination of the provision to deprive a pensioner of his pension if he is convicted of any offence, (thereby making the pension plan a supplement to the criminal code);

(c) vesting of full pension benefits after a minimum period of service;

(d) making the pension fully portable.

Adopting an escalator clause is following the lead of countries such as England, the United States, Australia and others, and also the provincial governments of British Columbia, Nova Scotia, Saskatchewan and Newfoundland; and since we have prepared this brief, as I stated in my opening remarks, the province of Ontario has also done this. In this country an automatic escalation clause is in the Canada pension plan. Labour unions presently negotiating for increased pensions require such increases to be paid of retired pensioners. This has been recognized by the government, by legislation permitting such payments to the former employees to be deducted for income tax purposes, although it is difficult to appreciate that the increase in such payments is an expense of earning the income for that year.

The purpose of a pension plan is to provide for employees upon their retirement. If the income is insufficient for minimum needs then the purpose is not accomplished. When this arises from the adoption and incidence of government fiscal on monetary policies, then common justice demands that the erosion of pensions be remedied.

For the reason above stated, we ask the following:

1. That pensions be increased to bring them in line with the present cost of living, keeping in mind the devaluation of the purchasing power of the dollar since pensions were granted.

2. The enactment of a statutory escalatory clause in the Public Service Superannuation Act to provide for automatic increases in all pensions paid under the Act and geared to the Consumers' Price Index.

3. Where a pensioner dies leaving a widow, the continuation of the full pension to the widow for one year and 75 per cent of the original pension thereafter.

4. The recalculation of all presently living pensioners of their pensions on the six year average basis.

The effect of government policy has been increased salaries, increased wages and increased prices. These are the incidents of a rising economy. One of the other incidents is the hardship imposed on people with fixed income, of whom pensioners are a large part. Surely out of the benefits which the policies pursued have created, some remedy is available to the unfortunate ones who cannot share in this prosperity.

We recognize fully the government's difficulties in trying to combat the spectre of inflation. It is nevertheless evident that in one way or another every stratum of Canadian society is striving to secure an increased income to counteract the rising cost of living. This is being achieved in many cases by agree-

ment; in other cases strike action is being used or threatened; in two cases at least—those of veterans' pensions and old age pensions—the government has voluntarily recognized the need. In one case only—that of former government employees—has nothing been done or proposed. Surely the mere recapitulation of these facts should be sufficient to bring speedy remedial action.

All of which is respectfully submitted on behalf of the members of the Federal Superannuates National Association.

I would like to add in closing, sir, that those of us who have taken up the work of trying to help our former colleagues in the civil service are doing so gratuitously. We are giving of whatever services we have, and of the experience we have gained while working in the federal civil service and in the organized part of the federal civil service. Thank God, those of us who are doing this do not need an increase in our pensions; we have provided for other sources. We are not asking for something for ourselves. We are simply asking that justice be done to the literally thousands of retired civil servants in this country and the widows of retired civil servants.

We do hope, sir, that this committee—and I am sure it will—gives to this question the serious consideration that it deserves; and we dare hope, even though it is St. Valentine's day, that perhaps we will receive something in the way of a valentine and that a favourable recommendation will go forth to parliament on behalf of the thousands of retired civil servants. Again we hope and pray, if this recommendation is forthcoming, that parliament will see fit to approve it.

Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Whitehouse. The members of this committee know very well the history of your service on behalf of civil servants and now on behalf of the superannuates. I am glad that you have come on St. Valentine's day to remind us that this is a time to express by deeds our affection for the superannuates.

Are there any questions?

Mr. WHITEHOUSE: As I said, my national president, Mr. Forsyth, has agreed to take on the responsibility of answering the questions that might be forthcoming and if you will pardon my saying so I do not think that we have in Canada a better man than Mr. Forsyth to answer any questions that you might ask.

The JOINT CHAIRMAN (*Mr. Richard*): Step forward, Mr. Forsyth. Senator MacKenzie?

Senator MACKENZIE: Just one question: you have made mention of the desirability of achieving something equivalent to the necessary cost of living. Have you any indication of what that figure would be, sir?

Mr. FORSYTH: I know what we would all like to have. Of course, the cost of living varies on different items.

Senator MACKENZIE: I was wondering if you could give us a global figure?

Mr. FORSYTH: Not a global figure; a national figure.

Senator MACKENZIE: Well, that is what I mean—global in the national sense.

Mr. FORSYTH: Well, an increase of $50 a month in a pension would adequately cover the increase in food and shelfter since 1949. That is an approximate statement; but food and shelter are the main elements of—

Senator MACKENZIE: If everybody in the group that you are asking us to help got an additional fifty dollars a month it would bring them up to par for the course?

Mr. FORSYTH: That is correct. Now, I saw a lump sum rather than a percentage because the percentage operates adversely—

Senator MACKENZIE: Where the people need it most?

Mr. FORSYTH: That is correct. For instance, a $50 a month increase for a man who is getting $200 means a 25 per cent increase; for a man who is getting $500 it is a 10 per cent increase; for a man who is getting $1,000 it is a 5 per cent increase; so it is more equitable and accomplishes the purpose.

Senator MACKENZIE: This I would support.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, have you any questions?

Mr. KNOWLES: I did not have my hand out, but I take it that you assume that I have some questions.

Mr. Forsyth, may I ask you a question or two about your brief? In parts of it you seem to be suggesting ways in which the money could be found. For example, you refer to the possibility of a higher interest rate, and one or two other things of that kind; then in other sections you suggest a formula or two that might be pursued, such as recalculating all pensions on a six year basis, and or one or two other ways. I also feel that running through your brief is the theme that justice demands that something be done.

My question is this: Is your claim tied to these suggestions about how it could be done, or do you feel rather that this is simply a matter of ordinary justice and fair play and that we should do it whether the money is there or not?

Mr. FORSYTH: I agree with the theme that it is only ordinary justice that there should be a means of bringing these pensions up in accordance with the increased cost of living, and those are the two main items—food and shelter. Those other suggestions I made would have an appeal to an industrial employer as offering a means by which they could get the benefit at the lowest cost. In the case of the government, of course, as they do it, they are not always looking for the lowest cost. They are looking for something to be done.

Therefore, I would suggest that on the financial question there is a remedy within the fund itself, rather than calling upon outside funds to supplement it.

Mr. KNOWLES: The reason for my question—and you will not be surprised—is that we have had the officials before us and they have cast some doubt on the possibility of doing this by finding the money in the fund, or by raising the interest rate. You will see that when you get the evidence of a previous meeting.

I think there is a disposition in the mind of the committee that they feel that something should be done, and, quite frankly, I like the parts of your brief that

say that, rather than the parts of your brief which seem to suggest that there is an easy answer to it.

Mr. FORSYTH: Well, Mr. Knowles, these contributions by the individuals are personal savings. You cannot buy a pension for yourself. You can buy an annuity. If a pension is a reward for services you certainly cannot render services to yourself. That money is in the nature of trust money, and it should be dealt with accordingly. It should accomplish its purpose in the most suitable way.

Mr. KNOWLES: I am not the one to argue that with you, Mr. Forsyth.

Let me come back to the relationship between this questioning and the question that Senator MacKenzie asked. Would a recalculation of pensions on the basis of a higher interest rate, or on the basis of the six year average for everyone, meet the need as much as a straight flat increase?

Mr. FORSYTH: It would not. All that would happen on a recalculation is that the lower pensions would get a percentage increase which is not sufficient. There is no use in giving a ten per cent increase to a man with a $50-a-month pension. That is not going to help him at all. A man with $500 could probably use 10 per cent because that would be the equivalent of what the rise in cost of living on shelter and food has been; so that he would be fully protected. It is the people with pensions under $200 and $300 that we are concerned with. They should get the relief.

Mr. KNOWLES: You would prefer a flat increase, or at least an increase scaled to the advertage of those in the lower groups, rather than a percentage increase?

Mr. FORSYTH: That is right. I am very much in favour of the flat increase.

Mr. KNOWLES: You ask for an increase in the widow's pension from the present 50 per cent to 75 per cent. Would this be apart from the flat increase in the pension?

Mr. FORSYTH: No; if you are going to put on a flat increase I do not see that it is necessary, because this is going to bring the pension up to equal the cost of living. The pension that a widow gets is the one that was understood and agreed would be paid to her. Now, supposing her husband had a $200 pension and she is getting $100. If she gets $150 then there is no reason why that should not compensate for the cost of living, because she is geared to a pension of $100; and, besides, I find it a little difficult to think that all widows are suffering. As a matter of fact, it was not so long ago that the biggest cash incomes in the country were received by widows. All of them do not need relief. But a pension of $100 a month is insufficient, certainly in terms of the dollars with which it was purchased; it should be brought to real buying power.

Mr. KNOWLES: I am still a little puzzled, Mr. Forsyth, that you advocate a flat $50 increase for pensioners themselves, but settle for what is, in effect, a percentage increase for widows. You cite an example of a widow with $100 a month. If you change her basis from 50 to 75 per cent you have given her $50, but there are 1,598 widows with pensions of less than $20 a month.

Mr. FORSYTH: Well, that is what I say. There are so many solutions, or at least so many remedies. What is the best one? You do not know. It was done on a

percentage basis in 1958. I benefited by that. I think I got an increase of $40 a year, it did not substantially affect my standard of living, but it was there. As a matter of fact it was more of an insult than a tribute to get it.

If you make a lump sum payment—and we suggest a minimum of $50—then you are correcting the evil that is most frowned on, and that is the lower paid pensioners; and that is the only thing that we are interested in. I am not interested in a man who is getting $500 or $1,000 a month pension; he can look after himself. Take the girls that worked in the government before and during the war, and who retired in the early 50's. Very few of them ever got $3,000. Now they are at the maximum pension level of less than $2,000 and they are finding it a very difficult time.

The same thing happened with the school teachers in Ontario. The school teachers who were paid in hundreds—where now they are paid in thousands —are destitute. Had it not been for the old age security payments they would have starved. Now they have done something about it. They are giving these people a bonus.

Mr. KNOWLES: Stop me, Mr. Chairman, if any others seek to put questions.

Would you establish any relationship between what should be done and the length of service, and also between that and the time at which a person left the civil service? I have in mind the fact that people who retired many years ago even with long service suffered difficulties, and on the other hand some people with very short service are in these categories.

Mr. FORSYTH: Well, Mr. Knowles, you can make a formula as complicated as you like. I like a simple formula. Under the superannuation act a man cannot have a pension unless he has had 10 years' service. I am certain that a lump sum payment to everyone, irrespective of service and irrespective of the amount of the pension, would correct the evil that we have here.

Mr. KNOWLES: I am satisfied, Mr. Chairman. We rest right where Senator MacKenzie started that the delegation would like a straight, flat increase. They do not want any complicated formula.

Senator MACKENZIE: Has anyone any idea of what the total of the $50 increase would amount to?

Mr. FORSYTH: Well, I think it would come to about $17,000,000 a year.

Mr. WALKER: What cut-off point are you talking about? Is this for everybody, or—

Mr. FORSYTH: I do not think that that bonus is necessary for those people who have been pensioned off since 1960 on the 6 year basis. There is no particular need there. That would be my cut-off.

Mr. WALKER: And you do not relate it to the amount of pension that a person has?

Mr. FORSYTH: No.

Now, perhaps I should point out that I am making assertions, or statements, based on very, very little knowledge of the actual facts surrounding this. I am just offering an over-all remedy—

An hon. MEMBER: A philosophy?

Mr. FORSYTH: That is right.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, I was interested by a few remarks in this Brief and would have a few comments to make. On Page 1 for instance: "Due to lack of co-operation by the Government authorities the recruitment of members has been seriously impeded". Could this be explained, exactly what does it mean?

(*English*)

Mr. FORSYTH: You wish to know about the lack of co-operation with the government authorities. Well, we went to the government and asked them if they would give us the lists of the names and addresses of all retired civil servants. Now, quite properly, I think, they refused to do that, because such a list is a very dangerous thing to pass around. We then suggested that we would provide a slip of paper which could be inserted in the pension envelope to let them know what we were doing. In other words, we were advertising that we were in existence and that we would like to have their support and help in this particular purpose.

An hon. MEMBER: What dues do your members pay?

Mr. FORSYTH: Three dollars a year.

(*Translation*)

Mr. ÉMARD: Then, a little further: "We believe that all persons receiving pensions should have their case fully and carefully considered. If this is done we are satisfied that the merit of their claim will be recognized". I was thinking, would this particular task not be up to your Association, to demonstrate the merit of your members' claims? In your Brief, there is very very little explanation. I would like to know the number of your members as compared with the number of pensioners; I would like to have details as to the people, the services rendered by people who are drawing $30, $40, $50 and $100 per month, and so on. I would think that it would be up to your Association to give us these details. If you do not do it, who will?

Mr. LECOURS: What I would like to say is that if you refer to *Hansard* for last month you will find the figures you mention.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, do you not have the last *Hansard* reference—the requests and things like that?

Mr. KNOWLES: Here it is.

(*Translation*)

Mr. ÉMARD: If you refer to last month's *Hansard*, I have it here. We will come back on this, we will have the occasion to discuss this a little later on, but I think you might have given us more detailed information with regard to your members.

You have here a Brief which speaks in general terms of what you would like to have, but what tells us that your members really deserve what you are asking?

Mr. LECOURS: I think elementary justice requires that the needs of federal government pensioners be recognized. The figures published here speak for themselves. Personally, just as Mr. Forsyth was saying and as Mr. Whitehouse said a little while ago, we are not asking for anything for ourselves for various reasons. On the other hand, these figures are self-explanatory. When you think that there are widows of pensioners who receive less than $20 per year, even if they have a $75 Old Age Security pension, it still is not sufficient to allow them to live at the economic level which should be theirs. In other words, they have to make sacrifices because they do not have sufficient income to continue living as they were used to, living before their husbands died. Honestly, I do not quite understand the meaning of your question.

Mr. ÉMARD: Perhaps it is not clear. You are saying that justice requires that pensioners are well paid. I am in complete agreement with you on this, but prove to us that your pensioners are poorly paid. Give us concrete facts. We will discuss this in a little while, and the figures given in your Brief.

I will continue reading it if you do not mind. I need some clarification not that I am in disagreement, I am in complete agreement that pensioners certainly deserve an increase. I am in agreement that pension funds, and not only this one, the Superannuation Fund, do not treat pensioners equitably after a certain time. All types of pensions in industry are the same. I am thinking to what applies more particularly to government pensioners. We should have more information if we want to reach the decisions that are required in this respect.

But to continue with the Brief, at the bottom of the page, it is said that a pension fund is not a gift. To prove that I am in complete agreement with you I would like to read a statement which appeared in the American Labour Federation Bulletin in 1954 which is quite applicable to the Pension fund. It is in English.

(*English*)

> The pension plan is not a conditional or discretionary gift by the employer, but a deferred wage earned by current labour services.

(*Translation*)

I am in complete agreement with this. I think that everyone else will agree too which puts us in a different perspective, because in reality it is a wage. Now, what I would like to know from the remarks that you made a while ago, on Page 2 of your Brief, in the second paragraph, you say: "While this will not eliminate the book deficit due to the failure of the Government to contribute its full share of the cost, and interest on the Funds, it can and should provide the means for bettering the pension benefit". At the beginning of the paragraph you say: "There is no good reason for not valuing the Superannuation Fund at an interest rate closer to the actual prevailing rate". I would like to know exactly what you mean by: "While this will not eliminate the book deficit due to the failure of the Government to contribute its full share". As you say, "the failure of the Government to contribute its full share of the cost", and a little later on you say: "Employees contribute 40 per cent of the cost of the pension". Are you saying here that Government participation is 60 per cent? This is what I understand. If employees contribute 40 per cent, then the Government share would be 60 per cent. Why then do you speak of the "failure of the Government to contribute"?

Mr. LECOURS: Personally, sir, I regret to have to admit that I only read the Brief this morning, and very rapidly. I was going to raise this question myself with my colleagues but I was unable to. What happened is that I received the notice of the meeting last evening at five-thirty in Montreal. It had been mailed from here on Friday. I was precisely going to raise this question because, frankly, it is a little ambiguous. It is rather difficult to understand, and as you say, it is contradictory. For the time being, however, if you will allow me, could ask Mr. Forsyth or Mr. Whitehouse to answer you in English on this?

(*English*)

Senator MACKENZIE: Mr. Chairman, may I make a comment on this? I am not sure that we should get into the philosophy, or the feasibility, or wisdom, of the actuarial decisions. I think you can argue both ways on this. I would be happier if we did not spent too much time on that paragraph which was inserted here, and which Mr. Émard has raised—and raised quite properly—because this is something that will have to be argued with the actuaries. I am not in a position to say whether the funds are invested wisely or unwisely.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I intend to use these arguments against the actuary a little later on, that is why I want to have some explanations.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): There is a simple explanation. I am not sure of it myself, but in my mind the reason for the discrepancy between the 60 and 40 is the amount that the government contributes from time to time to balance the periodical increases in salaries. That makes the 60-40. It is not because the contributions otherwise are not equal, but that in the fund itself there are nore contributions from the government, in the sense that they have to put in lump sums at different times to adjust the fund to the increases in salaries. Is that right?

Mr. FORSYTH: That is correct. The cardinal average basis for computing pensions is always going to raise a pay deficit every time there is an across-the-board increase; and that is a very substantial amount, because that has got to go back and pay for years of service from the time of the start of employment.

Now, the actuary here puts in a deficit of $499,000,000 which is quite a lot of dollars, but the superannuation fund is not a bond, it is a liability of the government, and the government will meet its liability as it falls due. We have had unfortunately a great deal of difficulty in convincing our members that there is no fund. They think that the money they put in down there in a safety deposit box, or somewhere, earning interest. It is not. And certainly the 4 per cent interest rate that the actuary uses is just something that they use because they have got to use something to evaluate it.

Senator MACKENZIE: These are up and down figures—

Mr. FORSYTH: That is correct.

Senator MACKENZIE: —and that is an average figure?

Mr. FORSYTH: I am not concerned; but our members are so obsessed with the fund idea that you have not put something in there to meet their wishes. I do not think that it means anything.

(*Translation*)

Mr. ÉMARD: What I do not understand is, why you speak in the Brief, of the "failure of the Government to contribute its full share". If we judge by industry participation in several funds, it is a 50-50 participation. I think that a 50-50 participation is normal and wonder why a 60-40 participation is considered insufficient. That is what I would like to know.

(*English*)

Mr. FORSYTH: Well, it is adequate if they actually contribute it.

Mr. ÉMARD: You are not suggesting that the contribution, of course, from the government side is not adequate? They are giving 60 percent—

Mr. LECOURS: Do they not regularly contribute to this fund on the basis of present-day figures?

Mr. FORSYTH: Not necessarily; they put in lump sums from time to time.

Mr. LECOURS: I would like to know what proof we have that the government is not paying its regular share.

Mr. FORSYTH: There is a statement published every year on the fund.

Mr. KNOWLES: Mr. Chairman, I wonder if the key to this is not in the statement Mr. Émard read and with which I agree—that a pension is a deferred wage. Now, if that is the case, and everybody else has the chance to have his wages increased, why should not these deferred wages be increased?

Mr. FORSYTH: I agree.

Mr. KNOWLES: I know you agree with me; but is not that the moral justification for what we are doing rather than trying to find it in the fund. Everybody else whose living costs and living standards go up gets a chance to increase his wages. These pensioners who are on a deferred wages have them frozen. Is not that the moral justification that you are—

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, if I may interrupt, I think that what Mr. Émard has been saying, is being repeated. I think we could leave it there, that he objects more to the statement that the contributions of the government are insufficient. He does not object, as I think he stated, to the suggestion that the pensions should be increased, but he says that it should not be blamed on the lack of contributions by the government. Is that not it, Mr. Émard?

(*Translation*)

Mr. ÉMARD: Once again, I would like to make my position very clear. I agree completely, that civil servants' pensions should be increased. But I would like to use the arguments that you are bringing forth in discussion with Government actuaries and officials, because I am not too well informed about pension plans. I, therefore, need the arguments you are presenting for the Government officials in arguing that your pensions be increased. What I want are explanations and when I see a remark such as "failure of the Government to contribute its full share" I would like to have an explanation. When I say something and people do not understand me they will ask me for explanations so I am asking why you are saying such a thing?

Mr. LECOURS: I think that Mr. Émard is being the devil's advocate in this matter, for which my colleagues and myself are most appreciative.

Senator DENIS: The devil's advocate! 60-40 seems reasonable to me.

Mr. LECOURS: What I am saying is that Mr. Émard is trying to help us present something concrete, to say something very precise and personally I am sure that my colleagues appreciate this, because, after all, we are amateurs in this, not professionals. We have to use the figures which are submitted to us without knowing where they come from, without knowing whether they are accurate, without knowing their objective. When we see 13,000 widows and pensioners who do not even get a pension of $100 per month this is what strikes us. I appreciate the question you are asking, because it will enable us to reply adequately in the future. We will certainly study your questions in Committee so as to be able to give you adequate and sensible answers.

Senator DENIS: Mr. Émard wants to know whether or not you were deliberately discourteous?

Mr. LECOURS: I do not think there was any question of rudeness, but perhaps a faulty expression was used.

Mr. Émard asked how many members we had. Without knowing for sure, because it is the beginning of the year and our people have not all sent in their dues. In Montreal 140 gave me $3.00; I give $2.00 to the National Organization. I think that from one end of the country to the other, there are between 2,000 and 2,500 members at the present time, but the maximum number, if I am not mistaken was 3,000, two years ago. Last year, however, our members did not subscribe saying, "What did you do for us, we did not receive any pension increase. Why then should we give you $3. We would rather spend the $3. on something else". In some cases, $3. is a very substantial amount for a pensioner who only receives $20. per month.

What happened then? I sent notices out; of 134 who were delinquent last year, 47 paid. And this year, I sent out 550 notices of meetings and requests for dues. To date, I have received about 140 replies. We hope to be able to reach the 3,000 of two years ago, but unfortunately, (I do not know whether I should say this or not—it will give them an idea), this year they will say: "Why should we pay, we are going to get an increase anyway. You went to Ottawa and they are willing to study our needs". So you see the position in which we find ourselves. That is why I appreciate what Mr. Emard is doing.

Mr. ÉMARD: On Page 2, a little bit further, you say that the problem of the present generation of pensioners is inflation and you elaborate a little on this. I would like to say, as I did a little while ago, this problem is not peculiar to the superannuation fund. It is a problem that we find everywhere, throughtout industry; it is a problem which I have had the opportunity of discussing in negotiations for a great many years. A solution will certainly have to be found. Now, is the solution you are suggesting the ideal one? I do not know. I think however everyone agrees that this problem does exist not only for the Government but for everybody. And even when there is not too much inflation there is always an increase in the standard of living, there is a general increase for employees either in industry or business or government. The pension drawn by a retired person may be sufficient at the time he retires,

but if he is lucky enough or unfortunate enough to live ten more years then the pension is no longer what it should be.

Mr. LECOURS: Can I interrupt you one moment? Everything you are saying is completely through and confirms our position, our requests. You will note that only insurance policies and pensions do not fluctuate with the cost of living. In France, since the First World War, the Government has been asking about 60 per cent of the individual's income. So take a widow who has an income of, let us say, 12,000 francs; she had only about 5,000 left to live on. Here in Canada, it is the same thing. For those who paid for insurance when the dollar was worth 100 cents, will draw a dollar which is worth from 40 to 50 cents from a purchasing point of view. That is our concern, that is what we want to have corrected.

I also draw your attention to a sentence here. "Everyone in industry and Government have received wage increases which compensated somewhat for the cost of living." Everyone, that is, except pensioners, retired federal civil servants. Everyone received an increase, but us. Was this done purposely? I know it is not with the intention of being unjust, but was there not a little bit of negligence, a little bit of apathy, a little bit of, well, it is not my business, on the part of some people in Government. When we say Government, we mean the high officials, who are, after all, the advisers to the Members of Parliament, the Senators and the Cabinet. For over 20 years, we have been trying to obtain something besides this very small increase which was voted to those pensioned prior to 1953. We have had nothing. Since 1953 there have been four or five wage increases for civil servants and the armed forces. In other words, everybody has profited from the rising economy except us—the pensioners of the Federal Government.

The JOINT CHAIRMAN: You not only include the pensioners of the Federal Government, but all others in industry and so on?

Mr. LECOURS: Mr. Emard mentioned the others. Our only concern is for the federal civil servants who are retired.

Mr. ÉMARD: I refer to Page 2 at the bottom of the page where it says: "A price rise of 2 per cent per year, reduces the real value of pensions by 1/3 in twenty years". This is a mathematical aspect that I do not understand. A price rise of 2 per cent per year, reduces the real value of a pension by one third in twenty years.

Mr. LECOURS: Not being actuaries, Mr. Emard, as I said a little while ago, we have to use approximate figures. But if you calculate 2 per cent per year, with compound interest, you will see that 1/3 is quickly reached.

Senator BOURGET: It is more than reached, it is over run.

Mr. LECOURS: We are not accountants, we are not actuaries, we are not professionals, therefore, we use the means at our disposal. You will, therefore, have to take this fact into consideration in judging our presentation which might perhaps be faulty in form, but not in intent.

Mr. ÉMARD: On Page 3 one reads: "During a man's active life, there are two main factors that raise his remuneration." Now this is important because it sets a

figure of 5 per cent. A little further there is a paragraph to which I would like to refer: "As the experience of an employee increases, he generally has periodic increases." Perhaps I do not understand correctly, but I would take it to mean that these periodic increases only apply to a definite period of time. When the employee has reached the maximum of his wage scale, these periodic increases stop; if he were to continue the same work for twenty years, he would receive no other periodic increases, unless he is promoted to a higher position. When an employee goes from grade 3 to grade 4, there is a wage scale according to which every six months his wages will increase from $4,500 to $5,000; so every six months, for two years, he will receive a certain amount, and then at the end of the year his salary will then be at $5,000. Now, if that is what you mean by periodic increases, it means that this lasts only for a certain length of time. If you mean promotions, well, then it is a different story. I would like to know if you really understand the same thing as I do by "periodic increases", or do you mean when an employee is "promoted from one job to another".

Mr. LECOURS: Personally, I would call these increases, statutory increases. The cost of living is compensated for by general salary increases, these are two different things. Statutory increases, and the general wage increases, obtained by some sort of pressure.

Mr. ÉMARD: In other words, this is exactly what I thought. And now at the bottom of Page 3, you say that "Consequently, actuaries consider that a 3 percent increase is caused by economic factors"; they are periodic increases but they do not apply every year for 20 years in a row. It is only for one or two years. I do not think that it would be such a good idea for you to use this to obtain this figure of 5 percent. You say a little further "The combined promotions and economic increases" represent approximately 5 percent of salaries every year. Indeed, this is an escalation clause similiar to what this Association is asking in respect of pensions". I think it would be a good idea to revise the basis of the 5 percent figure you are asking for.

Mr. LECOURS: Unless I am mistaken, Mr. Émard, we are not asking for an increase of 5 percent. Mr. Forsyth, a little while ago, specified a figure of $50. Now for purposes of study, once again, I repeat, the figures we are using are approximations based on the statistics published by the Government over several years. Once again, we are not professionals in this particular field. Does this satisfy you?

Mr. ÉMARD: Yes. I would like to refer to the answer given to Mr. Knowles, published in Hansard on January 30th, 1967. One reads: "Pensioned civil servants, widows of pensioners receive less than $20 per month $30 and so on." I was surprised to see that retired pensioners were receiving less than twenty dollars per month. This is disgusting. If we can rely on these figures that say some people are only getting $20 per month and that there are 13,000 pensioners and pensioners' widows that are receiving less than $100 per month. Last week I listened to a Brief presented by Government officials, I do not know exactly what they represented. We were told that the Government was paying a pension after 5 years' service. This changes the story completely. In industry, it is rather rare that a pension is paid to employees who have less than 20 years service, except for disability pensions which are paid for any length of service. The retirement or service pensions are paid after a minimum of 20 years. I have heard comments

on radio and television to the effect that the Government was paying pensions of $20, $30 and $40 per month to its retired civil servants. I think it is bad to allow propaganda of this sort to continue and to state half truths. This leaves in the minds of the people the feeling that the Government is paying $20, $30 or $40 in pensions to employees who have completed 25, 30, and 45 years of service. If you consider the cases in the Brief which was submitted to us last week, then you will see that those who are drawing $20, $30 and $40 per month are precisely the employees who served the government, often, less than 10 years.

I think that it gives a false impression to the public in general, because on this point the Government plan is certainly superior to any other plan that I know of in industry. In industry, I think that the best plan at the present time, is that of the United Auto Workers who are entitled to a pension after ten years' service, if I am well informed. I do not have the latest results of their negotiations, but I know that the U.A.W. plan, however, was one of the best. They started paying a pension after ten years' of service. And here you have people coming to work for the Government for a period of only five years. So, the Government has a pension plan which is much more superior, because the Government plan in some aspects, is superior. How superior it really is, remains to be discussed. Some provisions, I consider inferior, and others, I consider superior.

For example, I think that the stopping of the compilation of pensions after 35 years service, should be corrected. There is no reason why a person working 40 or 45 years for the Government, should not be paid on a basis of 40 or 45 years, it is discriminatory. I think we ought to talk about this a little later on, however, there are provisions which are superior to what is offered elsewhere. I do not want to go over all of them, but one of them in particular, is the fact that the Government consents to a pension after five years of service. This is superior but not only has the Government consented to do this, but whereas if you work in industry, where there is a pension plan, for instance if you worked for the C.N. or the C.P.—I worked there and I know—for five years and leave your job or are laid off, you are not handed your pension fund contributions and go home. You get nothing. This was, of course, before we had the portable pension schemes, but with the Government you could work the five years and at the end of five years, you are entitled to a deferred pension, which means that when you reach the age of 60, the Government will pay you a pension. Naturally, the Government will pay you a pension based on the five years of service. It would be dishonest on its part, and discriminatory for the Government to give you a pension which was equal to that of one who had worked for 20 years, if you only worked 5 years. But I am thinking, however, of this Brief and the comments heard over radio, television and the press, that 13,000 government persons, are not receiving $100 per month. I think that when these statements are made it should be added, for instance, that the Government service in a great many cases, is less than 10 years, which gives a completely different image of the Government Pension Plan. I am not here to defend the Government's Pension Plan, but I think that justice should be done however. If there are good things, let us say so, if there are bad things, let us say so, and then we can correct the ones that are bad.

The JOINT-CHAIRMAN: Any more questions, Mr. Émard.

(*English*)

Mr. BELL (*Carleton*): Mr. Chairman, I would like to understand from Mr. Forsyth, with somewhat great precision, the exact nature of each of the four basic recommendations at the top of page 6.

As I understand it now, the first recommendation has been expanded. Mr. Forsyth is advocating to us today a flat rate increase for all retired civil servants, and he suggests an amount of $50. That would not apply as I understand it, to anyone who has retired since 1960 on the 6 year average. In other words, there is nothing under the first recommendation for anyone who has retired since 1960 is that correct?

Mr. FORSYTH: Let me say this, Mr. Bell, that we are concerned—and I am now dealing—with the lower paid pensioners. Since the conception of the six year average, pensions have been substantially increased. I have no figures and I would not like to make any statement with regard to them. I am concerned with those people who retired prior to 1960 and who have small pensions. These are the ones that I say should first receive the preferred treatment.

Now, if we are going to have an escalator clause—

Mr. BELL (*Carleton*): I will come to the escalator clause. I would like to go down each one, if I may.

No flat rate would apply to widows under our proposal. Such remedy as there might be for widows would be under subsequent clauses of your recommendations?

Mr. FORSYTH: That is right.

Mr. BELL (*Carleton*): As I understand it, your rough calculation was that it might cost about $17,000,000.

Mr. FORSYTH: Let me correct that. That figure was based upon the number of pensioners receiving pensions as at December 31, 1962. Obviously they would be reduced if it is just those who were on pension prior to 1960.

Mr. BELL (*Carleton*): I made a calculation that if you were including the widows it would cost approximately $30,000,000; so that probably, not including widows, it would be less.

Mr. FORSYTH: Actually, that is the figure that I suggest for those persons who were receiving pensions in 1962.

Mr. BELL (*Carleton*): There would be no cut-off situation as in the others? You would not cut it off at $5,000. You would pay it to my friends Norman Robertson and Dave Sim just as you would to a person who was getting under $20 a month.

Mr. FORSYTH: Well, yes; I think that they have a right to get a cost of living bonus, too.

Mr. BELL (*Carleton*): Well, I now come to recommendation number two. There you propose something which I myself have advocated on a number of occasions a statutory escalation clause. Do you think that that would require an increase in contribution, and, if so, have you made any preliminary calculation of what the increase in contribution might be?

Mr. FORSYTH: Now, here you are asking me something that pose the rather difficult actuarial problem of how much you are going to ask; because you do not

know what you are going to meet and you do not know what the cost of living bonus is going to be.

I might say that I was concerned with an investigation into that. The cost is very, very high if we are going to fund that cost; but so long as you have a pension based upon terminal earnings, and the cost of living steadies down, you do not need an escalator clause.

Mr. BELL (*Carleton*): You do not?

Mr. FORSYTH: You do not need an escalator clause if the economy steadies down and there is no substantial rise. You see, the rise in the cost of living over the last few years has been—well shelter has gone up 11 points, from 152 to 163, since 1964; food has gone up 12 points.

Mr. BELL (*Carleton*): I think that all Members of Parliament are fully aware of those figures.

Mr. FORSYTH: It is pretty difficult to forecast those figures and, therefore, when an actuary is making a calculation he is going to have ample funds to provide it because that is what he is doing it for.

Mr. BELL (*Carleton*): I will go back to what was my original question: Should this escalation clause be financed by an increase in contribution, or should it be by way of payments direct from the treasury?

Mr. FORSYTH: Some of this cost of living is being absorbed by investment in private funds.

Mr. BELL (*Carleton*): Are you recommending the investment of the superannuation fund in private industry?

Mr. FORSYTH: Oh, yes, in private industry; yes, surely, I would say. A good example of a fund that is taking into consideration the cost of living is the Ontario Employee's Retirement Plan. There they will take a 5½ per cent contribution, and they will provide a pension equivalent to 2 per cent of the total earnings, with a 50 per cent survivorship to the widow and $25 for every child under 18 years of age; and they are doing that on the basis of 5½ per cent contribution at retirement at age 65. They are only able to do that because the Ontario government is guaranteeing that the fund will receive 5 per cent a year. Now, that is an illustration of what interest will do to a pension plan.

Mr. BELL (*Carleton*): You have carried this somewhat farther than I thought your brief did, Mr. Forsyth. From what you said in your brief I did not realize that you were advocating a complete change in the whole principle of the superannuation act so that it would be invested in equity stocks in the future rather than being funded by the government.

Mr. FORSYTH: No, I did not say that. I was just giving an example of a modern pension plan and it is just a recent pension plan by the Ontario government which is going to meet that cost of living trouble; because their pension is going to be 2 per cent of their total earnings, and as their earnings rise their pensions rise, and they will have the money to finance it at the 5 per cent rate.

Mr. LECOURS: May I say something, Mr. Chairman? Mr. Bell, talking with Mr. O'Brien a few minutes ago, we discussed the feature of the 4 per cent which

has been established actuarially. Interest on money has practically doubled in the last 15 or 20 years, therefore I think it would only be fair if the government invested these monies, on paper, at the average rate of interest paid by the three governments in Canada, federal, provincial and municipal, which I think would work out to between 5½ and 6 per cent at today's figures.

Mr. BELL (*Carleton*): What would that have been 20 years ago?

Mr. LECOURS: Roughly half.

Mr. BELL (*Carleton*): Would you have this as a floating rate year by year?

Mr. LECOURS: No.

Mr. BELL (*Carleton*): I happen to have some 2-3/4 per cent federal government bonds and I am awfully glad they are not invested in—

Mr. LECOURS: You probably also have the 6½ and 7 per cent, and, if you are a gambler, the 8 and 10 per cent.

We are talking about the interest on money. The rent for money today is double what it was 20 years ago. Therefore, that is what Mr. Forsyth and my colleagues mean. That 4 per cent actuarial concept is no longer worthwhile today because since it was established, I do not know how many years ago, it has doubled.

Senator MACKENZIE: Mr. Chairman, we seem to be getting into the area of actuarial science.

Mr. BELL (*Carleton*): Yes; I would like to go ahead with each of these four recommendations. I want to fully understand. Mr. Forsyth has not made it clear yet, and I want to put it to him. I am very sympathetic with his point of view because this is what I have consistantly advocated in escalation clauses, but I would like him to say whether he feels that this would require an increase in contributions, and, if it did, would he be prepared to advocate that?

Mr. FORSYTH: I see no reason why it should not be done. It certainly is for the benefit of the employees. There would be some difficulty in calculating the exact cost, but actuaries can do practically anything.

Mr. BELL (*Carleton*): In relation to the third recommendation, Mr. Forsyth, which is a very interesting one indeed, would you think that this might require an increase in contribution, and, if so, would you advocate it?

Mr. FORSYTH: The cost would be so small that I do not think you could get a real figure.

Mr. BELL (*Carleton*): Do you think this could be financed without any change?

Mr. FORSYTH: Let us take, for example, a widow and suppose that she is going to get a pension of $2,000. All you would have to do then is to calculate the extra cost of $1,000 per year. That would probably amount to $75 or $80.

Mr. LECOURS: If the actual rate of interest is applied there would be no necessity for increased contributions from the civil service.

Senator MACKENZIE: Mr. Chairman, this rate of interest is an actuarial matter. I have had some experience as a trustee with one of the large insurance

and pension funds. You have got to cover a period of 40 years. I do not think we want to get into that.

Mr. BELL (*Carleton*): Well, I am trying to avoid getting into it, Senator MacKenzie, and if I just have a moment more—

Senator CAMPBELL: May I just inject one point? We had an actuary here the other night and I think that he said that the average over a long period of time was about 4 per cent. We could keep that figure in mind.

Mr. BELL (*Carleton*): Finally, in your fourth recommendation, where you suggest the recalculation of the bensions of all living pensioners on the basis of the 6 year average, would this be for pensions for the future, or are you seeking for payment of pension in arrears on that basis?

Mr. FORSYTH: I feel that the recalculation that started in 1960 was very unfair to those pensioners who had retired, because they are the ones that created the conditions and did the work to produce the conditions under which this 6-year average revision could be made. They were entitled to it. They were at least entitled to some recognition.

Mr. Bell (*Carleton*): I am not arguing that with you Mr. Forsyth. I am just asking you if this is only for the future, or would you, on the basis of recalculation, pay the arrears that have accrued since 1960 to these persons—on the basis of that recalculation?

Mr. FORSYTH: Yes; I think we would be in favour of it.

Mr. PATTERSON: Mr. Chairman, I would like to say first that I am in full agreement, of course, with the view expressed that there should, and must, be an adequate increase in the pensions of superannuated civil servants. We have all received, I know, many communications bringing various specific cases to our attention, and these have only served to highlight the importance of giving it over-all consideration.

I appreciate, and agree with, the suggestion that rather than have a percentage increase it be based on dollars. I was speaking sometime ago to a person who is still employed in the civil service, and he urged this very thing, that in order to meet the needs of those in the lower pension brackets a dollar increase would be much more advantageous then would just a straight percentage increase. Therefore, I would agree that this is a very commendable approach to it.

Now, I just want to get one or two points cleared up in my mind. I listened to the presentation of the brief and also to the explanations given by the president. In the first instance I understood that widows would not be included in the increase, but then as he continued I thought that the president reversed his position there. Now, just where does this fit in? Would this $50 apply to widows or not?

Mr. FORSYTH: Well, are these widows who are at present widows, or those who are going to get the pension which their husband has got, which already has the $50 a month on it?

Mr. PATTERSON: Present widows?

Mr. FORSYTH: Present widows are certainly entitled to have their pension brought up to correspond with it. I would not deprive them of that for anything.

I did say that all widows are not suffering. Some are. You have got to take them as a class, and they are entitled to some increase in their pension.

Mr. PATTERSON: Well, possibly it was my own understanding and, perhaps I was in error, but I thought there was a contradiction in the two positions you had expressed.

Mr. FORSYTH: I would like to be very definite on that.

Mr. PATTERSON: One other matter was that I thought at first Mr. Forsyth stated that he was not urging this increase to those who would retire after 1960, and then just a moment or two ago, in answer to a question by Mr. Bell, I got the other impression, when he stated—and he mentioned the name—that even Mr. so-and-so was entitled to an increase. Now, would that be in another category?

Mr. FORSYTH: All I was saying there was that I think all living pensioners are entitled to have their pension recalculated on the basis of the 6 year average.

Now, that is going to make a considerable difference. I retired from the service in 1952 and I had three years of war service which was taken into account. I made a rough calculation. The 6 year average would make a difference of about $600 a year in my pension. Putting them on the 6 year average; would make a substantial difference in the pensions that started prior to 1960; in other words putting them on a parity.

Now, if you are going to put a $50 a month bonus on it, then of course you would probably be piling just a little bit too much on. But it is one thing or another. We are offering several suggestions in the hope that one will be adopted.

Mr. LECOURS: Or a better one substituted.

Mr. CHATWOOD: Mr. Forsyth, what is your general feeling about the study of this Committee? Do you feel that it has been a good thing that this has been referred to the committee and that they are now going to study the pensions and suggest action?

Mr. FORSYTH: I think it is an excellent thing. Pension is a technical subject and it is impossible to have it fully discussed in a large body such as Parliament itself. It is only in a committee such as this that you can get down to the groundwork on it.

Mr. CHATWOOD: In your third last line of your brief, you say that nothing has been done or proposed. Would not you consider that this is a proposal to do something?

Mr. FORSYTH: Well, it is a start in the right direction. Let us say that.

Mr. CHATWOOD: You have made a suggestion of a flat rate of $50. Now, in the case of a man who retired in 1950 with 30 years' service and a man who retired in 1959 with 5 years' service, where probably the man who retired in 1959 was getting a higher wage than the man who retired in 1950 after 30 years, would you say that they should both get exactly the same amount of dollars—the one who has given 30 years at a low salary and the other 5 years at a higher salary?

Mr. FORSYTH: Yes, certainly; but your example is not good, because you will not get any pension with 9 years' service; you have got to have 10 years' service to get a pension.

Mr. CHATWOOD: Just give him one more year then.

Mr. FORSYTH: Certainly, he would be entitled to the bonus irrespective of the amount of pension that he is getting. It is true that percentagewise it will be greater than the lower paid individual and the percentage in the other individual might be comparatively small.

Mr. BELL (*Carleton*): Excuse me, Mr. Chairman, I think Mr. Forsyth is wrong when he says it has to be ten years. I think the law is 5 years.

Mr. FORSYTH: I have not read fully all the amendments.

Mr. CHATWOOD: Would you agree with the suggestion that a more complicated system could be worked out which might be fairer to a greater number of people?

Mr. FORSYTH: We have considered yearly every reasonable or sensible method of getting relief, and some that were not very sensible. I think that what we suggest is the simplest; and it is the most effective and it is the cleanest. It can be most easily done, with a minimum of work.

Mr. CHATWOOD: I am merely seeking general information. I am not necessarily supporting one opinion or the other.

The man who has five years' service could conceivably be getting a pension from private industry where he had worked for 20 years. Do you think that this should be taken into consideration, or ignored? In other words, a man who has only worked for 5 years and is getting a pension—or even 10 years—could have worked for 20 years in industry. He has done something with the rest of his life.

Mr. WALKER: You mean does he get this additional $50?

Senator MACKENZIE: Is not this another form of means test, Mr. Chairman?

Mr. LECOURS: Could I answer that, Mr. Chairman? I think we can surmise that anybody under an adequate pension figure is going to withdraw his contributions. A person who has worked only five years would rather have the cash, because his pension is going to be peanuts. To take my case, I had to retire after 11 years' service. I cannot blame the government for what I am getting, and I do not. That is why I like what Mr. Émard said. You are bringing up the same question.

I think you can adopt the attitude that anybody with less than 10 years' or 15 years' service, if he is under 60 years' of age, is going to prefer to withdraw his contributions, and that is it finished.

Mr. CHATWOOD: We would, of course, be making an assumption there. What I am really suggesting is that the man who put in 30 years and who finished in 1950 is in difficult position, because he earned his wages when the dollar, comparatively, was worth less. However, I will leave that point, if I may, and deal with another.

On page 5 you mention that the escalator clause follows the lead of England, the United states, Australia and so on. Could you tell us the whole picture on pensions in these countries? In other words, what have they done with pensions, say, in Britain, or in France, and what is the complete pension picture in Ontario and other provinces you mention?

Mr. FORSYTH: Information on the English pensions is not very easy to obtain. It is not as easy as here. The English have a different system. They put on a

pension for their employees, and that is called a pension plan with a certain rate of contributions. If a man marries he has a chance to contribute to the widows' and orphans' fund, and that is kept separate. Only the married men contribute towards it. Here you have single men contributing to the fund for possible dependents that they probably never have.

I do not know that I can give you any accurate information on these pension plans. There have been some very learned texts on them and I have read them, but I find them hard to digest.

I do not know what is happening down in Washington. The last time I was in Washington I did inquire and I can tell you that it sounded to me like confusion twice confounded.

The JOINT CHAIRMAN (*Mr. Richard*): I think, Mr. Forsyth, as I mentioned, that we are more interested in what had been done in the escalator type, on the cost of living.

Mr. FORSYTH: I have not seen the final thing in England. In the United States I think the year before last they passed a statute under which, when the cost of living index goes up a certain number of points, there is an automatic increase in every pension. That is somewhat similar to the ones in the western provinces.

Mr. LECOURS: In England, we can only go by what we read in the newspapers, or in magazines, as a rule.

Mr. CHATWOOD: I would like to know more about these other escalator clauses but possibly I can find it from another witness or through research.

That is all I had, thank you.

Mr. BELL (*Carleton*): You will find something on page 6638 of *Hansard.*

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Knowles.

Mr. KNOWLES: At the risk of appearing to oversimplify the matter, I wonder if it would be fair to suggest that what the association before us is asking, is that for people now retired we should find a way to make a supplement on the simplest possible basis, but that so far as the future is concerned—the forbidden part in our terms of reference—that is something to be taken care of by building an escalation clause into the act itself.

You have recommended that, but that does not affect your members. For your members and the people for whom you speak you are suggesting the simplest possible form of a supplement.

Mr. FORSYTH: The lump sum payment is to catch up with them, to the present; then have your escalator clause operate if there is a further increase. If we are going to deal only with persons who retired prior to 1960, there are not going to be very many of them around 10 years from now.

Mr. KNOWLES: So that you are advocating an escalator clause not only in the plan for future retirees, but that it apply to present superannuates if they live long enough to see further increases in the cost of living?

Mr. FORSYTH: That is right.

Mr. KNOWLES: They will.

The JOINT CHAIRMAN (*Mr. Richard*): Senator Denis.

Senator DENIS: I am far from being against an increase in pension for a person who has been in the civil service, but let us start with an example. Let us take, for instance the cost of living in 1950. A person who has retired has received a pension of $20 a month. Is the contribution based on anything other than the cost of living? In 1950 was a pension of $20 sufficient for that retired person to live? Do you agree that this $20 was based on the number of contributions, or the number of years, that the husband worked? If the pension is not based on the cost of living, but based on contributions, and, for instance, the pension is sufficient—suppose that that retired person is getting $20 a month pension—and let us say that the cost of living has doubled. In order to meet the cost of living increase he should receive $40 a month instead of $20. If you give him $50 it is a gift, or something that nobody else has got? Am I right in saying that?

Mr. FORSYTH: Well, I hardly think so. The amount of pension that he is getting has no relation to the cost of living. It is the increase in the cost of living, as I say—the cost of food and shelter—that we are trying to bring up to date with this $50. Let us take this as a handy figure. It could be $48, or it could be $52. We just chose $50 as a matter of convenience. That will bring the pension approximately in line with the increase in the cost of living in the last 15 to 20 years.

Senator DENIS: You have to have some relation of the cost of living to the recommendation you are now making.

Mr. FORSYTH: It has a rough approximation, but I would not like to say that you could figure it out to two or three decimal points, if I could put it that way.

Senator DENIS: Do you know of anyone in the private sector who has increased pensions by that amount?

Mr. FORSYTH: General Motors did something. I have been out of the pension business for quite a few years. These labour documents are not easy to come by, but I did see one where the United Automobile Workers negotiated for an increase in pension up to $350 a month; and that that pension would be applicable to those persons who had already retired as well as to those who retire in the future.

Senator DENIS: And what about the widows?

Mr. FORSYTH: There was nothing about the widow there. These industrial pensions did not provide anything for the widow.

Senator DENIS: Could you be more specific and give us, perhaps at a later date, the names of companies that have given an increase of $50 a month? Of course, it may well be from $1 up to $300 of a maximum, but is it based on the cost of living? If the cost of living has increased by 2 per cent do they give him 2 per cent more on his pension, or how does it work?

Mr. FORSYTH: Well, they are tying industrial pensions into wages, and they are keeping wages pretty well current with the cost of living, so that their pension rises in proportion to their wages.

Now, where you get the negotiated pension, such as you have with the steel unions and the automobile workers union, you do not get anything related to

wages. A man getting $100 a week gets the same pension as does a man getting $500 a week. There it is a lump sum.

Now, there have been increases in some of the financial institutions where they have pension plans similar to our own, but I am not at liberty to mention them because the information that I got was confidential. I certainly do not think that they would like the publicity because it might be questioned whether it is sufficient or not. I do not think that I can give you the names of the actual companies. I can tell you what some companies have done.

Senator DENIS: You say that your recommendation would not apply to the pensioner since 1960. Does that mean that those pensioners would, in effect, today receive an increase of $50 a month? Would their pension increase by $50 a month as compared to those receiving pensions from 1950?

Mr. FORSYTH: Well, those people who have retired since 1960 have got a pension based on the 6 year average. Now, that 6 year average makes a difference. I quoted my own case, where I estimate that it made a difference of about $600 a year; and it was not a very big pension. That, I think, is a good cutting off point. They will benefit by the escalator clause in the pension plan in respect to the cost of living, as does everybody else. The $50 is to try to catch up with the arrears.

Senator DENIS: That is not exactly the increase in the cost of living; it is the areas that you want to be reimbursed from the time that there should been have an increase in the pension?

Mr. FORSYTH: The cost of shelter has increased since 1949 from 100 to 163.

Senator DENIS: We all know that. We are interested in knowing why a retired person, who is entitled by his contributions to receive $20 a month, should receive an extra $50 a month. That is the question I am asking you.

Mr. FORSYTH: We suggest this as a means of taxing to equalize those dollars that he is getting with the value of the dollars that he paid in to produce that pension.

Mr. LECOURS: May I say something, Mr. Chairman, in answer to Mr. Denis?

All that we are asking for is that some consideration be given to the plight of all those people whose pensions are inadequate after a certain number of years. That is all we are asking for. I repeat, we are not professionals in the field; we have no actuarial experience. Therefore, we must be vague in our suggestion.

I think the fundamental suggestion is this, that there are pensioners of the governement service today who, after having given service worth 100 cents on the dollar, are receiving a dollar that will buy only 40 cents worth of food or clothing or shelter. As Mr. Knowles said, to simplify the whole thing, that is all we are asking for—that people be allowed to live adequately.

Senator DENIS: I do not want to imply that those who have received pensions after 1960 should not be included, but have you got many members in your association who have retired since 1960 and who are excluded?

Mr. FORSYTH: A few.

Senator DENIS: Do they agree with your brief?

Some hon. MEMBERS: No.

Mr. FORSYTH: The great majority of them do; and even the people who have been retired since 1960 are very sympathetic for those who retired in 1950 and beyond that, who are getting a very low pension.

Senator DENIS: Can I say something to prove that? The amount of $50 a month would compensate for the arrears, and that would be fine if it was a lump sum to start, with readjustment of the increase in the years to come; but by reimbursing for the arrears you are asking the government to grant an increase for the years to come. What will happen if you have been reimbursed and you have too much?

Mr. FORSYTH: Well, that is a mistake on the right side. You will remember, however that in 1958 the token increase in pension was limited to those up to $3,000. Now, I do not know; it struck me that if there was going to be any relief for pensioners, it should extend throughout, not in the nature of a percentage throughout; but if we are going to take a lump sum let everybody get it.

Senator DENIS: Do you say that every retired person in Canada should receive that increase of $50 a month, even in the private sector, on even if he is self-employed, or those who are not receiving any pension at all?

An hon. MEMBER: That is irrelevant. He is not here on behalf of those others.

The JOINT CHAIRMAN (*Mr. Richard*): Are there further questions? Senator Fergusson.

Senator FERGUSSON: Mr. Chairman, I am afraid that I am still a little confused. I would just like a little clarification about widows and the $50 increase that you suggest should be paid. Am I to understand that all widows of retired civil servants should be paid the increase of $50, as are retired civil servants? Is this your recommendation?

Mr. FORSYTH: Yes.

Senator FERGUSSON: Well, I am still a little confused about recommendation three on page 6. As has been made quite clear, all that this Committee has the authority to do is to consider back pensions. I understand that this recommendation really just has to do with the future. I mean it really is not appropriate to make it because we cannot do anything about it.

Mr. FORSYTH: Not here.

Senator FERGUSSON: Yes; but it could well be made to someone who is considering changing the system of superannuation.

I just wanted to be clear about that.

Mr. FORSYTH: We are trying to do well by our widows.

Senator FERGUSSON: This is fine; and it is good to have this put before us. Probably whoever is drawing up a new act will remember your suggestion. I just wanted to be sure that it was nothing that we could really make any recommendation about, and that you did not expect us to do. I had intended to bring up the first point that Mr. Émard raised on page 1, that due to a lack of co-operation by the government authorities recruitment of members had been

seriously impeded. The statement made by Mr. Forsyth was that you were told that the names and address could not be given out, but you were permitted to have a form included in the pension envelope—

Mr. FORSYTH: No, we were not.

Senator FERGUSSON: Oh, you were not? You were refused that? I beg your pardon.

Mr. FORSYTH: And I do not see why.

Senator FERGUSSON: Well, I do not see why either, excepting that I once administered a pension myself in my province of New Brunswick—family allowance and old age security—and I do know that it would mean a great deal of additional work for the staff. Perhaps this is why they felt that they could not do it.

Mr. FORSYTH: Surely for one distribution of—

Senator FERGUSSON: They would have to see that it went out with every new—

Mr. FORSYTH: What we wanted to do, Senator, was to let it be known that we were in business. We wanted people to know about it and get in touch with us in some way or other. We have not got the money to advertise on the radio or in newspapers, and word of mouth is pretty slow in getting around. However, we have over 500 members here in Ottawa alone, and mostly by people phoning and by our phoning; we get acquainted with them.

Senator FERGUSSON: Would you still like to have that privilege?

Mr. FORSYTH: Very, very much so.

Mr. WHITEHOUSE: Mr. Chairman, may I have the privilege of speaking on this question? I think it only fair that the Committee should know the history of why we have not been given this privilege. When we commenced organizing some three years ago I sought and obtained an interview with the Prime Minister and the Minister of Finance at that time, Mr. Gordon. One of the things that we asked was for the names and addresses of all superannuates in Canada. Subsequent to the interview we were given a flat No. The reason for this, we were told, was that the superannuates themselves had for various reasons requested that their name and address be not given out. We were given to understand that if we could get this thinking of the superannuates changed the government would be prepared to give us this information. We went to work, and at our first national convention all the delegates present voted that they were quite willing that this information be given to this organization.

Literally dozens of our members wrote to the Minister of Finance or to the Prime Minister, and we received a letter in turn from the Minister of Finance or the Prime Minister telling us that he had received the letter of so and so and had given them a copy of their reply stating that the government was pleased to give us the name and address of this particular superannuate whom we already had as a member. That is as far as it got.

In fairness to the superannuation branch, particularly to Mr. Trudeau, he has told me personally that although it would be an awful lot of work he would

be only to happy to compile this list and let us have it and keep us up-to-date with supplementary lists each month. That is the situation, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Were you asking for only the names, or—

Mr. FORSYTH: Names and addresses.

The JOINT CHAIRMAN (*Mr. Richard*): Not the amount of the pension?

M. WHITEHOUSE: Oh, no; just the name and address. To be quite frank, we wanted to check them as members of our organization.

Mr. WALKER: Mr. Chairman, there are just two things I want to clear up. I just want to be very clear on this question of the $50 payment. You were thinking of the $50 payment to the widow, not the widow's proportion of the $50?

Mr. FORSYTH: The straight $50; that is right.

Mr. WALKER: The other question is: What was to be the purpose of the list? Were you going to send out application forms for membership and this sort of thing?

Mr. WHITEHOUSE: As I say, it was to let them know that we were in business.

Mr. WALKER: Did you suggest to them that your association would present bundles of whatever you wanted sent out to the superannuation people and ask if they would include them in the envelopes?

Mr. WHITEHOUSE: No, we did not.

Mr. WALKER: Would this serve your purpose?

Mr. WHITEHOUSE: A slip would serve our purpose. In conversation with the secretary of the Treasury Board, Dr. Davidson, he said that he was quite willing to have this done, too—a slip enclosed with the superannuation cheque.

Senator FERGUSSON: I thought someone said that the superannuation branch would not do this?

Mr. WHITEHOUSE: The lists?

Senator FERGUSSON: No, no; I know they would not give the lists. I thought Mr. Forsyth intimated that they had been asked to send out the slips and he had told me that they would not do it.

Mr. FORSYTH: No.

An hon. MEMBER: Somebody said that.

The JOINT CHAIRMAN (*Mr. Richard*): It might mean that the superannuation branch would have to listen to similar requests from other parties who might be interested in the problems of superannuated civil servants, or for other purposes. There might be a problem there; there could be a conflict between organizations —some with good purposes and others less good—to do the same thing.

Mr. FORSYTH: I certainly think it would be very ill-advised to give a full list of names and addresses, but if the slip were limited to organizations such as ours—

An hon. MEMBER: You will get charitable organizations asking for the same thing.

Senator FERGUSSON: It could create problems. There are many, many organizations which would ask for a similar list. I know that from my own experience. You just cannot fit them all in.

Mr. WALKER: Would it be helpful to have a one-shot deal with your piece of literature, or whatever it is, in one mailing?

Mr. WHITEHOUSE: It would.

Mr. WALKER: All right.

Mr. CHATWOOD: My question was on that. I think we all recognize the problems. If you start putting material in with pension cheques and with various other government cheques that go out—I imagine legel people would bring this up—are we not somehow implying that the government sponsors this, or approves of it? They would necessarily have to approve of it or they would not let it be put in.

However, ignoring that, do you feel that it would be a good thing to have a mailing put out at your expense, using your envelopes and your material, and just having the addressed labels stuck on? You would not be supplied with the list of whom it went to, but the number of people it went to would be supplied? It could be done in that way without any suggestion that the people paying the pension were sponsoring this organization.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps all this may be unnecessary. After this Committee has deliberated perhaps the superannuates will not have to function in the same manner. Could we follow the order now? Mr. Émard.

Mr. ÉMARD: Mr. Forsyth, as an expert on pensions, and a former representative of the employer, what is your reaction to pensions being part of collective bargaining?

Mr. FORSYTH: They are certainly vital to the employee these days. An employer without a pension plan is certainly putting his employees very much at a disadvantage.

When you come to bargaining for them, you have got to put some limitation on them. I mean the man has got to do something for it because it is a reward for services. I do not see that there can be any other definition. As matter of fact, that is the definition that the Carnegie Foundation laid down when they started in on pensions away back in the twenties, and it is as good a definition as I know. There is the case I cite of a Scottish judge saying that a pension is a payment to a servant who has deserved well of his master, but do not forget that in those days there was an entire monopoly and a very paternal attitude on the part of employers towards the pension that they distributed to their employees. Up until a few years ago it was a matter of grace with the civil service. The legislation said that the governor in council might grant a pension; not "will," as it is now. Pensions have come a long way in the last 40 years, and they will go a long way in the next 40 years.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. McCleave.

Mr. McCLEAVE: I have three questions that I understand have not been asked.

What is the membership of your organization?

Mr. WHITEHOUSE: If I may answer the question, Mr. Chairman, the potential with the armed forces and the RCMP is 60,000.

Mr. McCLEAVE: What is it actually?

Mr. WHITEHOUSE: Today it is between 4,000 and 5,000. If we had obtained the co-operation of the department we estimate that our membership would have been about 25,000.

Mr. PATTERSON: I thought the figures that were given were between 2,500 and 3,000.

Mr. LECOURS: That is the figure I had in mind, based on certain figures that I saw this week. Mr. Whitehouse is the authority on that matter.

Mr. McCLEAVE: When was your association founded?

Mr. WHITEHOUSE: Our founding convention was in October 1963.

Mr. McCLEAVE: My third question is: What is the range of pensions now enjoyed by your membership?

Mr. WHITEHOUSE: Well, it is all given here in Hansard. You can refer to it and get all the information in each classification.

Mr. McCLEAVE: You are referring to the information tabled and printed in *Hansard* in answer to a question by Mr. Knowles? Your association encompasses people all over that range; is this correct?

Mr. WHITEHOUSE: Yes.

Mr. McCLEAVE: Now, here is my final question: I take it from the $50 per month formula that was presented earlier that you visualize a cost of about $17,000,000 to the treasury, which seems to me to break down to about slightly under 30,000 who would be eligible for it. This would not include people who have been members of the armed forces and who are now on pension? Am I correct? This would be the people who are eligible from your own association.

Mr. FORSYTH: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator DENIS: On your exclusion from your recommendation of those who retired after 1960, could you supply us with a comparison between 1950 and 1960 of the pension based on a salary of, let us say, $5,000 and the amount of contribution by each of these two pensioners? Would it be possible to have those figures?

Mr. FORSYTH: Well, I suppose you mean a pension in the 10 years ending in 1950 and in the 6 years ending in 1960 and what the difference would be on the same amount?

Senator DENIS: The pension from 1960 is based on the 6 best years and in 1950 it was based on the 10 best years, or something like that but it amounts to a contribution of some kind and it amounts to a pension of some kind. Could you add up the contributions in 1950 and in 1960, and calculate the amount of the

pension according to the change and the way it is calculated; what would have been the pension in 1950 and what would be the pension in 1960: and what would be the contributions in both 1950 and 1960? I would like to have these figures, because you have said that those people who retired after 1960 do not need anything, according to the—

Mr. WAY (*First Vice-President*): I retired in May of 1962. My pension is $246 and some odd cents. My salary was slightly under $4,000.

In reference to the question, there has been a difference in positions. In fact, I retired as a supervisor grade 2. In 1950 there was no such position. There were senior examiners. At that time the wage was $1740 per annum. If you figure out 70 per cent of that, or at least 2 per cent per annum of that, it is very low. The actual figures I cannot bring to mind right now, sir. My salary at the present time is $246.

If I may offer a comparison here, a very good friend of mine in the United States, a grade lower than myself and somewhat in the same position, has a retirement pay right now of $560 a month; it goes away up over $7,000 a year. He was over my salary, naturally—the comparison is known between the two—but he was at a lower grade than I. There is a comparison for you.

Mr. BELL (*Carleton*): That must be because of salary levels, not because of the superannuation scheme.

Mr. WAY: It was because of the superannuation scheme, gentlemen. They get an automatic raise just about every year, or every two years. His wife was visiting me recently in Vancouver. I was quite surprised. They do not know when their raises are coming through; they just come automatically. I was quite surprised at the amount he was getting at this time.

Senator DENIS: I would like to know what the same man had after 15 years of service; the same position; and the contribution in 1950 and the contribution in 1960. I do not want exceptions, or anything like that. I want to know about the two men holding the same position, one in 1950 and the other in 1960, after 15 years of service; and what would be the contribution of both and what would be the pension of both? That is what I want to know.

Mr. WAY: The contribution in 1950 was 5 per cent. It was raised to 6 per cent shortly afterwards; and the overall average is 6½ per cent.

Senator DENIS: Those who retired in 1960 are paying 1½ per cent more in contributions than those in 1950?

Mr. WAY: May I rephrase that? Up until 1960 I was paying 6 per cent, and at the present time I believe it is 6½ per cent.

Senator DENIS: So that those who are retiring after 1960 are paying 1½ per cent more as a contribution. What would be the difference between the two pensions?

Mr. WAY: The pension is based on 2 per cent per annum of years of service. In other words, in 15 years you get 30 per cent.

Senator DENIS: That would be 30 per cent of in 1952, the same amount of money.

Mr. KNOWLES: Mr. Chairman, if you had two persons, one of whom retired in 1950 and the other in 1960, both of whom had worked for 15 years and both of whom had the same kind of job, the 30 per cent factor would be the same in both cases, but the pension of the one who retired in 1950 would be based on a lower salary scale and on the 10 last years; and the one who retired in 1960 would be based on a higher salary scale and the best six years.

An hon. MEMBER: The difference is between the 6 and the 10 years.

Senator DENIS: Let us take the 10 years; it amounts to 30 per cent; in 1960 it is based on the 6 best years. We could get these figures very easily, I think. I agree with Mr. Knowles that they are not receiving as high a percentage now as a total, but—

Mr. FORSYTH: On the 6 year average the pension has increased very nearly 50 per cent over what it would be on the 10 year average. It is two fifths more.

An hon. MEMBER: What are the increases in salary?

Mr. FORSYTH: Well, of course, it does not matter about the increase in salary. The pension itself is greater.

(*Translation*)

Mr. ÉMARD: If I may take a moment to make a suggestion, Mr. Chairman, regarding technical problems, I think that your Association might perhaps contact the Public Service Alliance of Canada and I am sure that they would be very pleased to give you the technical data that you need, without cost.

The JOINT CHAIRMAN (*Mr. Richard*): A little later, Mr. Émard, we will have other witnesses who can give us specific figures in answer to this type of question. We should not ask for calculations from these people here this morning because they are presenting a Brief with a rather specific solution and do not claim to base it on figures.

(*English*)

Are there any other questions?

(*Translation*)

Mr. LECOURS: May I mention something to Mr. Émard. For your own information, when our Association was founded we were affiliated with the Civil Service Federation until last year when following the Windsor Convention, they asked us to contribute $3.00 per year instead of $1.20, with the result that we, not being able in our present circumstances, to increase our own dues—we would have been faced with even greater expenditures that we could not recuperate from our own membership for various reasons, which are known to you. Therefore, when you suggest to turn to the Alliance, this is an impossible answer because we have exhausted all means of obtaining co-operation from the Alliance. Our people did what they could; they presented Briefs to the Government on three or four different occasions, and at that time we were not being encouraged. Today, I admit, that our requests will be considered, will be studied, and that adequate solutions will be found.

We have to depend on people in the Government in order to determine adequately what increases need to be voted to pensioners, who I repeat, gave in

service a value of 100 cents to the dollar and are now receiving in return, a dollar which is only worth forty cents.

(*English*)

Mr. KNOWLES: Mr. Chairman, there have been many references to the table that appears on page 12400 of Hansard of January 30, 1967. Perhaps it would be a good idea to have it on the records of this Committee?

Some hon. MEMBERS: Agreed.

(*Translation*)

Senator DENIS: Mr. Chairman, I understand that we cannot require a recognition of this discrepancy by the representatives who are here, but it might perhaps be a good idea for the Government actuaries, or for someone at any rate, to give us the exact discrepancy taking into account the wage increases which occurred and the calculation made according to the last ten years, or the six best years. If I understood correctly, after fifteen years' service the employee earns $5,000 a year. He probably earned $120 a year less the year previous and $120 less a year the year before that, and so on. Consequently, it is easy enough to calculate the pension of the person who retired in 1960, and the one who retired in 1950.

The JOINT CHAIRMAN (*Mr. Richard*): The officials of the Department of Finance, Senator, will be here and will certainly have the answer the next time they appear before the Committee.

(*English*)

I think Mr. Whitehouse indicated earlier that he would like to say something more.

Mr. WHITEHOUSE: Yes, Mr. Chairman. I want to talk about the enquiries which were made about what pertains in other countries in the upward adjustment of pensions.

I am in communication with a number of retired civil service organizations in other countries of the world. I will just cite what pertains in the United Kingdom and the United States of America; and it is similar in Australia and New Zealand and in some large companies right here in Canada, as I stated when I presented the brief. The Ford Corporation and the British Columbia Hydro Power Authority are classic examples; and I am sure that you can find many all over this country.

In the United Kingdom, the government recognizes its responsibility to its former employees by increasing the pensions of their retired people. This is a fact whic his on record and it can be verified if you so desire. They have made several upward adjustments, and they have introduced a cyclical review system of pensions of former employees of the British Government. Regularly these pensions are looked at and compared with the cost of living at that particular time, and if an upward adjustment is warranted it is made automatically. I suppose you can call that an escalator clause if you wish, which is what we are asking for here.

Mr. Bell asked if we were prepared to pay for an escalator clause. I would ask if the people who contribute to the Canada Pension Plan pay for the

escalator clause in that that the government has introduced? If this is the case, then perhaps we should be prepared to do it.

In the United States of America the situation was very similar to that in the United Kingdom. Again, the U.S. government recognized its duty to its former employees and made several upward adjustments in pensions as the economy of the country warranted it. In saying this, one must have due regard to the power of the representations made to Congress by the retired civil servants of the United States of America. Again, they are taken now to be a more or less regular thing, and a bill was passed in Congress about a year ago, signed by President Johnson, that automatically an increase will be made to retired government employees if the cost of living rises 2 per cent. I think you can find that in the record, too.

Mr. BELL (*Carleton*): It is three per cent; and when it remains at that for three months there is an automatic raise of three per cent on the pensions.

Mr. WHITEHOUSE: If the Committee sought to use this information for their guidance it is there; and we hope that they will use it, to our benefit.

The JOINT CHAIRMAN (*Mr. Richard*): Was it retroactive in the United States?

Mr. WHITEHOUSE: In the original upward adjustment, they compared it—as one of the members mentioned—with the cost of living and made an adjustment accordingly.

The JOINT CHAIRMAN (*Mr. Richard*): Have you any information about the plan now proposed by Ontario, how it will work and how much it will cost?

Mr. WHITEHOUSE: I have not; but I have written for it. It was announced only a few weeks ago. It is effective January 1, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. WALKER: I have one last question: When you talk about retired superannuates do you mean retired from any kind of work, or retired from the civil service?

Mr. WHITEHOUSE: Retired from the civil service.

Mr. WALKER: Retired from the civil service?

Mr. WHITEHOUSE: Oh, yes.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Whitehouse, Mr. Forsyth, Mr. Lecours and Mr. Way.

The next meeting is on Thursday morning when we will hear from The Professional Institute of the Public Service of Canada.

The meeting is adjourned.

APPENDIX "X"

PENSIONS OF RETIRED CIVIL SERVANTS

(Extract from Debates)

	Retired civil servants	Widows
(a) Less than $ 20.00 per month	458	1698
(b) $ 20.00 to $ 29.99 per month	1201	1903
(c) $ 30.00 to $ 39.99 per month	1866	1869
(d) $ 40.00 to $ 49.99 per month	1865	1612
(e) $ 50.00 to $ 59.99 per month	1882	1448
(f) $ 60.00 to $ 69.99 per month	1790	1322
(g) $ 70.00 to $ 79.99 per month	1644	1213
(h) $ 80.00 to $ 89.99 per month	1531	834
(i) $ 90.00 to $ 99.99 per month	1429	672
(j) $100.00 to $149.99 per month	5982	1911
(k) $150.00 to $199.99 per month	4137	493
(l) $200.00 to $249.00 per month	2949	135
(m) $250.00 to $299.99 per month	1806	73
(n) $300.00 and over per month	2382	56
Total	30922	15239

	Retired civil servants	Widows
Newfoundland	338	121
Prince Edward Island	177	94
Nova Scotia	1435	742
New Brunswick	878	472
Quebec	5376	2748
Ontario	13443	6740
Manitoba	1479	636
Saskatchewan	949	425
Alberta	1652	773
British Columbia	4576	2130
Territories	45	11
Outside Canada	574	347
Total	30922	15239

First Session—Twenty-seventh Parliament
1966-1967

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 30

THURSDAY, FEBRUARY 16, 1967

Respecting

PENSIONS

WITNESSES:

Mr. L. W. C. S. Barnes, Executive Director, Dr. J. M. Fitzpatrick, Economist, The Professional Institute of the Public Service of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25478—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,
(Quorum 10)

Mr. Langlois (*Chicoutimi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, February 16, 1967.
(51)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.45 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Emard, Hymmen, Knowles, Patterson, Richard, Walker (8).

In attendance: Mr. L. C. W. S. Barnes, Executive Director, Dr. J. M. Fitzpatrick, Economist, the Professional Institute of the Public Service of Canada.

The Committee questioned the representatives of the Professional Institute of the Public Service of Canada on their brief.

At 11.48 a.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

25478—1½

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, February 16, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I see we have a quorum. At this meeting we have The Professional Institute of the Public Service of Canada with Mr. L.C.W.S. Barnes, the executive director, and Dr. J. M. Fitzpatrick, also an economist and Chairman of the Superannuation Commentator of the Professional Institute, who will present a brief.

Mr. L.C.W.S. BARNES (*Executive Director, Professional Institute of the Public Service of Canada*): Mr. Chairman, honourable members of the Senate and of the House of Commons, Canada is one of the fortunate countries which have experienced steady economic growth and a rising standard of living during the years following World War II. Our universal concern has been to ensure an equitable distribution of rising incomes and the widest participation in these improving standards. Indeed, this was one of Parliament's objectives when it established the Economic Council of Canada. However, one group does not participate in these rising incomes and improved living standards. This group consists of retired persons who must live on fixed incomes and suffer erosion of purchasing power. Into this unhappy category fall the retired federal civil servants and all other superannuated persons covered by the Public Service Superannuation Act. Their problem is urgent and demands an immediate solution.

The Professional Institute is on record as favouring the inclusion of pensions as an item for collective bargaining. A number of features in the Public Service Superannuation Act warrant review and amendment in the light of new developments in pension planning and changing economic conditions. This brief is restricted, however, to the immediate problem of the retired federal civil servant faced with a fixed income and dwindling purchasing power.

It is a well known fact that the purchasing power of the dollar has dropped sharply in the past 10 to 20 years. Erosion of purchasing power has hit hardest those people living on fixed retirement incomes. The longer one lives after retirement, the greater the erosion. The experience under the Public Service Superannuation Act is that federal civil servants who retire at age 65 live for an average of 14 years thereafter; those who retire at age 60 on the average live for 17 years and over 20 per cent live 20 years or more. It seems reasonable to expect that continuing research and development in medical science will extend our life span. The full significance of these facts is put in sharp focus when one considers that a civil service pension of $150 per month was considered very good in 1946; today, 20 years later, it will hardly pay the rent; and, as stated above, more than 20 per cent of the civil service pensioners are still living 20 years after retirement, most of them with pensions far less than $150 per month.

It seems a matter of simple social justice that over such long periods of time, pensioners should have the real value of their benefits maintained.

The Professional Institute cannot emphasize too strongly its position that pensioners' benefits in an economic climate of rising costs and standards of living should be protected. A man should not be penalized because he was born 20 years too soon. Current progress, after all, is based on earlier progress to which the pensioner contributed; in other words, the present generation builds upon an existing foundation. Those who built this foundation must not be forgotten.

The Professional Institute takes the position that as a good employer the government should adopt the principle of automatic adjustment of pension benefits after retirement.

The procedure for adjusting pensions adopted by the government in 1959 has proved inadequate. In the light of experience, periodic adjustment will always be required. The Economic Council of Canada has set as an objective, a 5.5 per cent per year rate of growth in the economic output up to 1970, which involves an annual increase of 2.4 per cent in the output of employed persons. To date these minimum rates are being met and surpassed. It can be anticipated, therefore, that persons now in the labour force will share in this increased productivity. Unfortunately, there is no built-in provision for public servants on pension.

If our superannuation plan is to meet its theoretical objective of providing a retired public servant with a standard of living related to the standard he enjoyed before retirement, the plan must make some direct provision for post-retirement adjustments in benefits. A piecemeal approach to pension adjustment is unsatisfactory. Such reviews, in general, are time consuming, costly, and usually less than satisfactory because they all too often leave inequities which are either ignored or treated in a "patch-up" manner. Furthermore, these reviews take place only after much pressure has been exerted. Our proposal is that this whole problem be approached in a systematic fashion.

The concept of post-retirement adjustment of pension benefits is neither new nor unique. According to a U.S. study, by 1964 eleven countries had adopted the principle of adjusting old age pensions to specific economic changes—the earliest of these economic changes—the earliest of these was Denmark in 1922. Canada was added to the list with the introduction of the Canada and Quebec Pension Plans.

In Sweden pensions are subject to negotiation between employee organization and the government in the same way as salaries and adjustments take account of changes in the standard of living as well as changes in the cost of living. This view was also expressed by the British "Withley Bulletin" of May, 1962, in the following lines: It is wrong to allow the amount of pensions already in issue to be outstripped by pensions currently awarded. In the United States the Federal Civil Retirement System has recently introduced a cost of living increase formula tied to the United States Consumer Price Index.

The same arguments and rationale which motivated the Canadian government in applying the post-retirement adjustment principle to the National Social Security Programs should logically be extended to the Public Service Superannuation Act.

The Professional Institute urges the establishment of a formula for automatic adjustment of public service pension benefits to changes in economic conditions. There are a number of adjustment procedures which warrant consideration:

(1) To adjust pensions to reflect changes in the cost of living (usually measured by a statistical index).

(2) To translate earnings records into index numbers and to pay pensions on the basis of current or recent earnings levels.

(3) To determine the pension as a per cent of the salary of the employee's final grade or rank and to maintain the relationship during the pension period.

(4) To establish an index of earnings based on major civil service salary classifications and to use this index as the determinant for pension adjustments.

Of the above choices, the Professional Institute considers number 4 the most satisfactory.

The plight of the already superannuated member is of immediate concern and demands action. The Professional Institute recommends:

(1) that an index of earnings based on major civil service classifications from 1959 to date be established as the index to determine the pension adjustments for these individuals.

(2) that these individuals henceforth be included in the automatic adjustment of pensions herein recommended for all members.

The Professional Institute realizes that the proposals in this brief will involve some additional costs which can be evaluated only by a detailed actuarial study. Private employers can resort to the investment of pension funds in common stocks to pay increasing pensions after retirement. This alternative is not available for the Public Service Superannuation Account. It can be said, however, that the added cost of the proposals made above would be met to a considerable degree if the Superannuation Account were to receive a realistic rate of interest. Under today's conditions, trustees of a pension plan would be open to sharp criticism if money were invested at only 4 per cent. The Professional Institute strongly urges the government to increase the interest rate for the Superannuation Account to a more realistic rate such as the average yield of Government of Canada direct and guaranteed securities plus one per cent.

In conclusion, the Professsional Institute recommends immediate action be taken to:

(1) Improve the level of benefits for federal civil servants already on pension, as suggested in this brief.

(2) Amend the Superannuation Act to provide an automatic adjustment formula to maintain the purchasing power of current and future retirement benefits.

(3) Update the interest basis of the Superannuation Account.

The Professional Institute is willing and eager to participate in any study required to implement these recommendations.

In conclusion, the Professional Institute recognizes the complexity of the problems to be resolved in connection with the pension program, and therefore urges the government to add the Superannuation Act to the list of items subject to collective bargaining.

Senator MACKENZIE: What do you mean by major civil service salary classifications? Does this include an average, or an average of the largest group, or what?

Mr. BARNES: This is a formula which we think should be derived through discussion. The sort of thing we had in mind was certain key classes which are representative of major areas of the service.

Senator MACKENZIE: The "major" are the numbers in the service of the government rather than those in the top bracket?

Mr. BARNES: Yes. A representative selection of key classes across the service which would enable one to develop an index of over-all salary movements within the service.

Senator MACKENZIE: You mention a realistic rate of interest. Would you be happy if you felt that this was going to vary with the up and down of interest rates? I have in mind that in some pension schemes with which I have been associated the interest rate, when I first became interested in them, was 2½ per cent. That was realistic.

Now, I doubt if any sensible person would be happy, if this were reintroduced, in the expectation that the pensions of some people were going to be based on that rate. In other words, I think the actuarial estimates of the period that a person is in the employ of any organization for a 30 year period, say, is the kind of thing you have to work on. Today the bank interest rate is limited to 6 per cent, and in some cases for government bonds of some governments you can get a bit more but, as I say, I doubt it.

Now, my final question flows from this. What amount do you consider to be a reasonable income for retire Canadian citizens, and we are concerned here with civil service personnel. What amount would you consider to be a reasonable minimum? Associated with that, how much does the average person in the major groups get on retirement at age 70? A $75 old age pension? They do not get anything at all out of the Canada pension scheme; is that right? So that it would seem as if their assistance from government sources consists of $75 a month, plus the pension they receive. Are there any other sources of public assistance of which you are aware?

Mr. BARNES: Mr. Chairman, do you mind if I stop on the rate of interest question which Senator MacKenzie raised. I think this is a point of significant interest. We did suggest the current rate plus 1 per cent. I was very interested in listening to Mr. Hartt, the actuary, speak about the situation which he and his colleagues envisaged in the middle 1950's of planning on a zero rate of interest. I think this is one of the places where economists sometimes think a little ahead of actuaries. Economists were thinking in these terms in the 1930's, and it was somewhat irreverently referred to as "Lord Keynes day of judgment" when interest rates dropped to zero and the entire economic system came to a halt. I very much doubt, and I would like my colleague here to perhaps comment on

this, whether there is any reasonable fear at the moment, under the economic policies being followed in the western world today, that prevailing rates of interest on long term government bonds, plus 1 per cent, is ever very likely to be less than 4 per cent.

Senator MACKENZIE: Well, we all hope this is so. We are all interested, but we have no assurance. What about the other matter? This is an involved question.

Mr. BARNES: The Institute's view on this is that this should be a fraction of the man's pay on retirement and the continuing development of that pay scale.

Senator MACKENZIE: What kind of percentage are you speaking of?

Mr. BARNES: Well, 70 per cent for 35 years' service.

Senator MACKENZIE: You want 70 per cent based on—

Mr. BARNES: That is the existing figure, but the problem is that one meets people, and I was visiting some of our western branches last fall and I met some of our senior emeritus members who had been on pension for 20 years, people holding very senior positions in the service, who retired on salaries on the order of $7,000 to $8,000 a year, which was pretty good 20 years ago.

Senator MACKENZIE: They are lucky to get that.

Mr. BARNES: They are very senior people.

Senator MACKENZIE: I can speak to that from the university point of view.

Mr. BARNES: Yes, and they are now living—

Senator MACKENZIE: They are much luckier that many university people.

Mr. BARNES: —on pensions of less that $3,000 a year, whereas the man who is doing their job is now probably earning $19,000 or $20,000 a year. This is the sort of situation which we do not really feel to be acceptable.

Senator MACKENZIE: I agree, but we are concerned at the moment with those who have retired, is that right?

Mr. BARNES: Yes.

Senator MACKENZIE: Whose pensions are inadequate, and I am interested in knowing what you think the minimum is that these men and women should get?

Mr. BARNES: I do not think that we could envisage one number that fits all of them. I think, as we suggested, this should be related to their salary at the time of superannuation, adjusting up to the current salary for the position which they vacated.

Senator MACKENZIE: You are prepared to accept the suggestion of the group who were here on Tuesday that a—

Mr. BARNES: We feel that this is not really acceptable. This hit very hard in 1959 when there was a $3,000 cutoff level. Some of these people that I met out in the prairies last fall were just above that $3,000. There was no adjustment at all in 1959, and they are still living on that $3,000.

Senator MACKENZIE: You will remember that there are a great many people in our society who do not get $3,000 on retirement and any government, though

they have a special interest in retired civil servants, has to be concerned about the unhappy position and condition of these other people. I am not sure that it will be politically possible to make too much of a special case for the civil servants who retired in relation to the rest of the population who, apart from the Canada pension scheme, which they may or may not benefit from and if they are now retired they do not, and the old age pension. It just does not make political sense. I think you have to be realistic about this. I may be wrong. Now, perhaps you would like to go back to this business of interest and equity benefits.

Dr. J. M. FITZPATRICK (*Economist, Professional Institute of the Public Service of Canada*): I would like to pick up where you left off initially if I may. The first comment I have is that the superannuation program is not basically a social welfare program but a paid-up program, and it has been this way for a hundred years. It is a paid-up program—

Senator MACKENZIE: You are now talking about the pension plan of the civil service?

Mr. FITZPATRICK: Right.

Senator MACKENZIE: And for our purposes here today you are not concerned with the rest of the world, right?

Mr. FITZPATRICK: Our superannuation plan has in many other ways—

Senator MACKENZIE: Within that limitation, sir?

Mr. FITZPATRICK: Yes, sir. Now, dealing with interest rates, the projection that we have to date is that our gross national product will continue to move upwards. The second point is that there has been a strong substitution of capital for labour, which means that a large proportion of the gross national product results in investments in capital. Now, the thinking to date is that interest rates will remain at a competitive level. The competitive level relates to the gross national product. The gross national product in effect has had an upward trend, and it is—

Senator MACKENZIE: Not to the supply of money?

Mr. FITZPATRICK: Not to the supply of money. It is partly related to the effect of money, and with this in mind it is thought, at least, that the interest rate will remain at something in the order of the level it is now. Your point is correct, sir, that we have had recessions and depressions in the past and we can have them at the present, but with a program which is related to superannuation, possibly a minimum interest rate of some kind is required as well as tying it to long term Canada bonds. Long term Canada bonds are probably as stable an indicator as anything.

Senator MACKENZIE: Do they not vary sometimes?

Mr. FITZPATRICK: They do.

Senator MACKENZIE: I think Mr. Bell has some perpetuals that are at what, 2½ per cent, Mr. Bell?

Mr. BELL (*Carleton*): No perpetuals, just the ordinary 2¾ per cent.

Senator MACKENZIE: Sorry.

Mr. FITZPATRICK: If I might mention one other point, sir, that might be worth consideration. The University of British Columbia at this particular time is doing a study on the impact of escalation.

Senator MACKENZIE: Good. That is my old university.

Mr. FITZPATRICK: That is why I thought I would put that one in. Secondly, trust companies across the board are looking very seriously at this question of escalation and how they can work this into their program. Much of the literature now is orienting itself towards "How do we do the job?" rather than "Should we do the job?" Now, the thinking in this particular brief is that if an adjustment is made it should be an automatic type of thing. I believe that most civil servants would agree with me that the reason the Canadian civil service is one of the most respected civil services in the world is due in large part because of the retired civil servant, and he is the one who has devoted most of his career to the responsibilities at the federal level. The present civil servants have basically built on the strong foundation that was established by their predecessors. I believe that we would like to see an automatic adjustment system put into effect because the present civil servant, as well as the government, has a responsibility to the retired civil servant.

Senator MACKENZIE: I would be prepared to agree to this. I would like to know a little more about what this actually means in terms of dollars and cents. Coming back to the University of British Columbia, since you raised it, I have found about the only practical way that we could beat this problem was by what I described as supplementary pensions, which would at least bring the minimum income of every retired person up to a certain figure. The amount of money available to any institution in that category, as you know, is limited, and while we have no legal obligations to these individuals, we felt we had a moral obligation. But I say the only practical suggestion that seems to be reasonable when you keep in mind the kind of salaries they were getting, the kind of rates of interest on their pension payments when they were contributing, is a supplementary payment. Now, if you can provide us with a workable formula to apply to retiring civil servants, then we can look at it in contrast with supplementary lump sum payments, if parliament were willing to accept either. I am sorry, Mr. Chairman, I have taken too much time.

Mr. FITZPATRICK: May I reply to this, sir?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. FITZPATRICK: You may recall that last Thursday the suggestion was made that the finance department look at a number of hypothetical programs for the benefit of this committee. Now, we will be the first ones to say that an actuarial study is definitely needed, but that we in the Professional Institute are not equipped to do this type of study, and I would ask that our suggestion No. 4, be considered as one of the hypothetical proposals.

Senator MACKENZIE: Is that the recommendation or the suggestion?

Mr. FITZPATRICK: This is recommendation No. 4 at the top of page 5.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell and Mr. Knowles.

Mr. BELL (*Carleton*): I would like to make sure that I understand the major recommendation which you have made here, and will you follow me as I try to

state it. You propose to take a representative group of classifications as of 1959 and the equivalent classifications as of today and by comparison work out a percentage increase, which would be your index. Am I correct to that point?

Mr. BARNES: Mr. Chairman, this is stage one for the people who are already retired.

Mr. BELL (*Carleton*): Yes. Go ahead.

Mr. BARNES: And then that would bring them up to this present moment, and then they would be hooked on to an automatically moving index which would develop as salaries went up.

Mr. BELL (*Carleton*): Yes, quite, I want to be clear that your index is the percentage of the increase of these relevant classifications from 1959 to the present time, and thereafter it will be a moving index.

Mr. BARNES: This is essentially correct, Mr. Bell. It might not be a straight percentage, it would probably have to be weighted by the number of people in the classes, and that sort of thing, but this would be the basic percentage, yes.

Mr. BELL (*Carleton*): But it would be a percentage?

Mr. BARNES: Yes.

Mr. BELL (*Carleton*): And that percentage would then be applied to the existing superannuation. Why do you choose 1959 in respect of this? Is it your proposal that there be no adjustment for those who have retired since 1959?

Mr. BARNES: It was backdated to 1959 which, of course, was the time of the last pension adjustment, and then it would be applied pro rata to those who have retired since 1959.

Mr. BELL (*Carleton*): Are you proposing an adjustment for those who have retired since 1959?

Mr. BARNES: Oh yes, pro rata.

Mr. BELL (Carleton): Then your index would actually be a moving index year by year. It is not 1959. You would then make a comparison of 1960 versus 1967 and 1961 versus 1967?

Mr. BARNES: Yes, this is in essence what would happen. The 1959 calculation would take care of everybody who retired prior to 1959 because we presume that the adjustment took place there, albeit not a very good adjustment, we believe because it cut off at $3,000. Accepting the fact that there was an adjustment in 1959, we then worked from that point onwards.

Mr. BELL (*Carleton*): Then what do you think the impact of that is, Mr. Barnes, upon those who are in greatest need of assistance? The return made in the hause shows that there are 8,995 people who receive less than $50 a month. The percentage would not likely be more than what, 40 or 50 per cent? The applications, although it may be a very considerable advantage to those who have retired on large pensions.

Mr. FITZPATRICK: Mr. Bell, I would think this problem falls basically into two categories. The first one which is relative to the small pensions of those with short duration in the federal service, is part of the over-all welfare problem that we are faced with today. The second problem is the problem of the civil servant

who has spent most of his professional career in the federal service. He has contributed very substantially on a cost-sharing basis to a program for his retirement, which the government has participated in and agreed with, and if the second part of this program is considered in relation to an automatic adjustment principle on an actuarial basis, the welfare program may in fact, have to be handled specifically by the cabinet in the context of a welfare program, which it is.

Mr. BELL (*Carleton*): Well then, what welfare program does the Professional Institute recommend for those civil servants who would not, on the basis of your recommendation, receive any basic relief?

Mr. FITZPATRICK: The minimum income for Canadians which has been suggested in the past has been $4,100.

Senator MACKENZIE: Who suggested this figure? Did the government suggest that?

Mr. BELL (*Carleton*): You are not really suggesting that we bring all existing pensions up to $4,100, are you?

Mr. FITZPATRICK: No. In looking at this problem, Mr. Bell, it is related to what society considers a minimum standard of welfare for Canadians.

Mr. BELL (*Carleton*): I am very sympathetic to this and I believe entirely in an escalation, but I am trying to understand it and understand the basis of the escalation, and you have suggested that there should be a welfare program for those who would not receive the necessary relief by your proposal. I am attempting to understand what that welfare program should be so that this Committee could make a recommendation, because we have as much—and certainly I think more—obligation to those who receive under $50 a month as we have to those who receive over $500 a month.

Mr. FITZPATRICK: The statistics that you look at, sir, are those who in effect have elected to take an annuity and as was mentioned also earlier in this session, a large proportion of civil servants elected to take a straight lump sum.

Mr. BELL (*Carleton*): I appreciate that. I know why there are low superannuations. We have explored that. I am simply trying to understand your suggestion that there be a welfare program for these people. Now, what welfare program?

Mr. FITZPATRICK: Well, I might say that the man who took the lump sum may be in a worse position than the man who took the extended annuity.

Mr. BELL (*Carleton*): There is no doubt about thaat at all.

Mr. FITZPATRICK: You must consider him as well in this context of welfare.

Mr. BELL: Quite. But what is the context of welfare? I do not want to put you on the spot, but I feel that having mentioned welfare as something additional to your proposal that you then should come along and tell us what welfare program you had planned.

Mr. BARNES: I wonder, Mr. Chairman, if the welfare concept of this is specific to the civil service. I think it rather comes back to what the Senator was saying earlier, that perhaps the welfare angle of this is part of a total social problem. The type of formula which we had in mind was based essentially on the

problem of the career civil servant. The fact that a person happens to be drawing a very small pension because he may only have had five years in the government service and has then probably been working for some industrial concern and has another pension, I think is perhaps of lesser importance. If as a result of illness, or any other mishap, their total income is the result of five years federal service, then—

Senator MACKENZIE: I do not mean to suggest that they necessarily have another pension benefit. Pensions are fairly recent in industry. The civil service and the universities were about the first in this field, so I do not think you want to assume that an individual who has been in five years has a reasonable pension benefit.

Mr. BELL (*Carleton*): Turning to another aspect of it, in order to receive this benefit for the future do you think that any additional contribution should be sought?

Mr. BARNES: I would suggest that this is a point which will have to be answered firmly in the light of the actuarial studies which we hope to get from the Department of Finance. As I mentioned earlier, we feel that present serving civil servants also have an obligation toward their superannuated colleagues, and if the adjustment of the interest rate is insufficent to take care of this, then I would say there is a serious case for looking at both the government and the employee contributions to the scheme.

Mr. BELL (*Carleton*): Is it your position, then, that so far as those who have already retired it should be a matter that would be paid for completely by the treasury?

Mr. BARNES: Yes.

Mr. BELL (*Carleton*): But so far as the future is concerned, if the adjustment of interest rate is not sufficient, then you would be prepared to recommend to your members and to this committee an additional contribution?

Mr. BARNES: I think this is a fair summary of the situation.

Mr. BELL (*Carleton*): On the question of the interest rate, then, why do you chose one per cent additional? Is that not really an additional subsidization by the treasury of the superannuation account? And if there is any percentage addition, why should it be one, Why not two?

Mr. FITZPATRICK: The base which we felt was as stable as any base in Canada was the government of Canada direct and guaranteed securities, and these are something in order of 4½ per cent. The thought is that a competitive interest rate for this fund would be in the order of 5½ per cent.

Mr. BELL (*Carleton*): Why do you choose the 1 per cent? Why should there be a subsidization of the superannuation account?

Mr. FITZPATRICK: It is not the subsidization, sir, it is that the fund which is collected does not go through the normal channels of investment that industry can use. Now, in the normal channels of investment while interest rates on certain stocks may be down, others will be up, and the interest on this exceeds the request that we have placed here.

Mr. BELL (*Carleton*): Do I understand that your one per cent is an attempt, as far as possible, to equate the superannuation account to what would be the investment of a private pension fund?

Mr. FITZPATRICK: On the minimum side and to get some constant measure. As the superannuation is actuarily calculated over a longer period of time, one must take a long term program of some kind upon which to base your method of calculating.

Mr. BELL (*Carleton*): I agree. I am simply trying to understand the principle behind it so that we can get a recommendation, and I was asking what principle was behind the choice of one per cent. In other words, I am seeking ammunition in relation to this to try to help build up a case on this.

Mr. BARNES: Mr. Chairman, as Dr. Fitzpatrick has said, this is a rather minimal interpretation of an outside situation. We looked at these figures pretty hard and one could actually make a good case for plus two per cent. We feel that plus one per cent is a very restrained interpretation of a formula which would match the outside pension fund situation.

Mr. BELL (*Carleton*): If this formula had been applied over the last 35 years, which is the working life of a civil servant who completes it, do you know what the average interest rate would have been?

Mr. FITZPATRICK: I think this is one of the reasons why we would strongly suggest that this be put into the hypothetical category from an actuarial assessment, because what should the interest rate be? This is going to be tied very much to the actuarial assessment. What would it have been over the past 35 years? The same thing holds true. We do not have these figures available, and while we can participate in the discussion with actuaries, we are not actuaries.

Mr. BELL (*Carleton*): Oh, I appreciate that. I thought perhaps you might have worked out what the average interest rate was on direct and guaranteed securities of the government of Canada over the past 35 years, and add one per cent to that and be able to give us what the result would be.

Mr. BARNES: It was classed as 4 per cent when we were doing the rough figures and was probably in the 4½ to 5 per cent bracket. It included the minimum period that Senator MacKenzie mentioned of the minimum rates on war loan and victory loan, time which was 2½, so that gives you 3½ per cent, so the absolute floor is 3½ per cent. It is 4 per cent plus.

Mr. KNOWLES: Mr. Barnes and Dr. Fitzpatrick, I would like to leave aside for a moment the question of the welfare aspect as you describe it, and ask a question or two about your general approach. As I take it, both in terms of a long range amendment to the act and in terms of doing something for those now retired, you favour a formula and you have deliberately chosen a formula based on a wage index rather than on a cost of living index?

Mr. BARNES: Yes.

Mr. KNOWLES: While you do provide a cost of living index as one point that might be considered, you favour the other. You are aware, of course, that that was chosen for building up the benefit under the Canada Pension Plan, but as the Canada Pension Plan and the Old Age Security Act now stand, any post-retirement adjustments are on the cost of living index.

May I ask you whether you wish the wage index to be used all the way through or just to the point of getting adjustments? For example, when you talk about the people already retired, at one point you talk about what to do for them now and then what is to happen to them automatically from here on. I want to know whether you want the wage index used all the way through or the wage index to achieve an adjustment and then a cost of living index after that?

Mr. BARNES: Mr. Knowles, we favour the wage approach because this does give one the continuing benefit of increased productivity, on the assumption that we are going to have this continuing increase in productivity. We feel that the wage approach, would be the thing that would give the retired civil servant the benefit of the growing gross national product of the country and the wealth of the labours of his successors to which he has contributed.

Mr. KNOWLES: If I may pick up from Mr. Bell's questioning, then, when you agreed with him that you wanted to establish a percentage between what is being earned on the job now and what was earned then, that is what you were asking?

Mr. BARNES: Yes, sir.

Mr. KNOWLES: That the adjustment be on the basis of earnings rather than just on the basis of the cost of living. In other words, you want retired people to share in the increased standard of living, not just to be able to meet the increased cost of living?

Mr. BARNES: Absolutely.

Mr. KNOWLES: May I now turn to this problem of the effect of a formula which Mr. Bell described, namely, that it can provide utterly too little for those in the lower brackets and allegedly too much for those in the upper brackets.

Mr. BARNES: I do not know if I wish to buy that one, sir.

Mr. KNOWLES: I will come back to that in a moment. Would you advocate any kind of floor or ceiling, that is, having proposed a formula would you be interested in a minimal amount which everyone would get, and would you set some kind of ceiling at which the formula would be paid off, and in doing this would you include such factors as length of service of a retired employee and the formula under which the pension was calculated?

Mr. FITZPATRICK: I will answer that, Mr. Chairman, if I may. To begin with, I would hope that the superannuation program—which continues within the federal service—continues as an incentive program for years of meritorious service. The position that because an employee worked for the government for one year in five years he is entitled to a benefit in excess of his contributions, I do not think this is generally the type of thing which we would want over time. If it is related to meritorious service, yes; he has then earned the right and the government has a responsibility, as have civil servants who are now employed in the service.

In terms of the civil servant who has very few years of service and his pension is exceedingly low on account of this, I would say that there would be many cases in British Columbia where there are no federal civil servants and where the same type of thing would exist. It may be that under the Canada Pension Plan we are setting a minimal type of assistance for Canadians, and this

particular logic in the welfare vein may be the logic to use for those with very, very small pensions. It becomes a prerogative of parliament rather than a negotiated agreement under the Superannuation Act.

Mr. CHATTERTON: Mr. Chairman, did the gentleman just say that there is a minimum provided for under the Canada Pension Plan?

Mr. KNOWLES: To my knowledge there is no such minimum at all.

Mr. FITZPATRICK: Most Canadians are under the Canada Pension Plan.

Mr. CHATTERTON: I thought you had said that the Canada Pension Plan was a minimum pension plan.

Mr. FITZPATRICK: No, not in this respect. A level of living in Canada; a criterion upon which to base a minimum.

Mr. KNOWLES: I am sure there is some minimum, such as for widows and children.

Mr. FITZPATRICK: Yes.

Mr. KNOWLES: You think it would be possible to arrive at a formula based on the wage index, but to build into it some minimal protection, a platform at the bottom, but you would want to take into account other factors such as length of service and formula at time of retirement?

Mr. FITZPATRICK: Yes.

Mr. KNOWLES: I would like to go through that but I must not take too much time. May I ask if you have any comment to make on provisions respecting widows? This is a subject which was dealt with at some length on Tuesday morning, but I do not find widows mentioned in your brief at all. May I just put it on the record that the Superannuation Act provides that a widow will get 50 per cent of the pension of her deceased civil servant husband. The pension for members of parliament provides for 60 per cent, and the group that was before us the other day suggested 100 per cent for the first year after the death of a husband and then a 75 per cent formula. Have you any comments to make on this matter?

Mr. BARNES: Mr. Knowles, the escalation formula which we devised would, of course, apply to the widows. If the pensioner dies, the 50 per cent which his widow receives, would if she lives on for ten years, continue to be adjusted pro rata our formula in the same way as her late husband would have received an adjustment.

Mr. KNOWLES: This would also apply to a widow who is now a widow?

Mr. BARNES: Yes, and the children.

Mr. KNOWLES: This 50 per cent, you could have that become 50 per cent of what his escalated pension would have been?

Mr. BARNES: Oh, absolutely; and the children.

Mr. KNOWLES: What about the 50 per cent factor itself, do you think it should be changed?

Mr. FITZPATRICK: Yes, Mr. Chairman, we would like this to be a matter of collective bargaining. We did not feel at the time this particular brief was

prepared that it would be the type of thing that this Committee would be considering.

Senator MACKENZIE: Following up that point of yours, is there any feeling about the percentage that a single person versus a couple should receive? I take it this has been the basis of the 50 per cent?

Mr. FITZPATRICK: Yes.

Senator MACKENZIE: It costs just half as much for one person to live as two.

Mr. KNOWLES: There is something in the argument that every man will leave a widow but no woman will leave a widower. I will not pursue that, I quite agree with the suggestion that this could be a subject of collective bargaining.

Mr. Chairman, I would like to ask a question or two, and perhaps that is a euphemism for saying I want to say a word or two. On the point that Senator MacKenzie and you, Mr. Barnes, raised about people with pensions a little better than the ones at the bottom, I do not think I need to beat my breast and say that I am mainly concerned about those with the small pensions, because I am. I have been at it too long to have to argue that. But I also know that people on pensions of $150 or $200 a month that they have had for 4, 5 or 10 years can really be in just as straightened circumstances as people with smaller pensions. The cost of living has gone up; the Jones' are living better all around them. Do we not have an obligation to enable people to continue to have the kind of life, if you will, that they had on retirement. There is a cut-off some place. Maybe there is a cut-off at the point of the $8,000 or $9,000 pension that some people in this room can look forward to. But do we not owe something to people even above the very low?

Mr. BARNES: Well, I would like to emphasize that we did not like the idea of a ceiling because, as in the sort of case which I illustrated, the man who retired 20 years ago with a pension of $3,000 a year was then relatively in the same position as a man who might retire today with $8,000 a year. We feel that he is in a well-cared-for position. But 20 years hence the colleague who retires with $8,000, I venture to suggest without any great economic prognostications, will not be as well off as he is today. This is why we feel that some account should be taken of the need to keep the man at least within sight of the living standard that he had when he retired and that his colleague who is now doing his same job has. Take the situation of a man who is living on $3,000 a year, and after 20 years retirement meeting—as has actually happened in several cases at Institute meetings—the man who is now doing his job and getting $20,000 a year. We feel this is not a supportable situation.

Mr. KNOWLES: Generally speaking, do you feel that the Superannuation Act, as it now operates, is pretty good in terms of the pension that an employee of the government can retire on?

Mr. BARNES: At the moment of retirement.

Mr. KNOWLES: The problem is what happens five or ten years later, and you feel that as an employer the government of Canada has some obligation, as you agree other employers have?

Mr. BARNES: Yes.

Mr. KNOWLES: Just one more question, Mr. Chairman, although I suppose it is one that might lead to other things. Would Mr. Barnes or Dr. Fitzpatrick like to comment on Mr. Ted Clarke's explanation to us the other day of the way in which an increase in the rate of interest paid on the money in the fund could result in a declining value of the fund? I hope I have not misstated Mr. Clarke's position. I have studied it and thought about it a good deal since. I think I understand what he was driving at. Would you like to comment on that in relation, of course, to your suggestion that there be a higher rate of interest? Except for a supplementary that might follow, that is my last question, Mr. Chairman.

Mr. BARNES: I feel, Mr. Chairman that the analogy which you used at the time that Mr. Clarke was making his presentation was perfectly correct. He was looking at it from the point of view of the mortgage holder, and the view that we are taking is that the fund is essentially established from the partial earnings of the public servant while he is employed and it is therefore in essence funds in trust for his future well-being. And as such, an increase in the interest rate paid on that fund is an increase in the total resources available for his future well-being. I think we are looking at it from the opposite side of the coin to Mr. Clarke. An increase in the interest rate paid on the fund is an increased asset available to the public servant on his retirement.

Mr. KNOWLES: You would agree with Mr. Clarke that if the interest rate being paid were increased and no other changes were made, such as in the actuarial calculations or the amount of pensions to be granted to civil servants when they retire, that the result could be that the government would have to put in less money by way of make-up grant, and so on the average the effect is zero.

Mr. BARNES: Absolutely.

Mr. KNOWLES: In other words, if there is going to be an increase in the interest rate, that increase is going to have to be earmarked.

Mr. BARNES: Oh yes.

Mr. KNOWLES: Almost put in a separate fund, otherwise Mr. Clarke's point would be to no advantage.

Mr. BARNES: Or that the conditions applicable to the fund would have to be changed. In other words, the payment rates would have to be changed. If the definitions were left exactly as they were, then more interest means less direct support, but if the conditions applicable to the fund were modified, as we have suggested, then of course the original parameters are changed and Mr. Clarke's presumption is no longer correct.

Mr. KNOWLES: Then in either case we are asking that the government as employer, make available more money?

Mr. BARNES: Yes.

Mr. CHATTERTON: Mr. Chairman, Mr. Knowles has already covered some of the questions I had in mind. In your proposed formula, Mr. Barnes, as I understood it, you were going to take the average salaries of a group in 1959, as compared with the salaries of a same group today, and provide an index based on that relationship?

Mr. BARNES: Yes.

Mr. CHATTERTON: Should that date not be 1953, because the 1959 Public Service Superannuation Act provided for increases only to those who had retired before 1953, am I right?

Mr. BARNES: Yes.

Mr. FITZPATRICK: This is a valid point. We took 1959 as a base year upon which adjustments could be made. The reason for this was that it was in this year that this same question reared its ugly head. Now, this may not be a very valid year.

Mr. CHATTERTON: You see, if you take 1959 you will miss the group that retired between 1953 and 1959.

Mr. FITZPATRICK: And the index from 1953 to date may give a better history on which to base this program than 1959.

Mr. CHATTERTON: Would you say that it would be inequitable to provide an index for escalation of future pensions if the existing pensions were not first of all updated?

Mr. BARNES: Of yes. I think the immediate and urgent requirement is the people who are on pension as of this moment. There is no question about the priority, but our present suggestion is that we should get away from this patching principle, which is all too common in so many approaches to this sort of thing, and not have to come back and come back. Having once corrected the existing situation, let us get it on the rails and let it run. I think this is the essence of our thought. We would agree that the immediate problem is those people who are getting superannuation cheques of less than useful size at this moment.

Mr. CHATTERTON: I think you gave the answer to the next question but I just want to confirm it. Do you think that any index or any formula that is devised must be based to some extent on the number of years of service given by the retiree?

Mr. BARNES: Yes, I think we would definitely say that.

(Translation)

Mr. ÉMARD: Mr. Chairman, first of all, I want to congratulate the Professional Institute of the Public Service of Canada for having given its support and experience to the retired civil servants. I hope that other Associations will do likewise.

I understood the other day, that it was very difficult for the Public Service Associations, because of the small number of their members, to really present their case as well as it should be.

In the Brief which was read this morning, I was struck by certain statements, which to my mind, sum up the problem with which we are now faced. I therefore take the liberty of coming back on it. The first thing which struck me was, first of all, on Page one: "Our universal concern has been to ensure an equitable distribution of rising incomes and the widest participation in these improving standards". What follows is most important: "However there is one

category of people who, in no way, derive any benefit from these improved conditions". I think that this sentence is very important in the case now before us, because it shows that retired civil servants have been abandoned. We also have to consider when readjustments have to be made, that "Erosion of purchasing power has hit hardest those people living on fixed retirement incomes. The longer one lives after retirement, the greater the erosion". This is also very important.

Thirdly, "the procedure for adjusting pensions adopted by the Government in 1959 has proved inadequate... If our superannuation plan is to meet its theoretical objective of providing a retired public servant with a standard of living related to the standard he enjoyed before retirement, the plan must make some direct provision for post-retirement adjustments in benefits. A piecemeal approach to pension adjustment is unsatisfactory".

As I was saying a little while ago, we cannot help but feel that there was discrimination towards the retired federal civil servants. One proof of this, is that Old Age Pensions have been increased on several occasions and the veterans' pensions were also increased. The only increase for retired civil servants was in 1959.

I do have some questions to ask. First of all, as far as readjustment, with which we are dealing at the present time, I would like to know where you intend to get the money for this readjustment? Should it be taken from the present Pension Fund, or from the Public Treasury?

(*English*)

Mr. BARNES: As far as the first stage is concerned, that is, the people who are already on superannuation and have to be brought up, we feel that this should be a charge on the treasury, but thereafter the maintenance of this level, both for people already retired and people about to retire or to retire in the future we feel this should be taken care of by the increased interest rate, and if that is not sufficient, then by a review of the contributions paid both by the government as employer and the employees still in service.

(*Translation*)

Mr. ÉMARD: If we come back to what you mentioned; "The method of readjusting pensions adopted by the Government in 1959 was ineffective". I would like to know if this method was ineffective or has it become ineffective since then. You mean that since 1959, the method has not taken into account the increases which have been given since that time, or do you mean to say, that this method in 1959 was not effective to make up for the readjustments that should have been carried out?

(*English*)

Mr. BARNES: Mr. Chairman, essentially the 1959 adjustment was perhaps what one might describe as a minimum patch to adjust the situation to a tolerable level in the lower pension ranges as of that time, but very soon that patch was eroded—

Mr. KNOWLES: More people retired in 1953.

Mr. BARNES: Yes.

(*Translation*)

Mr. ÉMARD: A little while ago you spoke of establishing a formula based on present wages, and wages paid in past years. According to that formula then, what would happen to a pensioner who now receives $20 a month?

(*English*)

Mr. BARNES: Well, as our concept of the formula stands at the moment, the adjustment on his $20 a month that he would receive would be derived from this index figure of the movement in salaries across the service from 1959 to 1967, which is probably in the order of 5 or 6 per cent per year, so he would probably get another $10 a month. This is a very rough example, but it generally indicates the order of magnitude involved. I do not know Dr. Fitzpatrick's views.

Mr. FITZPATRICK: My comments are not directly related, they are only incidentally related. In Centennial Year particularly the government of Canada can be proud that for over a hundred years it has given its employees the opportunity to earn the right to participate in an agreement for their future welfare. This is the type of thing that I think we would want as the nuclei of the program under superannuation. You may recall that a hundred years ago the civil servant was contributing 2 per cent and he was receiving 2 per cent of his income based on the best three years. That was a hundred years ago. Today we are paying 6½ per cent, the government is making an equal contribution and it is based on the best six years. Now, I think over time the employee in effect has been anxious to earn this right in participating in an agreement for his future well-being. Certainly in industry in the future—as in the government itself—while many industries do not have the history that government has, which goes back a hundred years in terms of having this superannuation plan, many industries have now reached the position where a superannuation scheme is absolutely necessary. The government of Canada realized this a hundred years ago, and should be commended in this regard.

(*Translation*)

Mr. ÉMARD: Have you ever made any comparisons of benefits received under the Public Service Plan with those received under an industrial plan?

(*English*)

Mr. BARNES: We have looked at a certain number of these and, as far as basic benefits go, the 70 per cent target is now being fairly well accepted. There has been quite a lot in the *Financial Post* recently on this subject which you might have seen. The 70 per cent target seems to be fairly well accepted and, as Dr. Fitzpatrick has mentioned, there is now a growing realization of the need to superimpose an escalation formula to maintain its reality. As far as the basic benefits of retirement at the moment are concerned, this is a comparable scheme although it is relevant to note that the 6½ per cent that the public servant pays is at least as high and tending to be rather higher than the industrial contribution rate. Relative to his colleague in industry. The public servant does pay for his pension.

(*Translation*)

Mr. ÉMARD: Are there certain benefits of the plan that strike you as being inferior to those of industrial plans?

The CO-CHAIRMAN (*Mr. Richard*): Would you repeat the question?

Mr. ÉMARD: Yes. Do some benefits of the Public Service Retirement Plan strike you as being inferior compared to industrial plans?

(*English*)

Mr. FITZPATRICK: A number of the industrial plans are based on a profit-sharing basis. Now, in the federal service the closest thing that we can come to in this regard is something on a wage-sharing basis, and for this reason the recommendation of the Professional Institute is that escalation be based on a wage index. This then gives the direct relationship of the past employee to the present employee. His counterpart in industry may, in fact, be in a profit-sharing program.

Senator MACKENZIE: In terms of the present turnover, would it be comparable to apply a portable pension within industry? It is the exception to have anybody stay in the same job and in the same place, for 35 years, so if he is to benefit from one good pension scheme he would have to carry it with him. How far is that the case at the moment? I believe the federal plan is portable.

Mr. FITZPATRICK: I understand from the discussion of last Thursday that there were negotiations with 25 or more organizations, something of this order.

Senator MACKENZIE: I am not sure how many of them were industrial.

(*Translation*)

Mr. ÉMARD: On Page 3 you mention an annual progression of 5.5 per cent of the economy's product, bringing your rate of growth of the labour output to 2.4 per cent. What was the reason for mentioning these figures? Do you intend them to be used in compiling a readjustment formula?

(*English*)

Mr. FITZPATRICK: The purpose was in fact to give some authoritative source on how the rate of growth in the Canadian economy is likely to change over a period of time. It would be our premise that wages would in fact reflect the output in the Canadian economy and the changes that are likely to take place. This relationship is not always a direct one, sometimes it comes in spurts, and there has been the odd strike from time to time to sort of speed it up, but there is supposed to be a relationship between wages paid and the GNP of your society.

(*Translation*)

Mr. ÉMARD: Among the methods of adjustment which have been suggested since the Committee has started sitting, was, for instance, periodic reviews, suggestions and for automatic adjustment. Your Brief points out that the plan should be part of collective bargaining. There has been a suggestion for a fixed sum. Among these suggestions, I think that some are probably beyond the mandate of our Committee.

For instance, we cannot suggest that the plan comes under collective bargaining. We certainly cannot suggest, either, that there be readjustments, automatic adjustments because I would imagine that if we were to suggest automatic adjustments, this would be creating a precedent for what is to happen in the plan eventually and, if it were to be an automatic adjustment for pensioners who were already retired, the first thing that everyone would say was that this

automatic adjustment should belong to the plan, should be part of it and should continue. I do not think that, at the present time, we can do this. I think that what we need to do, would perhaps be to have a review according to the formula suggested, either from the Fund itself or from the Public Treasury. What is your opinion? Would members of the plan who are paying into it at the present time consent to pay for an automatic adjustment every year, for instance, for those who are retiring?

(*English*)

Mr. BARNES: It is difficult, Mr. Chairman, to speak for the public service at large, but I think in the professional area there is a realization of the vital importance of a viable and acceptable superannuation plan, and I should be very surprised if there was any large area of disagreement in the professional sector of the public service.

That would be my view. I do not know if Dr. Fitzpatrick could add anything.

Mr. FITZPATRICK: I would like to say that we would like to be presented with this proposal by those who are considering escalation. We would like the privilege of reviewing it.

(*Translation*)

Mr. ÉMARD: At the present time, is the government's contribution equal to that of industry?

(*English*)

Mr. BARNES: I think that the membership would look sympathetically at a proposal that any residual cost should be shared between the employer and the employee. I think that our members would be seriously interested in considering such a proposition.

The JOINT CHAIRMAN (*Mr. Bourget*): Do you think it would be fair for the actual civil servants who pay for those who are now retired if you adjust the plan to what you say? Do you not think it would be a matter for the government itself to pay it and not ask those who are actually employed by the civil service to pay for that?

Mr. BARNES: Yes. This is a sort of phase one. Applicable to the existing superannuate who, we feel, should be looked after from the public treasury, but from the date of such correction onward one then comes to what we call phase two of the plan, that is, keeping both the pensions of the retired people and the rest of us, in due course, in line. This might then well be a combined operation.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker.

Mr. WALKER: Mr. Chairman, what are our terms of reference? You wandered into a cave and there is one doorway, and once you get in there it opens up into eight or nine alleyways. I do not think there is any question about this committee coming up with a recommendation. I think we will, but it is how and what recommendation, and I would like to know. We have been talking about two or three things this morning; we have been talking about the present retired superannuates and we have also been talking about the fund and how it affects the people who are now employed and who will be retiring. Were we given any restrictive terms of reference to deal with one particular group? I am prepared

to discuss all aspects of this—past, present and future—but it would be helpful to me if I knew what our terms of reference were.

The JOINT CHAIRMAN (*Mr. Richard*): I read them before and I think they require more than reading, they require an understanding, because this relates to the problem as it was raised from time to time in the House of Commons and in this Committee. While the terms of reference say that we are empowered to inquire into and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act, I think it is clear in the first place that this committee was formed at this late date to look into the problem of those who have been retired at the present time and who are receiving pensions which are considered, in some cases at least, not sufficient, whatever way you interpret that word. On the other hand, we did invite groups to make representations and they have done so. In my opinion they have covered the situation of retired civil servants very well, but naturally if they tie in their expectations—

Mr. KNOWLES: We will all be retired some day.

The JOINT CHAIRMAN (*Mr. Richard*): They would not like to be in the same situation in the future, even if the committee does not make direct findings—

Mr. KNOWLES: They will be retired before we finish our job here.

The JOINT CHAIRMAN (*Mr. Richard*): —because I am sure that is a matter that will have to be determined by government policy and it will have to be discussed at length. Others would have come before this committee if they had thought that the problem was so large. I think it is very important at the present time for us to realize, in finding a solution to this problem, that it should not be unlike the type of solution we would like to find for those in the future—I think that is a good way to put it—and that it may help us to treat fairly those of the past in the same way as we would like to treat those of the future, am I right?

Mr. WALKER: I would like to have this point clarified again because, as the witness has said, there are two problems involved here. You have one problem for which a suggestion has been made, and other witnesses that were here suggested a lump sum to take care of past ones, and then we have been going on into the future with another formula. So, there are, in fact, two things that we are discussing. I know they are related, but I am glad to have the understanding that our particular urgent problem, as I understand it, is for those who are now retired on pensions that do not meet current needs, as opposed to when these people were retired—

The Joint CHAIRMAN (*Mr. Richard*): Mr. Walker, if I may interject, I think you will find—and I do not want to be the solicitor for the group—that the solution which they suggested, as far as the base of it is concerned, is always more or less the same for those who are already retired and those who would be retired. As it implies, it is only where the source of funds would come from, but their solution is standard in both cases.

Mr. WALKER: I did not gather that, I thought that with the retired there was something special and extra that had to be done prior to that, a base established, and then your over-all formula for the past and future goes into effect, right?

Mr. BARNES: That is correct. It is bringing up to date those who are in arrears and, thereafter taking off in common.

Mr. WALKER: May I just ask this question. There are so many conflicting principles which are really basic principles involved in a number of the suggested solutions. Am I right in assuming from what you said that you are anxious to preserve the pension benefits in relation to wages. In other words, there is no such thing as when everybody retires they will all get the same wage. Have you thought in terms of the adjustment for those who are now retired on superannuation in terms of cost of dollars? In other words, if someone retired 15 years ago at $50 a month—and those were 1952 dollars—have you thought in terms of relating those 1952 dollars to today's dollar and making the adjustment? This preserves the equity that people have earned in their pension, have you thought of bringing that up in terms of constant dollars?

Mr. BARNES: Mr. Walker, this is in fact alternative no. 1 in our list of four. This, as you say, preserves the equity but does not give these people any share in the per capita increase in the gross national product of Canada over the last 15 years. We feel that they deserve some recognition beyond the maintenance of their equity; that they deserve to share in the growing well-being of the country.

Mr. WALKER: You are generally in favour of whatever adjustments are made and I am speaking now of the past and the future—and you are in favour of a percentage increase right across the board rather than a minimum base for all people?

Mr. BARNES: Essentially yes, except as Mr. Knowles mentioned, where there is this question of an absolute floor and where the minimum would taper down to something meaningless, then there might be a valid argument for a significant minimum thereon related to the formula.

Mr. WALKER: I do not know whether you can answer this question or not, and perhaps the actuary would have the information. Do you know if the government pays interest on its obligation—I do not call it a contribution because it is not there in a separate fund—to the fund or do they just pay interest on the employees contributions?

Mr. FITZPATRICK: I understand, sir, that if the money is drawn out in a lump sum there is no interest paid, not only on the government's side but on the employee's side as well.

Mr. KNOWLES: Do you mean on the money that is in the fund?

Mr. WALKER: As I understood the actuary who was here the other day the funds are drawn out by only for immediately payment. In other words, they are not earning in a separate fund by itself.

Mr. FITZPATRICK: If the employee elects to draw his money out he gets his money without interest.

Mr. WALKER: I realize that.

Mr. FITZPATRICK: It may still stay in the fund, thought.

Mr. WALKER: That is right, but on the books, if the employee's contributions have amounted to, and I just use the figure of $1,000,000, the government has an obligation when it is needed, I presume, to contribute $1,000,000 apart from this?

Mr. FITZPATRICK: Yes.

Mr. WALKER: Does the government pay interest on its own obligation to that fund?

Mr. BARNES: On its own payments that it made into the fund, yes, both sections.

Mr. KNOWLES: It pays interest quarterly on the amount that is in the fund?

Mr. BARNES: Quarterly, yes, at one per cent.

The JOINT CHAIRMAN (*Mr. Richard*): Senator Denis.

Senator DENIS: Taking into consideration your recommendation no. 4, which is the one you prefer, I would like an example of what it would give. Let us suppose, and you correct me if I am wrong that a clerk 15 years ago had a pension based on a salary of $3,000, and today the same position pays $6,000, it means that there has been an increase in the wage by 100 per cent. So you mean by your recommendation that that retired person, who was entitled at the time to, let us say, a pension of $2,000 a year would get an increase of 100 per cent, which would be $4,000? I would like to know if I am correct in interpreting your recommendation?

Mr. BARNES: Senator, this is the basic approach. It cannot be based on one particular clerk. You would not go back and say, "This man was a clerk, grade 3, and we envisage a composite index representing key classes across the service".

Senator DENIS: It is just an example I gave you, but that would amount to what I have just said?

Mr. BARNES: Yes.

Senator DENIS: Now, what would happen in the case of a retired person who had so small a pension that they accepted a lump sum in settlement? It happens sometimes that a pension, for instance, is below $10 a month. You could make an arrangement with the governement under our set-up where, instead of receiving $10 a month pension, you can accept a lump sum in order to go into business in a small way. It depends on longevity.

Mr. FITZPATRICK: We would hope, Senator that the impact would be that with the type of suggestion we have made here more people would be encouraged to take their retirement as superannuation rather than in a lump sum because—

Senator DENIS: Yes sir, but I am talking about those who have already accepted a lump sum, I am not talking about the future I am talking about those who at the the present time, instead of accepting a pension of $10 a month, have accepted or they have settled for a lump sum. What would happen in those cases?

Mr. BARNES: This would be a difficult case, I think, because one does not know what they have done with it. They might actually be better off as a result of having put that money into a good growth stock, if he knew one. As much as one would like to see some sort of mechanism that would correct this, it is rather difficult, I think, to envisage a system which could take care of such a situation.

Senator DENIS: But that would not be fair to those who have accepted a lump sum. Those who have accepted, let us say, $15 a month will have their

pension doubled under your recommendation, while those who have accepted the lump sum are without any advantage under your recommendation.

Mr. BARNES: I am sorry, perhaps I misunderstood you. You were thinking of people who commuted their pension, not merely withdrew their own contributions.

Senator DENIS: No.

Mr. BARNES: They commuted their pension. Oh, I think there would have to be some adjusting formula.

Senator DENIS: Now, what do you say is the average age of the retired civil servant?

Mr. BARNES: The age of people who are now retired?

Senator DENIS: Yes.

Mr. FITZPATRICK: I would not have that.

Senator DENIS: Would you agree with me that most of the retired persons are 65 years of age or more?

Mr. BARNES: Yes.

Senator DENIS: Well, you say in your brief, of course that we are all looking to the welfare of the Canadian people, including the federal civil servant and this also includes the other citizens of Canada—from whatever source the money comes from in the government. You say on page 3 that reviews of plans are often either ignored or treated in a patch-up manner. Will you agree with me that in all other kinds of social measures which have taken place that the retired civil servants have benefitted as well as the other citizens? Let us take, for instance, the increase in the old age security. Instead of having to be 70 years of age when you receive $75 last year it was 69 today it is 68, and it will be 67 in 1970. All those who are aged 65 will receive a pension of $75, and that includes the retired civil servant. Is that what you call a "patch-up" manner in looking after—

Mr. BARNES: Well, Senator, I think this reference to a "patch-up" manner was a reference to the sort of thing that happened in 1959. There was a sort of "once and for all" correction applied to a situation without the continuing mechanism. With regard to the Canada pension and similar social security arrangements, we feel that there is a case here for looking at the government in two aspects. First, the government, as the government, looking after the social welfare of all the citizens, and then the government in its special role as the employer of the civil servant, and I think the angle we are concerned with at the moment is the government in its specific role as the employer of the civil servant. This is where we feel there is a responsibility towards the civil servant per se, rather than merely as part of the total social service.

Senator DENIS: So you think that the government should be more generous than any of the other employers in Canada, is that what you mean?

Mr. BARNES: We do not feel that they should be more generous; we feel that this is the growing situation outside. We feel that the government should be what government policy statements have defined as a good employer, and what

we are asking is that they should do to their employees, the public servants of Canada, what good employers are doing to their employees in other parts of Canada.

The JOINT CHAIRMAN (*Mr. Richard*): I would not want Senator Denis to destroy my speeches. For the past twenty years I have said that the government should be the best employer.

Senator DENIS: One reason is that they had to guarantee the old age pensioners $105, and this also applies to the retired civil servant, so he would get part of it, but if you just gave the figure of $20 a month pension as though it were the only money received by the person from the government, that is not absolutely correct. You will agree with me that all the other citizens of Canada aged 67 and 68 next year are guaranteed by the government a minimum revenue of $105?

Mr. BARNES: Certainly, Senator, but I would, I think, again stress the fact that this is the government in its role as the government of Canada, not in its specific and special role as the employer of the civil servant. Everybody has an employer of some sort or another or most people other than those in private practice—

Senator DENIS: We have an expression here, you like the meat we are serving you but you do not want the dessert.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Hymmen.

Mr. HYMMEN: Mr. Chairman, I think we will all agree that this is an extremely difficult problem, the extent of which is as reflected in the rather inadequate or patchwork job done in 1959, and I think Senator MacKenzie expressed our concern over this—he certainly expressed my concern—in his initial remarks. While the present government and previous governments have tried to be good employers, the very fact that we are bringing in bill C-170 to provide for collective bargaining is one example of this but, in essence, there are well over 19 million people in this country who are the employers of the civil servants, not the government and not this parliament, and many of these people have retired on contributory pensions plans through industry, private pension plans or without any pension plan at all. Now, I know when the Canada pension plan was introduced you had to start somewhere, and I am quite sure that the members of parliament would have liked to have made this plan retroactive and that it would take place immediately the bill was passed, but on a contributory basis this was not possible. I only have one question and it has not been asked before. Do you believe there is any obligation on the part of a private sector or a private carrier to upgrade existing plans or no pension payments at the present time? This is a question involving the private sector irrespective of any obligation on the government.

Mr. BARNES: Mr. Chairman, whether or not there is an obligation, the fact is that in more and more collective bargaining agreements that are now being entered into pension adjustments are coming in and are being accepted, and as new schemes are being developed they include escalation clauses. This is the pattern of the good employer at the moment. It is being done whether there is actually an existing legal obligation to do it or not.

Senator MACKENZIE: Does this apply to the retired people?

Mr. BARNES: I am not too sure. It applies to some of the steel people and automobile companies, I believe.

Mr. FITZPATRICK: It would relate to the tenure of their contract when they retired.

Senator MACKENZIE: But those that are off in the wilderness?

Mr. FITZPATRICK: I am not sure, sir.

Mr. BELL (*Carleton*): There are quite a number of companies that have adjusted it.

Senator MACKENZIE: Oh, I see, but people who were retired before the pension plan was instituted?

Mr. FITZPATRICK: Yes.

Mr. KNOWLES: Yes, there are some.

The JOINT CHAIRMAN (*Mr. Richard*): Senator Fergusson.

Senator FERGUSSON: Mr. Chairman, most of the things I was interested in have been covered, but there is one question that I would like to ask. Of the four recommendations that were suggested on pages 4 and 5, why did you choose the fourth one over the third? That seemed to me quite a reasonable suggestion.

Mr. BARNES: Would you like to answer that question?

Mr. FITZPATRICK: The salary of the final grade of the employee is a more difficult thing to maintain as an index than the wage index based on, let us say, the major civil service classifications.

Mr. BARNES: Ideally, Senator Fergusson, I think there would be a case for literally doing what was suggested a while ago, matching class 3 for class 3, but this would be terribly complicated. Furthermore, under a dynamic reclassification system a lot of classes from which these people retired in, let us say, ten years ago just do not exist any more, and classes in which people may retire today probably will not exist ten years from now, hence our concept of a more broadly based index which will be simpler to operate and also have a firmer continuity from the base line.

Senator FERGUSSON: I only have one further short question. It has to do with the last paragraph on page 3 where you refer to a study made in the United States of eleven countries and you say they have adopted the principle of adjusting old age pensions. Does this study include civil service pensions such as we have been studying? If it does, has there been such an adjustment made by any other countries similar to what we have been discussing?

Mr. FITZPATRICK: I may be corrected on this, but I believe the finance department has in fact done a study very much along these lines. I may be wrong. The old age pension adjustment principle, as I understand it in this particular report, was over-all.

Senator FERGUSSON: You are referring to the study and I have not seen it. I thought perhaps you would know about this.

Mr. BARNES: Senator Fergusson, two of the very relevant examples are, of course that both the United States and the United Kingdom governments have introduced specific adjustment procedures for their civil service pensions.

Senator FERGUSSON: Thank you, that is all I wanted.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, if I understood Mr. Barnes correctly, in reply to a question asked by Mr. Walker, he said that he was in favour of a certain across the board percentage increase. If this were the case, I do not understand why this would be in line with formula number four, which was suggested and which, if I understand the formula correctly, would be a decreasing formula since 1953 or 1959.

(*English*)

Mr. FITZPATRICK: I think you are right, sir. The basis would be an index basis rather than a percentage basis. Your point that the percentage increase across the board may not in fact meet this criterion at all is very valid here.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell.

Mr. BELL (*Carleton*): Mr. Barnes, perhaps you could help me on the principle of no ceiling in relation to the application of your index. I have no difficulty in connection with it for the future, where publicly it would be financed from contributions. I do have a little difficulty with it in connection with the payments directly from he treasury, and I was just calculating that one of the senior deputy ministers for example, who retired with 35 years service in 1960, would probably have a six year average of $18,000, which would give a pension of $12,600, and I think your index would be somewhere of the order of 50 per cent. That would give to this person an increase from the public treasury of $6,300.00. Now, I represent a civil service riding, but I think I might have some difficulty in justifying to the civil servants of my riding a payment direct from the public treasury of $6,300 to any one particular individual. Now, the problem that I have is the lack of ceiling, not so far as the future is concerned where it is based on contribution, but so far as the past is concerned.

Mr. BARNES: I quite appreciate the political difficulty of this, but on the basis of equity I think it would be difficult not to support it because the present salary of a senior deputy minister, of course, is some $10,000 a year more than that at which the man retired and where does one say that expediency will take over from equity? I think it would put us in a very difficult position to say that up to a certain level it does not really matter if it goes beyond there, because this erosion is taking place very rapidly. The case of a man who retired 20 years ago on $7,000 a year is perhaps comparable to your deputy minister retiring three or four years ago on $18,000 a year, and yet today the $7,000 a year income and the resultant $3,000 a year pension is very small.

Mr. BELL (*Carleton*): I think the great majority of my civil servants make less than $6,300, and I certainly would be in difficulty in justifying a straight handout from the treasury of amounts like that.

Mr. FITZPATRICK: Mr. Bell, I would submit that one guideline that should be considered by this committee is that present superannuates who have devoted a major portion of their career to the federal service should not be allowed to have their pensions outstripped by pensions currently being awarded for comparable levels of work and responsibility.

Mr. BELL (*Carleton*): I would agree with that as a principle. I think when it comes to the appropriate time I will have to get you on the platform.

The JOINT CHAIRMAN (*Mr. Richard*): I am sorry to inject a personal note, but I am sure my mother would appreciate this very much because my father was a deputy minister and her pension as a widow has been $150 a month all along, and according to your calculations under this present scheme she would be well off at $9,000 a year.

Mr. PATTERSON: Mr. Chairman, I would like to go back just for a moment to the replies that were given to Mr. Emard when he asked questions relative to the comparisons between the federal and industrial plans, and I think Dr. Fitzpatrick in replying mentioned the fact that in some of them profit-sharing was a factor. I do not think he is suggesting that this should be incorporated into any plan that we have here because if it were so, based on the way governments have operated since confederation and if this principle were to involve the deficit sharing as well, it would be catastrophic, I think, as far as the civil service is concerned. However, just to fill in a small gap here, I believe Dr. Fitzpatrick stated that the target in industrial plans was 70 per cent of the income. Am I correct in that?

Mr. FITZPATRICK: Mr. Barnes actually made the comment.

Mr. BARNES: I think the recent literature has indicated that 70 per cent is now recognized as the figure.

Mr. FITZPATRICK: For the individual who puts in 35 years of service.

Mr. PATTERSON: This was a target. Could you incidate just how many have reached that target now and have incorporated this? Is it a substantial number of industrial plans?

Mr. FITZPATRICK: We would not have the information specifically on numbers. We do have some of this information. It is the goal. As in many cases, the federal government was a leader in 35 years of service giving a maximum of 70 per cent benefit. Few civil servants, of cousre, have received this in the past.

Mr. PATTERSON: Well, I wondered about the industrial plans. How many have reached the target and are now paying 70 per cent?

Mr. BARNES: We do not have this data in precise from. Perhaps the Department of Finance might have it. The published literature does indicate that there is a fairly significant move in this direction. It is now a good employer target.

Mr. PATTERSON: But is there a significant number who have reached the target, or have any reached that target now?

Mr. FITZPATRICK: The average would be over 60 per cent.

Mr. PATTERSON: But have any reached the 70 per cent that you know of?

Mr. FITZPATRICK: I would have to look into that. I would not quote company names at this time without having a record of them.

Mr. PATTERSON: Well, I just wondered if any, regardless of names, have reached that target?

Mr. BARNES: Oh yes, the literature certainly indicates that some have but, like Dr. Fitzpatrick, I would not like to be precise as to quantity.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Chatterton.

Mr. CHATTERTON: The adjustments that have been introduced to retired people in some of the other pension plans take into account the income from old age security. Have you thought about that or are you recommending that that be considered?

Mr. BARNES: We have not, Mr. Chatterton. We look upon this matter as one concerning the government in its role as the employer.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any further questions? Mr. Émard.

• (11.40 a.m.)

(*Translation*)

Mr. ÉMARD: I wonder whether Mr. Barnes could tell us, whether the Department of Industrial Relations of Queen's University has published a study since 1956, a more recent one that the 1956 Study on Pension Plans?

(*English*)

Mr. BARNES: Mr. Émard, I am not aware of a more recent one. If theere is, I would be awfully interested in seeing it because it would be a very good effort if it came from Queens. I am not aware of a more recent one.

Mr. WALKER: One quick question, Mr. Chairman, if I may. You are more in favour of recommendation No. 4 than anything else?

Mr. BARNES: Yes.

Mr. WALKER: Have you worked out figures on a superanuate presently getting, say, $35 a month federal pension? On your formula would it raise this amount significantly at all? Would it double it?

Mr. BARNES: In the order of 50 per cent.

Mr. WALKER: I notice on the chart you have a great number of superannuates with pensions of less than $50 a month, so with formula No. 4 it may bring those up to $75 a month. We still have a welfare problem in that group.

Mr. BARNES: Yes. I think this is where Mr. Knowles' platform at the bottom comes in and whether it should be tapered down to a diminishing point is a relevant point.

The JOINT CHAIRMAN (*Mr. Richard*): Do you have any other questions? Thank you very much, Mr. Barnes and Dr. Fitzpatrick.

The next meeting will be at the call of the chair, but I think I may want to call the steering committee on Monday, but I will give you due notice in order to arrange the future meetings.

Mr. BELL (*Carleton*): How many requests to present briefs have we had?

The JOINT CHAIRMAN (*Mr. Richard*): One more, the Alliance, but they are not ready.

Mr. KNOWLES: May I ask what has happened to the announcement you made the other day that the government might move to enlarge our terms of reference to include retired persons of the armed forces and the RCMP?

The JOINT CHAIRMAN (*Mr. Richard*): I do not know if Mr. Walker could speak to you on that.

I did speak to Mr. Benson that it was the wish of the committee.

Mr. KNOWLES: That this would be attended to?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I did speak to him.

Mr. KNOWLES: I realize this might lead to more witnesses wanting to come before us but I do not think that is necessary. I think it would follow that whatever we do for one group of retired government employees we would want to apply to the others.

The JOINT CHAIRMAN (*Mr. Richard*): I was talking to some representatives of National Defence and I think it is the opinion that it is more to allow us to have the power to make a recommendation, which would have the same effect for the National Defence employees and the RCMP, rather than to hear briefs on their behalf. I think that was the suggestion of Mr. Benson at the time.

Mr. KNOWLES: But you are attending to the matter?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I am.

Mr. KNOWLES: It is not necessary to ask a question in the house?

The JOINT CHAIRMAN (*Mr. Richard*): Oh, I am always happy to have the opportunity to be in evidence.

Mr. BELL (*Carleton*): I wonder whether Mr. Hart Clark has as yet had an opportunity to prepare the material on what has been done in other countries? I think it would be most useful if the members of the committee could have this as soon as possible in order to give us a detailed study.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, the clerks tells me that Mr. Clark is working on it. As soon as it is available it will be given to the members of the committee before the meeting.

Mr. CHATTERTON: Mr. Chairman, I do not know if this has been raised, but could one get some information on the amendments made in some of the provinces such as British Columbia recently?

The JOINT CHAIRMAN (*Mr. Richard*): I understand that is also being done.

Mr. KNOWLES: Will you also include the city of Winnipeg?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

An hon. MEMBER: It will be too regional now.

Mr. KNOWLES: With all the good employers there I do not know.

The JOINT CHAIRMAN (*Mr. Richard*): One thing that has bothered me—although it should not affect our decisions—is what has industry done in relation to increasing pensions of superannuates in their own sphere? As a committee member I would be very interested in knowing if Mr. Clark or someone else could tell us what has been done by industry, which could be used as a guide by us. I so not know if it has ever been done.

Mr. KNOWLES: This was discussed, if I may say so, in our Canada pension plan committee, and before we ask our officials to produce another raft of

material I think it should be noted that a good deal of this was in the records of that committee. I know that Mr. Anderson of North American Life indicated that his company was doing it for his company's employees. I would like to know if there are such items on the records of that committee.

The JOINT CHAIRMAN (*Mr. Richard*): If the committee members are interested they may have a reference. Does Mr. Bell have some information?

Mr. BELL (*Carleton*): For example, I have here a letter from Canada Life to their pensioner employees showing what they are doing with respect to percentage increases both this year and in future years.

The JOINT CHAIRMAN (*Mr. Richard*): We will now adjourn. Thank you.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

No. 31

TUESDAY, FEBRUARY 28, 1967

Respecting

PENSIONS

WITNESSES:

Messrs. C. A. Edwards, President, J. Maguire, Research Director, R. Deslauriers, Assistant Research Director and T. Cole, Research Officer, Public Service Alliance of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25937—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Éthier,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Tardif,
Mr. MacKenzie,	Mr. Hymmen,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(HOUSE OF COMMONS)

TUESDAY, February 28, 1967.

Ordered,—That the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be further empowered to inquire into and report upon the matter of the pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

(SENATE)

WEDNESDAY, March 1, 1967.

The Honourable Senator Connolly, P.C., moved, seconded by the honourable Senator Deschatelets, P.C.

That the Senate do agree that the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be further empowered to inquire into and report upon the matter of the pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The question being put on the motion, it was—

Resolved in the affirmative.

25937—1½

MINUTES OF PROCEEDINGS

TUESDAY, February 28, 1967
(52)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.20 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Ballard, Bell (*Carleton*), Chatterton, Émard, Fairweather, Hymmen, Knowles, Madill, McCleave, Richard, Walker (11).

In attendance: Messrs. C. A. Edwards, President, J. Maguire, Research Director, R. Deslauriers, Assistant Research Director and T. Cole, Research Officer, Public Service Alliance of Canada.

As suggested by the Hon. Senator MacKenzie, the Clerk of the Committee was instructed to provide copies of a paper on pensions to members of the Committee.

Moved by Mr. Knowles, seconded by Senator Fergusson,

Resolved,—That the paper "Superannuation Plans of Provincial and Foreign Governments" prepared by the Department of Finance be printed as an appendix to this day's proceedings. (*See Appendix* Y)

At the conclusion of the questioning of the representatives of the Public Service Alliance of Canada concerning their brief presented this day, the Committee agreed to print the said brief as an appendix to the proceedings. (*See Appendix* Z)

At 12.35 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, 28 February, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we will hear a brief of the Public Service Alliance of Canada, represented by Mr. Edwards.

Senator MACKENZIE: Mr. Chairman, might I put in the hands of the secretary, a rather interesting document that came to me in the mail the other day on the business of inflation and pensions, pension plan design, career average, final average, flat benefit, post retirement adjustment, automatic wage increases, post retirement adjustment and management. It was produced by Canada Permanent. I am not doing it to promote the credit or welfare of the company in question, but it does deal with it in quite a sensible way and perhaps the secretary would like to have a look at it to see if there is anything in it.

The JOINT CHAIRMAN (*Mr. Richard*): Senator MacKenzie, is it your suggestion that copies be made of this memorandum and distributed to the members; then they can decide if it can be used for any other purpose.

Senator MACKENZIE: Exactly.

Some hon. MEMBERS: Agreed.

Mr. WALKER: That is a good slogan for our Centennial Year, Mr. Chairman: Canada—Permanent.

The JOINT CHAIRMAN (*Mr. Richard*): Make Canada permanent.

Mr. KNOWLES: Mr. Chairman, while you are on other matters, I wonder whether we could have an understanding or agreement that this document that the officials have supplied us, entitled "Superannuation Plans of Provincial and Foreign Governments," might be made part of our record. I think it should be printed as part of today's record.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed?

Mr. CHATTERTON: I have just a small point. I was asked to inquire about the situation with Australia. Could they get the figures for Australia.

The JOINT CHAIRMAN (*Mr. Richard*): I was going to speak to that. I inquired from Mr. Ruddy a while ago. When the question was put by the Committee the last time to the representatives of the Treasury Board, the only countries mentioned were those in this memorandum and I did raise the point that Australia was not in there, but if you will look up the minutes of the meeting you will see that no request was made to include Australia; although I think Mr. Edwards had included it in his appendix, in any event, so that we will have that information. Is it the wish of the Committee that this memorandum be printed in the minutes of the proceedings.

Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Then I will ask Mr. Edwards to speak.

Mr. C. A. EDWARDS (*National President, Public Service Alliance of Canada*): The Public Service Alliance of Canada welcomes this opportunity to present a brief on behalf of retired public servants who are faced with the increasingly frustrating problem, not only of maintaining a reasonable standard of living, but of making ends meet on fixed incomes in a moving economy, experiencing year after year, sizeable gains in the consumer price index and in the index of real wages. Large numbers of annuitants are undoubtedly becoming second-class citizens in comparison with their neighbours and members of their community because of the constant erosion of their purchasing power. The disparity is further emphasized by increases in the standard of living being enjoyed across the nation by millions of other people who benefit from steadily increasing gains in productivity.

We would like to make clear at the outset that wherever in this presentation we make reference to retired federal public servants and annuitants, our intention is to include retired members of the Armed Forces and of the Royal Canadian Mounted Police. Also, the term annuities, as we use it, is intended to include allowances payable to or in respect of widows, and surviving children, where applicable.

There is, of course, no need for us to remind this committee that annuities of retired federal public servants have not been increased since 1958. Even then, the authority ultimately contained in the Public Service Pension Adjustment Act of 1959 permitted increases effective July 1, 1958 only for certain annuitants who were superannuated prior to 1953. We will return to this point later.

The reasons given by the then Minister of Finance for payment of increased annuities are set forth in pages 2757 to 2759 of the *Hansard* of July 28, 1958, and again on page 4716 of the *Hansard* of June 15, 1959. Briefly, they refer to a combination of increases in both the cost of living and the general salary levels of Federal public servants from 1946 to the date of the Minister's statement. In other words, it was recognized by the government of the day that superannuated public servants living on fixed incomes should not be victimized by the continous erosion of the purchasing power of their annuities due to increased living costs, without some relief being provided by their former employer. Nor was it felt that their position should worsen, vis-a-vis active employees benefiting from regular salary revisions.

There has long been an obvious need to do something further, not only for public servants who retired before 1953, but also for those who have retired in the intervening years. Having regard to the reasons given by the Minister of Finance in 1958 as previously mentioned, and the steady erosion which has since occurred in the purchasing power of the dollar, the Public Service Alliance of Canada and one of its predecessor organizations, the Civil Service Federation of Canada, have made submissions in each of the last four years, exhorting the government to fulfil the role of a good employer by taking action to alleviate this increasingly serious situation by seeking the necessary parliamentary authority to increase annuities of retired public servants. The Public Service Alliance feels that an equitablte way to do this on a permanent basis would be to follow the practice of the Government of the United States whereby annuities of retired

federal public servants are automatically increased on the basis of increases in the consumer price index. We will refer again to this later.

We suggest that there is no need to spell out to this committee details of the formula by which annuities were increased in 1958. Such details are carefully set out in the Public Service Pension Adjustment Act of 1959 and its attached schedules. It is perhaps sufficient to say here that the increases apply to all superannuated public servants whose annuities did not exceed $3,000 a year, and to widows whose allowances did not exceed $1,500 a year. At that time, the increases applied to some 15,400 of a total of approximately 25,000 annuitants. For the full year 1959 the cost was $3,300,000.

In 1958 the Minister of Finance said that it did not seem to the government to be fair to annuitants with long service to supplement only very low annuities. It was equally clear, he stated, that a flat percentage increase in all annuities would be inequitable and would favour those enjoying larger annuities, particularly those recently retired. Consequently, annuitants retired ten years previously, he said, had a higher claim to increases than those more recently retired whose annuities were more closely related to current salary scales. As a result, the allowances granted provided for increases in annuities varying from 32 per cent of the first $2,000 of annuity for those who retired prior to March 1947 whose annuities were calculated on a ten-year average salary basis, down to 2 per cent for those with similarly calculated annuities who retired prior to December, 1952. Lesser amounts were granted to annuitants whose annuities were calculated on a more favourable basis. However, these are among the details set out in Schedules B and C of the Public Service Pension Adjustment Act of 1959.

The main point we wish to make here is that the government realized at the time that annuitants on fixed incomes, whose annuities were earned in periods of relatively low earning power, needed assistance in order to maintain a reasonable standard of living. The government of the day took steps to provide some measure of assistance.

Between January, 1953 and June, 1966 (the latest date for which data are available), average weekly salaries of salaried employees of the Federal Government have increased from $54.54 to $102.96 (88.8 per cent). From July, 1958 (when certain annuities were increased by the Pension Adjustment Act), to June, 1966, salaries increased from $71.71 to $102.96 (43.6 per cent). Since annuities granted now are based on the best six consecutive years of service (which in most cases are the last six years), it is evident that civil service employees retiring now are entitled to annuities which are considerably higher than those in payment to annuitants who retired only a few years ago in otherwise corresponding circumstances.

In addition, since there is ample reason to believe that the upward trend in salaries will continue, it is also apparent that the annuities received by public servants retiring now will prove to be considerably less than the annuities which will be received by public servants retiring a few years from now.

It should also be appreciated that annuities which are based on the old formula of the last ten years of service rather than the current formula of the best six years of service, have not benefited to the same degree from rising salaries because averaging over a longer period necessitates inclusion of lower salaries in computing annuities.

Cost of Living Increases

As at July, 1953 the Consumer Price Index stood at 115.4 (although "stood" is a most inappropriate word because it implies stability and since World War II there has been little, if any, stability in the Consumer Price Index). In the thirteen-year period from July, 1953 to July, 1966, the index rose to 144.3 (1949=100.0). A further increase to 145.9 has recently been reported on the month of December, 1966. This represents an increase since 1953 of 26.4 per cent. In other words, a 1953 dollar is today worth only 73.6 cents.

As a matter of coincidence, 1953 is also the year in which the Right Honourable Louis St. Laurent endorsed the following foreword to a civil service booklet describing the salient features of the Public Service Superannuation Act:

FOREWORD

This booklet deals with the salient features of the new Public Service Superannuation Act. It has been prepared for you so that you may understand and become familiar with the main provisions of this Act.

After studying it, I think you will agree with me that it is a most comprehensive Act. I can assure you that it compares favourably with the best pension plans that have been developed in this or other countries.

The benefits which it provides are now a matter of right whereas in the past they were given as an act of grace. You would do well to study this booklet so that you may be fully aware of all the benefits which you are building up for your own future and for the protection of your family. These benefits grow with each year that you continue to be employed in the Public Service of Canada.

I believe this Act will do much to provide you with a feeling of security that is in keeping with the excellent work you are doing and the fine contribution you are making to the welfare of Canada.

Louis S. St. Laurent,
Prime Minister.

Because of the continuing steady decline in the real value of the dollar since 1953, many of those public servants who made such fine contributions to the welfare of Canada before 1953 and who retired before that year, are now either struggling to make ends meet on those benefits which were intended to provide a feeling of security, or at best, are unable to enjoy the standard of living which it was reasonable for them to expect that those benefits would provide.

We now draw your attention to the following table concerning consumer price indices.

Consumer Price Indices

Date (1)	1949=100.0 (2)	1953=100.0 (3)		1963=100.0 (4)	
July 1949	100.0				
July 1950	102.7				
July 1951	114.6				
July 1952	116.1				
July 1953	115.4	100.0			
July 1954	116.2	100.7			
July 1955	116.0	100.5	+		
July 1956	118.5	102.7	8.1%		
July 1957	121.9	105.6			
July 1958	124.7	108.1			
July 1959	125.9	109.1			
July 1960	127.5	110.5			
July 1961	129.0	111.8			
July 1962	131.0	113.5			
July 1963	133.5	115.6		100.0	
July 1964	136.2	118.0		102.0	+
July 1965	139.5	120.9		104.5	8.1%
July 1966	144.3	125.0		108.1	
Sept. 1966	145.1	125.7		107.7	
Oct. 1966	145.3	125.9		108.8	
Nov. 1966	145.5	126.1		109.0	
Dec. 1966	145.9	126.4		109.3	

This table is on the next page of your text and I will go over it quite slowly.

Column 2 of the table shows increases in living costs to December, 1966, as measured by the consumer price index, for each year since 1949 when that year represented a base index of 100. As the annuity increases authorized by the Public Service Pension Adjustment Act of 1959 apply to certain annuitants who retired before 1953, increases in living costs since 1953, using that year as a base, are shown in column 3. As previously mentioned, in 1958 the Minister of Finance cited increased living costs as a reason for the annuity increases which were effective July 1, 1958. Between July 1, 1953 and July 1, 1958, living costs had risen 8.1 per cent. Working back from the last mid-year point of July 1, 1966, we have determined, as shown in column 4 of the table, that an 8.1 per cent increase in living costs also occurred between July 1st, 1963 and July 1st, 1966. It is reasonable to assume, therefore, that there is justification for increasing all annuities which commenced before 1963.

It is also apparent from this table that, not only have living costs increased sharply since 1958, but also, the rate of increase has accelerated in the last three years.

In his book, Public Sector Pensions, Gerald Rhodes mentions that:

> The basic principle was stated by Mr. Amory when Chancellor of the Exchequer to be that "pensions are directly related to length of service and pay on retirement and, once awarded, are not normally altered".

This statement was made in the British House of Commons on June 2, 1959. Mr. Rhodes continues:

> Such a principle presupposes that in the normal state of affairs the value of money remains stable or at least declines only slowly, but certainly in the period since the war this assumption has not proved very satisfactory to employees in practice. Adjustments have been made from time to time to pensions being paid from central and local government schemes by means of a series of specific Pensions (Increase) Acts. These have tended to become more extensive in scope, perhaps under the realization that inflation, if not a normal state of affairs, is at least not quite so abnormal as had been assumed.

Mr. Rhodes also states:

> There are other ways too in which the problem might be tackled, e.g. by linking pensions to a cost-of-living index or to an index of wage or salary rates. Either of these could be done in conjunction with a regular review of pensions.

In the next part we will be getting into a discussion of some charts and I would like to explain that Mr. Deslauriers, on my far right, has produced these charts in greater detail in a presentation here and he will go over these.

I thought I would read the text into the record and then give him an opportunity to explain just what the charts do contain.

The Effect on Annuities of Salary and Cost-of-Living Increases

We now invite your attention to Charts 1, 2, 3 and 4, the supporting data for which appear in Appendix A to this brief. These charts plot the movement of the consumer price index (C.P.I.) using the years 1949, 1953, 1958 and 1963, respectively, as base years. In other words, for each of the base years the index is taken as 100.0. The C.P.I. curve, therefore, shows the percentage increases in the C.P.I. from the base year to 1966. Also on these charts, and giving all indices a value of 100.0 for each of the base years, are shown the movement to date of the following indices:

FSI—Federal Salaries Index, which is related to average weekly salaries of salaried employees in the federal government as at December 31st of each year (except 1966, for which June is the last month for which data are available);

IRFS—Index of Real Federal Salaries, which is determined by dividing the Federal Salary Index by the concurrent Consumer Price Index, thus removing the inxuence of the latter to provide an index of the real value of federal salaries;

AI—Annuity Index, which of course, remains at 100.0 in terms of the year in which an annuity commenced;

IRAV—Index of Real Annuity Value, which is determined by dividing the AI (i.e. 100.0) by concurrent Consumer Price Index. Because the CPI continues to rise, the IRAV is always less than 100.0 and indicates the

progressively eroding effect which the increasing living costs have on fixed annuities income.

It is obvious from these charts that, in order for an annuitant to hold his own (that is, retain the purchasing power which he hoped his annuity would continue to have), his annuity must be increased in direct relation to increases in the Consumer Price Index. It is also obvious that if an annuitant is to benefit from general economic improvement (that is, increased productivity), a higher factor than the cost of living index must be applied in order to close the gap between the fixed annuity index of 100.0 and the index of real federal salaries. (We will bring to your attention later in this presentation that such a practice has recently been adopted by the government of the Federal Republic of Germany).

The years 1949, 1953, 1958 and 1963 were selected for the following reasons:

1949—this is the base year for the Consumer Price Index;

1953—there have been no increases in annuities which commenced during and since 1953;

1958—this is the year in which the government approved increases in certain (but not all) annuities which commenced prior to 1953, based in part on an increase of 8.1 per cent in the Consumer Price Index from 1949 to 1953;

1963—from 1963 to 1966 the Consumer Price Index had risen 8.1 per cent. An increase of the same amount was cited as support for increases in annuities approved in 1958.

At this point I would like Mr. Leslauriers to just go over this in the charts because we think that this will show very graphically what has happened to annuitant incomes during this particular period of time.

Mr. R. DESLAURIERS (*Assistant Research Director, Public Service Alliance of Canada*): Here we have a sort of preamble before we go to the charts. We have used a bit of a colour code here. Here you have in dark blue your consumer price index curve and you have your federal salaries index curve shown in black here. Now, what we have done is we have gone ahead and calculated the real values which show here in red the index of real federal salaries and then in the last two shown in black you have your AI lines, annuity index, and IRAV which is the index in real annuity values.

Senator MACKENZIE: What do you mean by real salaries?

Mr. DESLAURIERS: By real here we have removed the effects of inflationary increases as shown by the increases in the consumer price indices.

Senator MACKENZIE: As compared with what period?

Mr. DESLAURIERS: We have four different periods here. The first one starts 1949 equals 100.

Senator MACKENZIE: And when you use the red one which one are you talking about. Any one of those?

Mr. DESLAURIERS: These reflect the real federal salaries. There is an index maintained on a monthly and yearly basis of federal salaries and this shows the real federal salaries.

Senator MACKENZIE: In terms of the cost of living?

Mr. DESLAURIERS: This is right. They have been reduced by the cost of living increases.

Chart 1 here, where you can cross-reference with Chart 1 in the Report on page 12, uses the base year 1949 where all indices start with a value of 100.0. These graphic presentations here do show the movement since 1949, right up to 1966, of the various indices. You will notice this top line reflects the federal salaries index right up to the time 1966. Now, the real value of this index is shown by this red curve where we decline the consumer price index to find out what the real gain has been of federal salaries, the index of federal salaries.

You will note this dark blue line, which is the consumer price index as it has moved from 100 in 1949, to a value of close to 146 at the end of 1966.

Now, we may leave salaries in the consumer price index; let us look at what is happening to the annuities. You have an annuity here with a base of 100.0 in 1949 and, of course, it does not change with the exception, as noted in your report of 1958, where there was the adjustment act where pensions were increased for those who had retired prior to 1953. But essentially, we move along the curve of 100.0 which is the lateral one because it has remained permanent. What we have done is applied the consumer price index factor to the annuities and this is what has happened to the annuity curve since 1949. There is a gradual but steady decline in the real value of an annuity since that time.

The actual figures for 1966 are perhaps significant, so I will just read them off to you. The federal salaries index was at 228.1 The index of real federal salaries, 158.6 the consumer price index 145.9; your annuities, of course, 100.0 in 1966, and the real value of your annuity has gone down to 68.5

Mr. WALKER: Where you had the little red mark, is that where the adjustment was made in the annuities? There is no correction in the chart; it did not make any difference; they just kept going down.

Mr. DESLAURIERS: This is correct. A number of civil servants that did retire prior to 1953, whose pension was over $3,000, remained on this line; they remained unchanged, and also widows receiving more than $1,500 a year; their annuities as well remained unchanged.

But there were some annuitants that did receive this increase based on this act in 1959.

Mr. WALKER: But it did not affect the chart.

Mr. DESLAURIERS: No; this chart applies to those whose annuities did not change following the adjustment act. There were a number of these. This is why we have gone ahead here and shown 1953 as a base at which time there had been no—

Mr. CHATTERTON: Before we go on to the next chart may I ask about the federal salaries index, how does that compare with the average wage index across Canada?

Mr. DESLAURIERS: Well, since the inception of the Pay Research Bureau in 1957, salaries on the outside, based on the industrial composite, have tended to come fairly close or have tended to move together along with the federal salaries index, in that comparisons have been fairly close.

Chart 2 does take on a particular significance in view of the point raised a minute ago. Since 1953, the pensions of annuitants have not increased. Since that time more than thirteen years have gone by and there has been no increase for someone retired since the end of 1952, which is a period of well over thirteen years, and the annuity has remained fixed at 100.0

Mr. KNOWLES: There was no further increase for people who had retired prior to 1953, either. Whatever annuity they had in 1953, they still have.

Mr. DESLAURIERS: That is right.

Now, again we have what perhaps is the most noticeable trend. It is the accelerated rate of increase of outside salaries, of federal salaries, and, of course, of the consumer price index. Again using 1953 as a base, you will get your index of federal salaries at 187.5; the real value of federal salaries, 150.9. The consumer price index has moved from 100 to 126.0 at the end of 1966. Of course, the real value of your annuity has decreased to 79.4

Mr. J. MAGUIRE (*Research Director, Public Service Alliance of Canada*): May I say a word, Mr. Chairman, about this. I think one of the significant things is that while active civil servants have received in a sense a real increase in their purchasing power of 50.9 points from 100 to 150.9, for the annuitants, those who have retired, since 1953, there has been a decline in the purchasing power of their dollars to 79.4, so the real gap between the active civil servant and the retired civil servant is something in the order of 71.5 index points. In other words, if both an active civil servant and a pensioner were receiving $100 a month, for example, in 1953, then by 1966 the active civil servant, if he had received the average increases in the service, is now receiving in terms of real purchasing power $150.90 but the annuitant is receiving in terms of real purchasing power $79.40 which is a gap of about $71.50 between the two.

Mr. WALKER: Mr. Chairman, may I ask a question. I am probably not reading this chart right. It is difficult to walk into this. But in 1959, $3,300,000 was pumped into the superannuates, 15,400 of them out of 25,000, but this declining chart, which shows the valuation of the annuity, this figure and the number of superannuates involved, show no effect on the chart.

Mr. MAGUIRE: Well, on this particular chart, the adjustment in pensions which was granted in 1959 applied only to those who had retired prior to the first of January 1953, so for those retired since then, there has been no change in their annuity.

Mr. CHATTERTON: I can understand why there is no change shown on the second chart but I cannot understand why there is no change on the first chart.

Mr. DESLAURIERS: Well, the first chart—I should mention that there is no change for those widows earning more than $1,500 and for those annuitants receiving more than $3,000 as an annuity. This chart reflects the straight curve of 100.0 for people in those two categories. There were upwards of 10,000 of these out of the 25,000.

Mr. CHATTERTON: It does not reflect the pensions of those who got the increase the first time.

Mr. KNOWLES: In other words, you could have found out what the average was and gone up slightly for that but it would have been—

Mr. MAGUIRE: We would have had to determine the increase for every superannuate at that time. This would have been an almost impossible task for us. D.B.S. might have been able to do it but we could not have. We would need a much bigger staff.

Mr. DESLAURIERS: The rate of increase between each individual and each annuitant's value would have had to be added in to come up with—

Mr. KNOWLES: The result would have been very small and meaningless.

Mr. MAGUIRE: It curves slightly here in this way.

Mr. CHATTERTON: Just to put it in perspective, you say the 1959 increase cost $3.3 million in that year. What was the total amount paid to federal superannuates in that year, roughly? Just give me some idea.

Mr. T. COLE (*Research Officer, Public Service Alliance of Canada*): It was $2.5 million I believe because it was not a full year. The actual vote was $2.5 million for that.

Mr. MAGUIRE: I know that but what is the total amount of the pensions paid? Do you have a copy of the Annual Report there?

Mr. COLE: The amount was $57 million. So it was about $3 million out of the $57 million.

Mr. DESLAURIERS: Percentagewise the total amount of $3,300,000 would be less than 10 per cent of the actual total pension being paid in 1966.

Mr. KNOWLES: If you tried to carry it through as the members have been suggesting—

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Deslauriers, I do not know if you are speaking into the microphone at all. Pick the mike up.

Mr. KNOWLES: I was saying that if you tried to carry it through you would have to find out what had happened to every annuitant who got the increase in '53 whether he was still alive or had died.

Mr. DESLAURIERS: Yes; it would have involved an individual computation.

Mr. KNOWLES: It would have been almost impossible to produce that kind of chart.

Mr. CHATTERTON: It is around five or six per cent.

Mr. DESLAURIERS: Yes, it is less than 10 per cent—well under that figure. The significant point here—this is why we went to these other charts to use different base years—is that since 1953 anyone who has retired has lived on the same pension ever since and this is now well over 13 years ago.

Chart 3 uses a base year of 1958. For cross references, this refers to Chart 3 shown on page 13 of the report. Again, you will see the upward trend. Here it is shown fairly significantly. The index of federal salaries is shown standing at 142.0, using 1958 as the base year where all indices are equal to 100. You will notice similar changes in the real valuee of federal salaries, the consumer price index, and perhaps here it is more graphically obvious that your curve is increasing its rate of descent as you move towards 1966, in terms of the real value of the annuity.

Mr. DESLAURIERS: Yes, this is right. There is a gap of 38.2 points between here and there in terms of real value of salaries and annuities.

Senator FERGUSSON: What are the figures?

Mr. DESLAURIERS: The figures here?

Senator FERGUSSON: I have that one.

Mr. DESLAURIERS: This gain from 100 to the index of real federal salaries is 24.7. The decrease is 13.5 points. The total disparity from here to here in terms of real value is 38.2 points.

Mr. MAGUIRE: The CPI, if you have not got it, is 115.6

Mr. DESLAURIERS: It is 115.6 here; 124.7 here and 142.0.

This last chart, No. 4 is significant in thee sense that we are covering a relatively short period; that is, from 1963 to the end of 1966. In that 36 month period we were able to plot and show in quite real terms the actual spreading out that is happening in your graphic presentation in the space of over 30 months. Your index of federal salaries is still increasing. It reads 113.6 at this particular point, again, using 1963 as your base year, 100.0

Of course, as everyone knows the consumer price index in the last two years and particularly in the last 12 months, has made gains and it has actually surpassed the index of real federal salaries, and it now reads 108.7, using 1963 as 100. Your annuitant, of course, is on a fixed annuity, 100.0, up to this point and the real value of the annuity is down to 92.0. Again, this situation takes place in a space of three years. He has lost $8 for every $100 on his annuity.

Mr. MAGUIRE: On the index of real federal salaries it is 106.1.

Mr. DESLAURIERS: Yes, the figures here read 106.1 for index of real federal salaries and 92.0 for the index of real annuities. The total disparity here is 14.1 in this relatively short period between the real federal salaries index and the index of real annuities.

Mr. CHATTERTON: Which one of these charts are you going to use in your next bargaining?

Mr. DESLAURIERS: Perhaps what is most significant here is the increase in the rate of increase, if you will, in the indices of salaries and the consumer price index. There is an acceleration in the rate of increase from one period to the next, and from one month to the next. There is no sign here, as is obvious to anyone, that the index curve is levelling off or indeed that the salaries curve, either real or actual, is levelling off either. So one would expect that this disparity perhaps would continue. I should mention here that there has been no distortion in the actual horizontal versus vertical axes. We have kept these in actual proportions so that you just do not get an inflated sort of a story.

Mr. MAGUIRE: This is why the smaller period has a smaller chart than the longer period 1959 to 1966.

Senator DENIS: In other words, the employees are receiving too much and the retired person, not enough.

Mr. CHATTERTON: Let us even them up, shall we?

Mr. WALKER: Where you are showing the decline in the actual value, you are speaking about what—actual superannuates in that period or the value of their annuity even though they are still working?

Mr. DESLAURIERS: Well, these are all retired.

Mr. WALKER: They are retired.

Mr. DESLAURIERS: That is right, and it is the actual value of their dollar.

Mr. WALKER: I know but these are retired. It is not an erratic figure of—

Mr. MAGUIRE: No, these are actually people who are retired. This is what their dollar is worth, 92 cents.

Senator MACKENZIE: Could I ask one question on salaries? Sorry to take you back to page 4 but I will just give you what I have in mind. You state that the average weekly salaries went up from $54 to $102 and again from $71 to $102. Does that cover the whole spectrum of civil servants' salaries, the high bracket people as well as the low bracket.

Mr. DESLAURIERS: Yes, it includes all civil servants.

Senator MACKENZIE: Well, the point I am making is have you any idea whether those in the upper brackets get the kind of percentage increase that the lower bracket people do? This is where percentages are sometimes confusing and meaningless.

Mr. DESLAURIERS: Yes, depending on the group of employees here, the greater—

Senator MACKENZIE: In other words, would a $20,000 man get a 20 per cent increase, let us say.

Mr. MAGUIRE: I would like to answer that question, Mr. Chairman. Since the creation of the Pay Research Bureau and the division of the service into Group A and group B, I think you are familiar with these terms, Groups C and D, no. There has been a tendency for the percentage increases to be fairly constant irrespective of the salary you are receiving. In other words, a $10,000 a year man is intended to get the same percentage increase as a $20,000 a year man. Now, this may be—

Senator MACKENZIE: What about the $5,000 a year man? He gets the same percentages.

Mr. MAGUIRE: Yes, it tends to be the case, in the last three to four years anyway.

Senator MACKENZIE: So that a $20,000 a year man gets a very substantial amount of dollars more?

Mr. MAGUIRE: In terms of actual dollars, yes.

Senator MACKENZIE: In actual dollars.

Mr. DESLAURIERS: This index of federal salaries, of course, is largely influenced because of the shift of larger numbers of your clerks and stenographers—

Senator MACKENZIE: Oh, I know that but I was just wondering whether the percentage method gave an accurate picture, in view of the disparity in salaries between the high brackets and the low brackets.

Mr. DESLAURIERS: Your higher bracket will get more actual dollars even though the percentage might be the same.

Mr. MAGUIRE: There is no question about that.

Mr. EDWARDS: I think it should be added that, Senator MacKenzie, there is quite often compression above that $20,000 level. You probably have heard of the difficulty of deputy ministers and so on, above that level getting salary increases, because there tends to be compression at about the $20,000 where there is a movement away from straight percentage increases, but certainly below this level—

Senator MACKENZIE: This is why I asked the question.

Mr. EDWARDS: —below this level it tends to be the percentage type of increase. I think it would be fair to say that lately there has tended to be, from what I can recall, a slightly greater percentage increase for the lower levels from what might have been experienced in the past.

Senator MACKENZIE: Well, in the last couple of years, yes, they have tended to catch up.

Mr. WALKER: Do those average weekly salaries include the armed forces and the R.C.M. Police that you have mentioned in your brief?

Mr. MAGUIRE: No.

Mr. DESLAURIERS: These are federal salaried civil servants.

The JOINT CHAIRMAN (*Mr. Richard*): Any other questions?

Mr. WALKER: Could we go back to page 11 of your brief?

Mr. CHATTERTON: Just one question. Do you know if there would be much of a difference in the picture with regard to ex-armed forces and ex-RCMP? Have you any idea? Would it be very much the same type of picture?

Mr. DESLAURIERS: Yes, the downward trend will be reflected in that the real values here are based on the movement of the consumer price index which affects all Canadians, armed forces and otherwise.

Mr. EDWARDS: We might go back to page 11 then in the text for the last two paragraphs of that.

We would like to emphasize that each of these charts has been prepared in precisely the same proportions so that there is no distortion between charts either in the scale of indices or in the scale of years. With this in mind, we would like you to notice on Chart 4 the disparity which has occurred in the short period from 1963 to 1966 between the index of real federal salaries (IRFS) and the index of real annuity values (IRAV). It is apparent that the disparity is increasing very rapidly. There is no reason to believe that this will not continue indefinitely, unless appropriate corrective action is taken.

In our view, if an annuity is to provide a certain standard of living, it is unrealistic and does not make sense to guarantee that standard only at the moment of superannuation. And yet, this is what is occurring, as we have endeavoured to demonstrate graphically in the charts which follow.

Then we might go to page 14 since we have looked at the charts, and on page 14 we illustrate what actually has been happening in the case of some

annuitants. On page 15, I will read the notes in reference to these examples so that you may understand what the examples mean.

Comparisons 1, 2, and 3 relate to typical civil service annuitants, and are based on the employees having been at their maxima salary rates for their last ten or best six years of service, as applicable. In these comparisons, note that: (i) because Case A retired 10 years earlier than Case B, but in circumstances which otherwise correspond, Case A's annuity is considerably less than Case B's; and (ii) 35 years' service was required for Case A's annuity, whereas, because Case C retired 10 years later, a considerably shorter period of service was required to produce approximately the same annuity. Comparisons 4, 5, and 6 relate to armed forces annuitants. Case A relates to an annuitant who is living today and who was retired in the circumstances shown. Case B indicates the annuity payable if retirement occurred on September 30, 1966 in circumstances otherwise corresponding to Case A.

The bracketed figures are the amounts of annuities before the increases effective July 1, 1958 authorized by the Public Service Pension Adjustment Act, because you will notice that they were all brought up then to a matter of $250—$3,000 a year.

The bracketed percentage figures are based on Case A annuities before the increases referred to in Note (b).

I think that that will show you as you notice there in comparison one, a clerk 3, case A who retired in September, 1956, with 35 years service would be receiving $147.71. If he had done exactly the same work and retired 10 years later he would be drawing an annuity of $251.85, or alternatively if he had retired at the same date September 30, 1966, with 21½ years service, he would be receiving approximately the same amount as the first employee received after 35 years service.

Mr. CHATTERTON: I am not clear on the ten year and the six year on these figures.

Mr. EDWARDS: The ten year situation is, of course, because the act changed in 1960 and the calculations were from then on, on the best consecutive six years. Prior to that they were on the best ten year average.

Mr. CHATTERTON: In all cases the A's are based on ten years.

Mr. EDWARDS: That is correct.

Mr. CHATTERTON: The B's are on six years.

Mr. EDWARDS: The B's are on six years. Of course, C is on six as well. The armed forces—these are cases based on exactly the same type of situation doing comparable jobs. I think it does illustrate the difference in actual dollars in pension for people who were either doing exactly the same job or worked for the same length of time for the governement or, alternatively, had to work for a considerably fewer number of years in order to receive the same annuity.

Mr. CHATTERTON: In comparison (1), for example, case A, if it had been based on six rather than ten what would that $147.71 have been?

Mr. EDWARDS: I am sorry but we have not worked it out.

Mr. CHATTERTON: Would it be a substantial—

Mr. MAGUIRE: We did not because it was a purely hypothetical situation, if we did that, and these are actual cases that we are referring to here.

Mr. EDWARDS: Without knowing the full facts, I would think it would make a change in this because we did have a period of salary increases prior to 1956. Particularly after the war the salary increases came much more frequently than what they had done in prior periods, so that the person whose annuity was computed on the last six years—even from 1956 back—would probably take in some periods of fairly substantial salary increases.

The above examples give a somewhat hollow ring to the assurances of "benefits—building up for your own future and for the protection of your family", and provision of "a feeling of security which is in keeping with the excellent work—and fine contribution which you are making to the welfare of Canada".

Old Age Security

Admittedly some measure of relief will be available when annuitants become eligible for old age security. At present, however, this will not occur until they reach age 68; and it will not be until 1970 that eligibility for old age security will be generally established at age 65. Regardless of what may be done for these annuitants in the intervening years, there is no sound reason why old age security, which itself is an earned, contributory entitlement, should be regarded as an offset against the deterioration which has occurred in another contributory entitlement earned by retired public servants.

In addition, the fact should not be overlooked that Canadian men tend to be older than their wives—1963 statistics indicate an average age difference of three years[3]. Also, the age at death of the average Canadian male is four years less than that ot the of the average Canadian female (male—60.5 years; female—64.1 years)[4]. If a public servant dies at age 60, and assuming a three-year age difference, his 57-year-old widow, who at that age has a life expectancy of approximately 22 years[5]—

Senator MACKENZIE: You say that the average female's life expectancy is 64, and then you go on to say that at 57 she has a life expectancy of 22 years—

Mr. EDWARDS: If she reaches that age. At birth her average age is—

Senator MACKENZIE: The first is from birth?

Mr. EDWARDS: That is correct.

Senator MACKENZIE: Thank you.

Mr. MADILL: Are these outdated or actuarial figures?

Mr. EDWARDS: They are from the Canada Year Book 1966.

Mr. MADILL: It was not too long ago that it was 72 and 77.

Mr. EDWARDS: We have the tables here from the Canada Year Book.

Mr. MADILL: This is not 1966, is it. I believe it is for the year 1961.

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[3] Canada Year Book, 1966, p. 277.
[4] Item p. 260.
[5] Idem p. 280.

Mr. EDWARDS: It is for the years 1961 to 1963.

Mr. MADILL: This is what actuaries use for insurance.

Mr. EDWARDS: The year 1963—the tables used here are from the Canada Year Book.

Mr. MADILL: Is this a cross-section of civil servants or is it everybody in Canada.

Mr. EDWARDS: No.

Mr. CHATTERTON: It is the whole population.

Mr. MADILL: The latest figures that I have come across in any insurance book are 72 and 77.

Senator MACKENZIE: Life expectancy?

Mr. MADILL: It is life expectancy based on actuarial figures.

Senator MACKENZIE: At birth at the present time. It may not apply to those born 30 years ago.

Mr. MADILL: It applies to today.

Mr. MAGUIRE: If you want to get the Canada Year Book 1966 you will find the table on page 260.

Mr. WALKER: The most interesting statement is that men are always older than women.

Mr. EDWARDS: If a public servant dies at age 60, and assuming a three-year age difference, his 57-year old-widow, who at that age has a life expectancy of approximately 22 years will have no entitlement to old age security for eight years and is left with an annuity income only one-half of what her deceased husband was receiving or would have received. And, as already demonstrated, the real value of the reduced annuity deteriorates rapidly because of increased living costs. If the widow is a few years younger, the situation is even worse, bearing in mind that the occupation of many widows for many years has been simply that of housewife. They may have lost any marketable labour skills they once had, and consequently are ill-equipped to earn supplementary income until becoming eligible for old age security at age 65.

Tax Escalation

Let us not forget that, in addition to the eroding effect of increasing living costs on annuities, in 1964 there was a 33⅓ per cent increase (i.e. from 3 per cent to 4 per cent) in the contributions made by Canadians for old age security. Also, aside from income and old age security taxes, there have been significant increases in taxes generally at all levels of government, for example, municipal property taxes, provincial retail sales taxes, federal sales tax, etc., the sum total of which has placed an extremely heavy tax burden on persons whose major source of income is a fixed annuity and for whom such taxes are almost completely regressive.

The Public Service Alliance also feels that, in the case of a deceased contributor whose survivor is entitled to an annuity under the Public Service Superannuation Act, there should not be included in the aggregate net value of

the estate for the purpose of determining estate tax liability, the commuted value of future annuity entitlements. We are aware of Section 30 (1) (ac) of the Act and Regulation 32 which permit payment from the Superannuation Account of that portion of the estate tax liability which is attributable to future annuity benefits, subject, of course, to future annuity payments being reduced until the Superannuation Account has recouped the amount paid for estate tax. Nevertheless, since the annuity payments themselves are subject to income tax, we feel that there should be no question of estate tax liability on the commuted value of future annuity payments.

Precedents Established Elsewhere

The cases outlined below indicate a trend, both in the public and private sectors, towards acceptance by employers of a moral obligation to ensure that the measure of security earned through years of loyal and devoted service is not eroded by what some refer to as creeping inflation, but which, indeed, in the past few years, has accelerated from the "creeping" to the "running" stage. The Public Service Alliance earnestly hopes that this committee will see fit to recommend an appropriate remedy now, rather than wait until inflation breaks into a "gallop" before taking steps to alleviate the situation in which retired public servants now find themselves.

(a) *Public Sector*

On November 19, 1965, the Civil Service Federation provided the government with information concerning the practice of the United Kingdom Government of escalating pensions already in payment. Briefly, the situation in the United Kingdom is that pension placed in payment on or before April 1st, 1957, were increased by 16 per cent. For pensions placed in payment during each subsequent year, the percentage amount of increase is 2 per cent less than for the preceding year for example, 1958—14 per cent, 1959—12 per cent, and so on), so that for pensions placed in payment between April 2nd, 1963 and April 1st, 1964, the increase is 2 per cent only.

In the United States, legislation was enacted in 1963 which provides that, effective January 1964, whenever the cost of living goes up by at least 3 per cent over the Consumer Price Index for the month used as a basis for the most recent cost-of-living annuity increase, and stays up by at least 3 per cent for three consecutive months, an increase in annuities equal to the percentage rise in the Consumer Price Index will be granted automatically. We emphasize and comment the automatic feature of this arrangement.

Mr. CHATTERTON: Is that for civil servants?

Mr. EDWARDS: That is correct.

Mr. WALKER: Excuse me. You said civil servants. Are we not dealing with the public sector?

Mr. EDWARDS: Yes, but the United States legislation is in regard to their government employees.

Mr. WALKER: All right.

Mr. EDWARDS: It is also interesting to note that under the Superannuation Act of Australia, the Superannuation Fund is administered by a Superannuation Board which is a corporate body having statutory authority to invest the Super-

annuation Fund within prescribed limits. It is also of interest to note that the 43rd Annual Report of the Australian Superannuation Board reveals that for the fiscal year 1964-65, "The effective rate of interest earned by the Fund during the year was £5 10s 7d per centum (that is slightly more than 5.5 per cent)* compared with £5 9s 9d per centum (ie. slightly less than 5.5 per cent)* in the previous year."

Senator MACKENZIE: May I ask a question here? Is it relevant to compare interest rates in Canada with those of Australia. I ask that because I was in Australia for some time in 1955, and I was interested in the apparent dividends being paid by Australian companies on shares and stocks at that time as compared to Canada. They were so much higher that I rather wished that I was a wealthy person living in Australia with money to invest. If that is so, then it is natural and obvious that Australian interest rates on—I suppose—annuity money would be higher than in another country where the interest rates and dividends might be lower.

Mr. EDWARDS: Senator, I think what is relevant here is that we are indicating in this brief that a superannuation board does have the authority to operate on this basis, of getting a higher interest rate. We are not suggesting that because it is 5.5 per cent in Australia it should be 5.5 per cent here.

Senator MACKENZIE: I would like to think it could be.

Mr. EDWARDS: I would like to think so too.

Senator MACKENZIE: I was interested in another document which was presented to us yesterday or today, which indicated that in the various provinces of Canada, the interest rate seems to be set at about 4 per cent, which does indicate that we do not seem to earn as much on our money, as they do in some oher countries, for what reason I do not know. Sorry.

Mr. EDWARDS: Additional information concerning the superannuation policy of the Government of the Commonwealth of Australia appears in Appendix B to this brief. Suffice it to say here that it is apparent that the discretion permitted the Australian Superannuation Board to invest funds, not only relieves the tax payer of the burden of payments for actuarial liability adjustment, but also permits enhancement of benefits already in payment. In other words, such benefits are not permanently "crystallized" at the time of retirement, as is the case in Canada.

The Public Service Alliance believes that if the Public Service Superannuation Fund possessed the ability to invest funds, the fund could earn a more realistic rate of return than the 4 per cent now paid by the government. We will come back to this point later.

This Committee will be interested to know that the Government of the Federal Republic of Germany has recently taken steps to improve retirement pensions for public servants. This information was gleaned from the November/December, 1966 newsletter of the Public Services International, London.

GERMANY

Improved Retirement Pensions for Public Servants.

In October of this year the Federal German Ministry of Finance approved the new Constitution of the Federal and Provincial Retirement

*Bracketed phrasing inserted by PSAC.

Pension Institute. This means that more than 1,300,000 manual and non-manual employees of the Federal and Provincial Governments and of municipalities will enjoy much better conditions as regards retirement pensions. This settlement was the result of four years of negotiation and it represents one of the greatest successes of the German Union, Gewerkschaft, OeTV[6], in the social field. The full interpretation of OeTV appears below. It provides, after 35 years' employment, for a pension amounting to 75 per cent of the last earnings (automatically adjusted in proportion to the current salary of the grade concerned). The Union emphasizes that such an innovation in retirement provisions is the topical answer to the problem of old people in a modern industrial society.

(b) *Private Sector*

On November 1st, 1965, the Civil Service Federation forwarded to the Prime Minister a brief on this subject. Among other things the brief outlined the action taken by General Motors of Canada to alleviate the situation resulting from loss of purchasing power of pensions. Details of the General Motors action are contained in Appendix C to this brief. Suffice it to say at this point that the increases range in the order of 50 to 60 per cent, and that since June 1950 General Motors has increased pensions from $1.50 per month for each year of service to a possible maximum of $4.25 per month for each year of service. This difference of $2.75 per month represents an increase of approximately 183 per cent.

The principle now established has also been honoured in the case of a more recently negotiated agreement between the United Packinghouse, Food and Allied Workers and Canada Packers Limited. Although final details of this settlement are not yet known, the company has accepted the principle of increasing pensions already in payment and has committed a definite sum of money for this purpose. One formula suggested would give a supplement which is 2 per cent greater for each year prior to 1966, but, as far as can be ascertained at this time, details have not yet been negotiated.

Some information has also come to hand concerning two additional cases in which industrial companies have accepted this recently established principle. Dehavilland Aircraft of Canada Limited has signed an agreement with the United Auto Workers extending to pensions already in payment the increased pension benefit now applicable to pensions currently placed in payment. Also, the agreement between the United Steelworkers of America and the Steel Company of Canada provides for an across-the-board increase of $20 per month in pensions in payment.

The Public Service Superannuation Account

We would like now to make some observations concerning the Public Service Superannuation Account. We sometimes wonder whether the government is not overly concerned about the maintenance of the Superannuation Account on a full actuarial basis.

As at March 31st, 1966 (the last date for which official figures are available), the balance in the account was well over $2 billions. An examination of the

[6] Gewerkschaft OeTV=Oeffentlicher Dienst. Transport und Verkehr (i.e. Public Service, Transport and Trade & Commerce Union)

balance sheet for each of the last four fiscal years reveals that the interest alone has exceeded total disbursements. In fact, for the years ending March 31st, 1963, and 1964, the employees' contributions alone exceeded the total disbursements, and for 1965 and 1966 employees' contributions were only slightly less than total disbursements.

There are precedents for paying government pensions on a pay-as-you-go basis. While the Public Service Alliance is not necessarily recommending such a course, it does submit that the senior government of the nation, as an employer, has no need for funding the superannuation account on a full actuarial basis, especially when we are experiencing an extended period in which large numbers of present-day annuitants are in dire need of additional income if they are to maintain some semblance of the first-class citizenship which they have been led to believe they justly deserve. In any event, if funding on a full actuarial basis is necessary, the Public Service Alliance submits that the rate of interest paid by the Government for its use of superannuation funds should be a realistic rate in line with the experience of private superannuation funds, and certainly not less than the rate payable to subscribers to Canada Savings Bonds. The extra income to the fund from such an increase would be more than sufficient to finance increases in annuities which would at least compensate for increases in the cost of living. It might even permit annuities to be increased at a rate comparable to increases in real salaries paid to public servants. For example, the 4 per cent interest credited by the government for the fiscal year ending March 31st, 1966 amounted to slightly less than 90 millions of dollars ($89,499,085). Incidentally, this is some 20 millions of dollars more than the total disbursements which were ($69,906,914) for that year. If a more realistic interest rate of 5 per cent had been used, the fund would have earned an additional 22½ millions of dollars. This additional interest represents 38.8 per cent of the annuity benefits paid during the 1965-66 fiscal year ($57,674,369). While the Public Service Alliance is not recommending across-the-board increases of flat amounts, this additional interest income represents $48.64 a month for each of the 30,923 contributors on pension, and $24.32 a month for each of the 15,252 widows on pension, as at March 31st, 1966.

The Public Service Alliance of Canada feels that the Government, as an employer, has a definite, moral obligation, not only to further alleviate the situation in respect of annuitants who retired prior to 1953, but also to make provision for the periodic escalation of annuities placed in payment before, during, and since 1953. Having regard to the dignity of retired public servants and the fact that their annuities represent an entitlement which should permit them to maintain a standard of living commensurate with such benefit at the time of retirement, there should be no question of a means test and no appearance of pension increases being social welfare. The Public Service Alliance can not accept the principle that Old Age Security should be applied as an offset against the deterioration which, as a result of chronic inflation, has occurred and will continue to occur, in the real value of annuities. Not only is this not the purpose of Old Age Security, which, like the public servant's annuity, is an earned, contributory entitlement; but also, in many cases, the eroding effects of inflation reduce the real value of annuities long before annuitants become eligible for Old Age Security.

Accordingly, the Public Service Alliance recommends that:

1. all annuities which are based on average annual salaries during the last ten years of service be recomputed on the basis of average annual salaries during the best continuous six years of service;
2. in all cases where, since the date on which an annuity commenced, living costs have increased by at least three per cent (as reflected by the Consumer Price Index for Canada), and such increase of at least three per cent has persisted for at least three months, the annuity be increased by the percentage increase in the Consumer Price Index for Canada since the date on which the annuity commenced;
3. in future, annuities be increased automatically by the percentage increase in the Consumer Price Index when living costs (as reflected by the Consumer Price Index for Canada) increase by at least three per cent since the effective date of the last annuity increase, and such increase of at least three per cent in living costs persists for three consecutive months;
4. this committee consider the feasibility of additional increases in annuities commensurate with productivty increases as reflected in the andex of federal government salaries;
5. that the annual rate at which interest is paid by the government on the balance in the Public Service Superannuation Account be increased to not less than the yield rate for Canada Savings Bonds, and in any event that such annual rate be not less than 5 per cent and that the resulting additional income to the Superannuation Account be used to increase annuities as recommended in this brief;
6. the Public Service Superannuation Act be amended to include a provision (similar to that contained in the War Veterans' Allowance Act) which would permit continuation of payment of the full annuity entitlement for one year after the death of an annuitant; such payment to be made to or in respect of the survivors of the annuitant to assist in their rehabilitation, relocation and other re-adjustments following the annuitant's death; and
7. the Estate Tax Act (SC 1958 c. 29) be amended to exclude from the aggregate net value of an estate the commuted value of survivor benefits payable on an annuity basis and related to a pension plan.

The Public Service Alliance sincerely believes that there is a serious and immediate need to take action to improve the position of all former public servants now receiving annuities. The Alliance, therefore, earnestly asks this committee to use its influence to persuade the Government to introduce legislation which will implement the above recommendations.

The balance of this book contains the various appendices that have been mentioned.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee that this brief be included in the minutes in toto?

Some hon. MEMBERS: Agreed.

Mr. KNOWLES: Mr. Chairman, I am sure that Mr. Edwards and his colleagues know that I think this is an excellent brief, but even so I would like to ask a

question or two. I am quite delighted with the emphasis that you place on the increases in the wage index and in standards of living generally, as factors that should be taken into consideration as well as the increases in the cost of living. But, I note that when you come to your specific recommendations on pages 23 and 24 of your brief, you are quite precise about automatic increases based on the increases in the consumer price index; but it seemed to lack a bit of precision on the other point. Now, may I say I have two questions, I would like you to speak further on why have you not come in with a formula related to the wage index as well? Then, if I may go back to the formula that you do have in your brief, namely an increase when the increase in CPI is 3 per cent, may I ask why you chose that in view of the pattern that has already been established in the Canada Pension Plan and the Old Age Security Act of an increase, when there is a 2 per cent increase?

Mr. MAGUIRE: Well, I think to answer the first question, the reason that we are precise, if you will, in our recommendations with respect to adjusting the annuities of superannuitants by the increase in the cost of living, is that we feel that (a) this is only fair if the purchasing power in their dollar is not—to decrease, if they are to be paid back in dollars worth those that they put in. And we feel that even by adjusting the interest rate alone, this will provide more than enough to compensate for this. In other words, if the interest rate were increased only to that—we recommend here 5 per cent—that would more than pay for such an increase in pension adjustments.

We are less precise, as you say, in our recommendation in respect of increases based on increased productivity, largely because we are not actuaries ourselves so we are not quite sure what the total cost would be to increase pensions on the basis of increased salaries to any extent. I think we would want to consult an actuary before we made any specific recommendations. This is why we are recommending that this Committee study this question and see to the extent—following our other recommendations—by which, in addition to increases to pensions based on consumer price index increases there could be additional increases to reflect increases of productivity, again reflected in the salary increases of active federal civil servants.

Senator MACKENZIE: Do you increase productivity with salary increases?

Mr. MAGUIRE: With real salary increases, yes.

Senator MACKENZIE: No, but I mean for your pension purposes. How do you measure the productivity of people in the civil service, other than through wage increases.

Mr. MAGUIRE: Well, this is the only basis we have, of course, for doing so.

Mr. KNOWLES: My point is, that in your brief, I think you make an excellent case for the necessity of our going higher than the cost of living increase. You make an excellent case for the right of retired civil servants to share in the general improvement that takes place in living standards. I would like to see you carry through with that, and make a recommendation of that kind. Now, I know I have already quoted the Old Age Security Act and the Canada Pension Plan, and I know that in the Canada Pension Plan the wage index is used prepayment not after, it is not post-payment. But there is such a thing as a wage index and it is available, and I am a little surprised that you did not recommend that the increases in annuities be based on the changes in the wage index.

Mr. MAGUIRE: I think we said prior to recommendation 4 on page 24, we ourselves think that this would be an equitable situation if you could adjust the pensions of federal government superannuitants, by the same increase as is reflected in the salaries of active civil servants. This is why we recommend this Committee consider the feasibility of doing this. We are not too sure, not being actuaries, what the total cost on the superannuation account would be. We feel that there is sufficient in there for it to be done, particularly if the interest rate were more realistic than it is now. We are not really too sure what the total cost would be, and this is why we ask this Committee to consider the feasibility of doing this. We feel it is a good thing, but we want you to consider the feasibility.

Mr. EDWARDS: I think too, much of this would flow from the changed policy of the government in regard to the superannuation plan, in fully funding or not fully funding the plan. Obviously, if the plan is going to remain fully funded, and on the basis of the contributions of employees having to meet this particular need, some of these suggestions would involve a higher cost, we would think, to the employee as well as the government. This of course would enter into our thinking in reference to changes. Therefore, it is perhaps difficult for us to be specific in this particular area, not knowing what the policy of the government might be, either towards an increased interest rate, or to move away from a fully funded plan.

Mr. KNOWLES: My experience with the government has been that if we can persuade it something needs to be done, they will find a way.

Mr. EDWARDS: I think we are trying to be as persuasive—

Mr. KNOWLES: In regards to general revenue, it can be an increase in the interest rate, or it can be an adjustment in the contribution rates. Our first problem is to persuade the government to do something.

While we are on this subject, may I ask you this: Since in your recommendations you seem to go for a straight percentage increase in annuities being paid, but in the light of some of the things in your brief, may I ask whether you would vary that percentage in relation to the number of years since retirement, or to other factors in the retirement formula?

Mr. MAGUIRE: Are you speaking now about the recommendation to increase pensions as living costs increase by 6 per cent. Do I have your question right?

Mr. KNOWLES: Unless I misunderstand it, your recommendation for an increase, on a percentage basis, is the same for the person retired several years as opposed to the person retired only a few years. Have you built into your recommendation anything that takes account of that difference. The person who retired 20 years ago and had 35 years service surely needs some recognition of the disadvantages that he suffered then as compared with the present.

Mr. EDWARDS: He would have to be brought up to something like the present before any escalation clause could really take effect from then on. Certainly, I would agree with you that there would have to be some recognition.

Mr. DESLAURIERS: Actually, Mr. Knowles, recommendation No. 2 is intended to take care of those who retired some time ago; in other words, before the present.

Mr. KNOWLES: Mr. Chairman, there again you do it only on the basis of the increase in the cost of living that has taken place in their case. In that formula

you do not, unless I do not comprehend it, take into consideration the other factors, the low level of pension in relation to the standard of living at the time they retired.

Mr. DESLAURIERS: Actually, recommendation 1 as well as 2 would help to increase the annuities of those actually retired, and for those retired prior to 1960, we are recommending here the recomputation based on a more favourable formula. With this, coupled with the recommendation in item 2, you would have a two pronged recommendation here to increase the annuities of those who retired some time ago, especially those who retired prior to 1960.

Mr. KNOWLES: I have just two more short questions and then I will yield to my friend the Senator. With regard to widows, to whom you refer in recommendation 6, you recommend that there be the continuation of the full annuity for one year after the death of the husband, shall we say. Do you make any recommendation with regard to the 50 per cent figure that is now in the act?

Mr. EDWARDS: No; we are not making a recommendation with regard to the 50 per cent in this brief.

Mr. KNOWLES: Is this because we are dealing only with those now retired?

Mr. EDWARDS: I think there will be some improvement as a result of the changes in the Canada Pension Plan as far as widows are concerned, which will partially offset the retiring widow in the future getting a different basis of pension by contributions under the Canada Pension Plan, in the effects they are static there with the annuity of the public service part of it; but this is a specific recommendation really for a year's period of grace before there is any change.

Mr. KNOWLES: But you are aware that there is a good deal of pressure for a 60 per cent or even a 75 per cent level?

Mr. EDWARDS: That is right.

Mr. KNOWLES: My only other question is this: You do not propose any ceiling, any cut off point at which retired civil servants would not get the benefit of any increases that a formula might provide?

Mr. EDWARDS: No.

The JOINT CHAIRMAN (*Mr. Richard*): I have on my list Mr. Chatterton, Senator MacKenzie, Mr. Ballard and Mr. Walker.

Mr. CHATTERTON: Mr. Chairman, Mr. Knowles touched briefly on the question of pensions for widows. Now, in due course, after the full benefit of the Canada Pension Plan, the survivor benefits apply, the widow's pension would be substantially increased over the 50 per cent which it is now. Had you considered making provision for those who are now widows and have been widows for some time as an interim measure until such time as the Canada Pension Plan survivor benefits apply. The same principle was adopted in the guaranteed minimum supplement, the supplement only applies until such time as the full benefits of the Canada Pension Plan apply.

Mr. EDWARDS: We have not included it in this brief. We have in previous briefs which we have submitted to the government. However, we feel if many of the adjustments were made here that perhaps the adjustments that could be

made would meet the requirements, but we do feel that there is a real problem as far as widows are concerned, particularly widows who are not only on a reduced 50 per cent of what their husbands were receiving, but because of the erosion of the cost of living they are in dire circumstances. We feel that the recommendations here would immediately increase the basis of all pensions and that this would be partically offset if this were done.

Mr. CHATTERTON: On page 21 you indicate that you may not completely object to putting your pension plan on a pay-as-you-go basis or a partially funded basis.

Mr. EDWARDS: Right.

Mr. CHATTERTON: Let us assume the governement is not prepared to increase the rate paid from 4 to 5 per cent on a balance in the fund. If you went on a partially funded basis—assuming that what happens in the Canada Pension Plan might well happen to your plan—the Canada Pension Plan, is a partially funded plan and in a certain number of years the government of the day will have to increase the contribution rate—would you be prepared to take that risk, to go on a partially funded basis, knowing that the time may come when they have to increase the contribution rate in order to pay the benefits?

Mr. EDWARDS: I would think, with the balance in the supprennaution plan at the present time, that is not likely to come for a long period of time. Perhaps other situations may change at that time. I think we would have to take that risk, if there is a risk involved here, but with the balance in the plan that there is now, I cannot see this really happening for a long period of time. We are not suggesting in this brief that it should be a fully pay-as-you-go basis; but we do suggest that, with the security of the government of Canada, it is not like a small company opening a business and putting in a pension plan for its employees; for obviously the employees would want to make sure that it was fully funded in case the company went out of business, six months or six years later. If the governement of Canada goes out of business, I guess our fund is not going to be much good to us anyway.

Mr. CHATTERTON: In other words, you do not think the civil servants would be apprehensive?

Mr. EDWARDS: I do not think so. I think that this would be part of our problem really of communication with our employees so that they would not be apprehensive. In my experience it has been decidedly the opposite. They look on the fact that the governement is salting away in their coffers somewhere some $2 billion, which they think of in terms of being their money and they are not able to get very much of it out. I do not think they are really apprehensive about going on a different form of funding.

Mr. CHATTERTON: If the government is not prepared to increase the rate and is not prepared to change from the fully actuarially funded basis, then the revenue would have to come—as it did in 1959—from the general treasury.

Mr. EDWARDS: That is right.

Mr. CHATTERTON: Would this apply not only to those already retired, but to the future escalation of the pensions?

Mr. EDWARDS: If the governement felt that they had to do it in that way, I would say that this is the way it would be.

Mr. CHATTERTON: There was some indication by a previous witness, I think, that civil servants would be prepared to approve an increased contribution rate, provided there is assurance of automatic escalation of their future pensions. I am not talking about those already retired; I mean all future pensions.

Mr. EDWARDS: This might be true—

Mr. KNOWLES: If this were bargained.

Mr. EDWARDS: —if this was bargained as an improvement in the plan. I can see this happening some time in the future, perhaps not within the next year or two, but if bargaining does have an effect on the superannuation plan, as it well might do, there may be these changes on that basis.

Mr. MAGUIRE: I would like to add something to what Mr. Edwards said. I do not think we feel there is a great risk of this happening. Right now the surplus in the fund is something in the order of $2,380 million.

Mr. CHATTERTON: Did you listen to Mr. Clark's evidence?

Mr. MAGUIRE: But this is a fact. As long as the country continues to grow and expand and the governement itself continues to grow and expand as the population does, and there are more employees coming into the service than are leaving on retirement, you are always going to have more income coming into the fund than you have going out. This has certainly been the history of the fund in the last several years, and this is why even the employees' contributions alone, let alone the employers' share are almost equal to the total disbursements from the fund. We think the problem here is not one that is going to face us in the next few years.

Mr. CHATTERTON: I have one more question. If the government is not prepared to increase its payment from 4 to 5 per cent, would you be prepared then to recommend that they set up a board, such as they have in Australia, where the board invests the money?

Mr. EDWARDS: I would think that this would be a good possibility. We are more inclined to be concerned about the end result, rather than the means there is of achieving it. If the government were not prepared to increase the amount of interest, and a board might well be able to do it, then I think we would favour a board, if it were properly constituted and there were sufficient controls to ensure that the money was safeguarded.

Mr. CHATTERTON: Mr. Chairman, I would like to compliment the Alliance for this well prepared, excellent brief. It goes well for their bargaining in the future.

Senator MACKENZIE: I do not expect an answer to my question, sir, but it is in a sense related to what has been asked by Mr. Chatterton. You make something in your brief of the tax burden upon both the civil servants and the annuitants. Have you any idea of what that would total. How much of the pension that he receives does he pay back again into taxes. In a sense, I would say this would need investigation, so I am not asking—

Mr. EDWARDS: I do not have it personally, Senator MacKenzie, but I do not know whether my economist colleagues have or not.

Mr. DESLAURIERS: The sum total of all taxes paid, including property tax, federal and provincial taxes along with the sales tax would vary with the different groups of annuitants, because those who are in a better situation than others would have a higher burden, so to speak. But perhaps the underlying point here is that there has been an escalation in almost all major taxes.

Senator MACKENZIE: Is there an appreciable portion of the annuitant's benefit that he pays out again in taxes?

Mr. DESLAURIERS: Well, one could work out a typical example, but we do not have any such example here. One could assume that an annuitant earns such and such, a property was worth so much, and assume that he would purchase so much each year—

Senator MACKENZIE: My own feeling is that he does make a substantial payment in taxes out of the relatively modest—

Mr. EDWARDS: If I could comment on that, from letters I have received from annuitants, one of their biggest problems that they constantly relate in their letters is that they may be living in a home that they have lived in for the past 20 or 30 years, and at the time they went on retirement their income was sufficient to meet their municipal taxes and give them a modest standard of living; but they have now found that their municipal taxes, if nothing else, practically means that their whole income from their annuity is going out to pay taxes. They have cited cases where they might have been paying municipal taxes of $100 that have now gone up to $300, $400 or $500. If they get rid of their property, where are they going to find other accommodation and so on. It has been their home. This has been a serious burden—

Senator MACKENZIE: This is why I asked the question.

Mr. EDWARDS: I think it would be difficult for us in any way to show in either statistical form or charts—we do not have the facilities to do this; perhaps the government has made some studies on it—the degree of increases in taxes, particularly at a municipal level, because, as you know, they vary in all municipalities. Some have gone up much more rapidly than others.

Senator MACKENZIE: My other question is related in a sense to this. Social services, as I understand them, are made possible on the basis of tax money or an increase in the productivity of society. I take it that in asking for increased pension benefits, which I am in favour of personally, you are hoping this will be possible through increased productivity rather than through increased taxes which you and all the rest of us would share.

Mr. EDWARDS: I think our case—

Senator MACKENZIE: In other words, more of the annuity would go back in taxes, but it is something that we have to face in respect of our desire to get improved services.

Mr. MAGUIRE: I think, Senator, our charts will attempt to show our thinking here. We feel that inasmuch as the active wage earner is sharing in increased productivity, but the pensioner is not, an increase to his pension could be paid certainly to quite an extent out of the increased productivity.

Senator MACKENZIE: Yes, but if it comes out of taxes, the annuitant would pay his share of it, too.

Mr. MAGUIRE: Oh, yes. We feel that a great deal of it will be assumed through increased productivity.

Senator MACKENZIE: That is right.

Mr. BALLARD: Mr. Chairman, I would like to add my congratulations to those already expressed to Mr. Edwards for a very responsible brief presented by the PSA, and culminating in the very responsible and logical conclusions that he has drawn at the end of his presentation. There are a couple of questions I would like to ask for my own elucidation. On page 3, you are referring back to the adjustment that was made in 1958, and the only question I have there is, did the money for the increase that was granted at that time come out of the pension fund, or did it come out of the general revenues of Canada?

Mr. EDWARDS: It came out of general revenues.

Mr. BALLARD: At the bottom of page 15 and the top of page 16 you talk about the relationship with the old age security and its relationship to the pension of the PSA, the public service. You say:

> ...should be regarded as an offset against the deterioration which has occurred in another contributory entitlement earned by retired public servants.

The point I would like to make is that at the present time the pension that is paid to retired civil servants is, in your opinion, and I expect this opinion is general across Canada, an entitlement that is due to retired public servants as a result of contribution that they have made.

Mr. EDWARDS: That is correct.

Mr. BALLARD: I would like to suggest that this sort of attitude can only be continued provided the public service pension fund is fully funded. In other words, any increase that is granted should not come out of the general fund of the country, but should come out of the contributions that have been made by the civil servants during their working years, and the portion put into the fund by the government, according to their contract. I think this would be a very desirable trend to continue. Over the years the fund has built up through contributions from the public service and the government to now, according to your statement on page 21, over $2 billion. As a matter of fact, it has been mentioned that there is $2,380 million in the fund at the present time. I am wondering why you have not recommended that instead of the present situation, namely, this money bing left with the government who pay you a straight 4 per cent interest, why this fund be set aside and run by a board of governors of the pension fund for investment in the business community of Canada. For example, with $2 billion you could probably do a better job in this area than the proposed Canada Development Corporation. I think with this size of fund you could earn far more than 4 per cent, and you would be doing a public service that the government is now contemplating doing with the Canada Development Corporation. As a matter of fact, there is a public service fund I think, operating out of the city of Edmonton which is managed in this way, and they have been able to increase their return on investment to over 6 per cent. I suggest that the civil service pension fund could do the same thing. However, you did not make this as one of your recommendations and I was—

Mr. EDWARDS: We drew attention to a similar situation in Australia.

Mr. BALLARD: Yes, I appreciate that. I think that you probably should have made a point of suggesting that for the Canadian civil service pension fund.

Senator MACKENZIE: I have one question on this. Is it accurate to say there is $2,318 million sort of lying around loose?

Mr. BALLARD: Oh, I did not suggest there was any cash lying around.

Mr. KNOWLES: That is the problem; we have to find the money first.

Mr. BALLARD: I said that there was a fund of $2 billion, and if this recommendation was made—

Senator MACKENZIE: In the nature of a promise to pay on demand.

Mr. BALLARD: —and accepted. That is right.

Senator MACKENZIE: That is different from—

Mr. BALLARD: Yes, and what I was going to suggest was that if this recommendation was made and accepted, we would probably have to build up this fund over a period of time—maybe even 10 or 20 years before all of this money could be put into a fund in cash.

Now, on page 24, we find recommendation No. 4. I think Senator MacKenzie mentioned this point. How do you measure the productivity of the civil service? I do not think that you can and I do not think it is logical to measure it with the increase in the salaries because I do not think there is any relationship between productivity and increase in salaries. Productivity can only be measured where goods are turned out or turned over. I do not think you can measure productivity in the service field.

Mr. DESLAURIERS: I should like to mention here that the federal public service salaries do, in fact, at least they have in the last few years, especially since the inception of the Pay Research Bureau, follow pretty well on the general basis we are talking about here, salaries in industry, which include a large number of manufacturing firms. What we are reflecting in federal salaries at the present moment are actually productivity gains as reflected by salaries in industry made up of a large number of services, but essentially goods-producing firms. You could relate federal salaries here to an increase in the productivity on the outside, on that basis, without regard to the actual measurement of productivity if indeed you could measure this in the civil service, simply because we are essentially reflecting the outside industrial situation with our salaries in general.

Mr. BALLARD: Now, in recommendation No. 5 you are suggesting that the government increase the rate of return to the fund from 4 per cent to 5 per cent, and this presumably will pay for the increase in the annuities, as you suggest. You have not suggested any place that the contribution from employees be increased.

Mr. EDWARDS: No.

Mr. MAGUIRE: I think we pointed out in the brief examples where a higher increase could be earned if the pension funds were invested, with reasonable limitations over it to protect the security and the interests of the contributors, but we certainly feel that if, for example, although we have not specifically recommended it, the governement wished to establish a government pension

board, or something similar to that in Australia, the interest invested in reasonably safe investments could produce certainly more than 4 per cent. I think Mr. DesLauriers has something on this, Mr. Chairman.

Mr. DESLAURIERS: I would mention that the present rate of contribution by employees, of course, is one of the highest, not only in Canada, but in the world. This is the 6½ per cent of earnings. There has to be some concern here about considering an increase in this already high rate of contribution by employees at the present time. This, of course, as has been shown up to now, has been employee contributions only, not only last year but for the last several years, and we can go back for quite some time—for a several number of years—and they have been more than enough to meet all annuity payments paid each and every single year. The actual paper contribution, if you will, or the governement's matching contribution with special credits, has not been actually needed to meet this annuity package.

Mr. EDWARDS: Perhaps I might just add a word to that. I think this was also considered at the time we were discussing the impact of the Canada Pension Plan on the Public Service Superannuation Plan. There was consideration in some quarters as to the stacking of the two pension plans, but this would have meant that a male employee would have paid over 8 per cent into the superannuation plan. It was considered at that time that any increase in the contribution rate by an employee over 6½ per cent would be a pretty difficult burden, for, particularly the young employee, to carry over a long period of time. A 6½ per cent contribution to the superannuation plan was felt to be pretty much the maximum that you should expect from an employee at this time.

Mr. MAGUIRE: His pay-roll deductions would exceed his take-home pay.

Mr. BALLARD: Actually, I am quite concerned about your recommendation No. 2. This has already been mentioned. The method which you suggest for keeping pensions up to date, and I am sure the point has already been made, does not go far enough to take care of annuitants who have been in retirement for some time under the conditions that we have experienced over the past 20 years or so. For example, if we took a classification, say, of a clerk in 1949, who earned a salary of $100 a month—I am just using $100 as an example—that clerk in the service today would earn $228 a month. Now, if that clerk had gone into pension in 1949, at a pension of $100 a month, and you applied the formula that you suggest in paragraphs 1 and 2, the present pension would be $145 a month; whereas, if a person holding the same type of job had retired in 1966, he would receive a starting pension of $228. There you have two people retired from the civil service—one retired after 27 years would receive a pension of $145 a month; whereas the one retired now would receive $228 a month. This is a very real problem. I know that I have had several letters from retired civil servants and retired mounted policemen who have been retired for 10 or 12 years and their pensions are unrealistic in terms of today's standard. Actually the application of the formula which you suggest here of applying the consumer price index would not increase that pension enough to keep it in line with pensions of persons who are currently retiring. I think this would be a desirable standard to try and reach. I would like to hear Mr. Edwards' comments on that.

Mr. EDWARDS: Well, we certainly would not object to this, as you can well imagine. However, we think what we have suggested here is a pretty reasoned

approach, at least to have the annuitant in a position where his income would meet the increases in cost of living. Now, the increased productivity gains or salary gains—the employed worker may have a totally different basis of need as far as his income is concerned from what the annuitant may have. He may have a family to support; he may have children going through school, and he would have to have all the benefits of increasing salaries that he can achieve in his own occupation, his job and so on. Perhaps the needs of annuitants are not the same in all respects; but what we are concerned about is that at least their position should be no worse on the basis of what their income is at the time they retired, and as the cost of living goes up, at least there should be a matching increase at the very minimum. We certainly suggested that there should be improvements as well on the basis of productivity which is a reflection of salaries—the salaries have gone up outside—but we have not measured just how this would be. There are certain difficulties in here and we are limited in our resources to do a job on this; but certainly we would not object to what you are proposing if it were feasible. I would doubt very much whether we could achieve this at this particular time.

Mr. BALLARD: Well, actually your recommendation No. 4 then, where you discuss productivity, does apply to the previous annuitants—

Mr. EDWARDS: Oh, yes.

Mr. BALLARD: —the people who are already on pension.

Mr. EDWARDS: In fact, so does this No. 2. No. 2 of course is from the time a person was retired on pension, and if the adjustments that have been made—now, this would mean for a lot of people who have been retired for some length of time a considerable increase in pension, if this were applied.

Mr. BALLARD: Thank you.

Mr. MAGUIRE: If I could add to this, Mr. Chairman, I think what we are trying to say here is that there should be a starting point. We think the very least that should be done is to adjust the pensions in line with the increases in the consumer price index to maintain the purchasing power of the pensioners, but we go on to make a number of other recommendations. For example, I think the answer to your question, sir, is really our recommendation No. 4. I think what we would like to impress on the Committee is that we are not just recommending points 1, 2 or 3, but that we are making seven recommendations. We want the Committee to consider them in total, as a package, if you will, of recommendations from us. We do not think just one will do the job, but that it would take all seven to do the job.

Mr. BALLARD: Mr. Chairman, I would like to suggest to the Public Service Alliance that they consider giving some consideration to using their funds to go into competition with Canada Development Corporation.

Mr. WALKER: Mr. Chairman, this is an excellent brief and I can only reiterate what Mr. Ballard said. I consider it a very good and responsible brief. With respect to the question raised by Mr. Ballard and Mr. Knowles relating increases to the cost of living, to present wage increases and present salary levels, I think you were very wise, frankly, not to make any positive and specific recommendations along this line. I think you would have a terrible time trying to relate, even if identical jobs were still open today in the civil service, to what

there was 30 years ago, even if those identical jobs were there. I think the duties would be much different. I do not know how you could possibly relate the work, with all the reclassification that has been done, of a clerk grade 3, 20 years ago to the same clerk today. The standards are higher because the standards may be of—not just our public service—our whole labour force have had to be higher and there is much more technical knowledge needed. I think we should look into this matter, as you have recommended, but I see very great difficulties in relating a job of 20 years ago in the civil service to the equivalent job there is today. You probably feel this way yourself, I do not know, but I am sure that this was part of the reason you did not come out and make a positive recommendation that a superannuate should be able to relate his old job to an equivalent job today and make up the difference in the different wage levels. I do not think these two things can be related. Just one point—

Mr. KNOWLES: Mr. Chairman, before Mr. Walker raises that, and as he was kind enough to use my name, may I say that when we argue for recognition of productivity and these general phrases, we are not just speaking in general terms. I am quite specific. I say I would rather see the wage index used than the cost of living index. I think Mr. Walker is right, to go into all these other problems of the different classifications, and so on, would make a pretty difficult task, but there are these two indices. There is a consumer price index and there is a wage index, and I just think the wage index is a little more realistic in terms of changes in society now. Mr. Walker may not want to go along with my wage index idea, but I would just like to suggest that it is not as vague as the use of the word "productivity" might convey.

Mr. WALKER: I was thinking of it, I guess, in terms of the future. We are looking to the past now, but if you adopt that same principle for the future I just do not know how you can relate wages 20 years from now to what they are now, and assure present civil servants—

Mr. KNOWLES: Under the Canada Pension plan pensions are based on the changes in the wage index.

Mr. WALKER: On the cost of living. Well, at any rate, I have one other point. When the $3.3 million was put into the fund in 1958, it came out of general revenue. It did not come out of the fund itself. Is this correct?

Mr. EDWARDS: This is correct.

Mr. WALKER: I suppose the reason it did not come out of the fund was that those in charge of the fund actuarily felt the fund could not afford that increase.

Mr. EDWARDS: This is my understanding and when Mr. Clark gets back I want to ask him—

Mr. WALKER: Well, if that is the case, and the contributions were put into the fund from outside, does this not in itself make the fund actuarily unsound? In other words, either the fund is actuarily sound and able to take care of its obligations, or it is not. If it can take care of its obligations it is actuarily sound, but if it cannot take care of its obligations and you have to pull in money from somewhere else, then does this not put the whole fund in question?

Mr. EDWARDS: Well, I think the fund was taking care of its requirements under the statutes, under the law. It was paying benefits, as it was required to do

under the particular regulation, to the superannuation fund. The pension adjustment act which was made was an act of parliament to increase pensions which were in payment by varying amounts. The government, rather than taking money from the fund, which apparently it could not do under the terms and conditons of the fund, had to make a contribution from general revenue in order to do this. I do not think this in itself upset the actuarial balance of the fund. If the fund was sound before in regard to what it was required to pay in reference to the calculation of annuities, it would still be the same way whether this was paid in or not.

Mr. WALKER: Yes, but my point is that I think these two things are related. If the fund is for the purpose of caring for obligations under the superannuation act and if the fund is not able to meet those obligations because of some other act that parliament has passed, I think we are only doing half a package. I think these two things must be linked together, and that if we are going to do anything now, from my own view, we should not, I feel, take some unilateral action in connection with superannuates without relating it to and involving the fund as it is. My own feeling is that these two things must take place at the same time.

Mr. EDWARDS: Well, in response to that, I would hope that whatever action the government takes would be on a basis of a continuing arrangement from here on in, not the case of a pension adjustment act to meet a particular need now—

Mr. WALKER: That is the point I am trying to get at.

Mr. EDWARDS: —but to meet the needs of annuitants not only now and those that have been retired for some particular period of time and are in these circumstances, but the needs of future annuitants on whatever basis is decided; either an escalation clause based on the index of salaries or on the cost of living index, or the consumer price index.

Mr. WALKER: One last question, Mr. Chairman. Did I sense a fine thread running through your whole brief substantiating the principle that the fund itself, either by a new concept of what the fund should do, should be able to take care of the obligations that are imposed upon it either by an act of parliament, or a unilateral act which might increase superannuates' present pensions?

Mr. EDWARDS: I would say the fund itself, I think, should be prepared to meet the obligations of whatever changes are necessary in order to do this for superannuates.

Mr. WALKER: Yes, and if, in order to meet those obligations it meant a different set-up of the fund, a different administration, doing what Australia has done or something else, is this the—

Mr. EDWARDS: Yes.

Mr. WALKER: —principle?

Mr. EDWARDS: Yes.

Mr. WALKER: This is the principle you are suggesting. Thank you.

The JOINT CHAIRMAN (*Mr. Richard*): I just want to call the attention of the members of the Committee, this morning,—and that is a very good brief we all agree,—we are getting a much broader picture once again of the whole question

of superannuation. I would love to, and, I have no objection to going into the superannuation problem, as we should face it for the future, although I am under the impression at the present time that we are trying to do something—as Mr. Knowles, Mr. Bell, myself and others have been trying for many years to do—to relieve a large number of superannuates who find themselves with somewhat very low pensions at the present time and I was hoping, like many others—I am sure I am not speaking out of turn—that this was the kind of job we could do. Now, if we are to go much more deeply into the question of the future situation, the fund itself, the provisions for superannuation in the future, I am afraid we will have to agree that this is a matter which will be—have to be investigated much more deeply; we will have to have a great many more witnesses, and probably a closer reference from the House of Commons on that subject matter, and that we will not be hoping for any immediate action on anything at all. I just mention this to the Committee. As I say I am quite willing to listen to all kinds of evidence on what the fund should be in the future, whether it should be handled by a board, whether the whole superannuation act is not properly based according to the present needs, but I also know that since we have passed the public service act that the interested parties are going to make some much more important representations, I am sure, in the future. Therefore I would like some guidance from the members of the Committee on how far they intend to go into this matter at the present time, since we are coming close to the end of the session.

Mr. KNOWLES: I think there is validity in your suggestion that if we go into this too deeply in terms of the future we might be so long at it that quite a few of these people we are immediately concerned about will die off; in fact, many of the people who are now in need and for whom we are concerned were future annuitants when some of us started this effort, a couple of decades ago. I would think that if we were to come up with a pretty sensible and responsible recommendation as to what should be done for those now retired, the government might be counted on to follow through on it. Whether we have the right within our terms of reference to make that suggestion in our report—I think we could.

The JOINT CHAIRMAN (*Mr. Richard*): But we could not go very deeply into it.

Mr. KNOWLES: No.

The JOINT CHAIRMAN (*Mr. Richard*): Without further evidence we could not do very much.

Mr. KNOWLES: I am as anxious as you are to get legislation that takes care of this problem on a continuing basis.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: But with regard to opening up the whole act, we may take too long to get action at this session. I would think that our problem might be solved a bit for us if we had some departmental people in front of us. I realize we had the officers that tell us what is going on, but I am thinking of the deputy minister, as to what the government might be prepared to put before us.

The JOINT CHAIRMAN (*Mr. Richard*): We still have to hear from Dr. Davidson and also from the RCMP and National Defence; but personally I am

getting very much interested in the whole question of superannuation, the question of a board, the question of the realistic rate of interest, the question of adjusting pensions according to the wage standard of the day, or consumers prices, etc. But I think that is a very long discussion. I am sure that you would not—I would not—and I am sure many members of the Committee would not to date, because I think as a matter of fact we have not discussed this in depth with previous witnesses.

I am sure even these witnesses would want some further assistance to give us some further clarification, if we are going into that problem and make any kind of suggestions—I just throw that to the Committee; if we are going to discuss this matter, we may be sitting weeks, and weeks, and weeks on it from now on, because some members of the Committee, I think, have not gone deeply into the questioning—on my suggestion, too—about future problems, and they might want to come back and ask questions.

Mr. KNOWLES: But we do want to make a report at this session.

The JOINT CHAIRMAN (*Mr. Richard*): That is why I spoke—either out of turn or in turn, I do not know.

Senator FERGUSSON: Mr. Chairman, as you have not restricted the discussion today, even though some things mentioned might not come entirely under our terms of reference, there is one thing that I would like to ask the witnesses about. I would also like to compliment them, as so many others have done, on the very excellent, understandable and well documented brief that Mr. Edwards and his colleagues have presented to us, and I certainly think they are experts on these subjects. It is very wonderful for us to have them before us. The point that I want to bring up has not been discussed, but it is mentioned in the brief. On page 17, you refer to the tax liability of estates to pay commuted value of future annuity entitlements, and you mention that as the annuity payments themselves are subject to income tax, there should be no liability on the commuted value of future payments also. This is something that I have been interested in for a very long time, and as I see the reference to it, I would like to know if you would tell us if you consider that where these two taxes have been levied in the past, the individual annuitants have actually been taxed twice on the same money. You suggest in your recommendation No. 17, I think, that we do not have these two taxes. Would you mind telling us if you consider that this really is double taxation?

Mr. EDWARDS: Yes.

Senator FERGUSSON: You consider this as double taxation.

Mr. EDWARDS: As long as it is tax on the income you get from your—

Senator FERGUSSON: This is what I took from what you said, but I just want to know if you really meant that.

Mr. EDWARDS: I think this point, if I might add this, was also noted in the Carter Commission Report.

Mr. WALKER: I was just going to ask you, did they say anything about that?

Mr. EDWARDS: Yes, I think this was one of their recommendations.

Senator FERGUSSON: Oh good; well I have not read the whole Carter report yet. To make this statement which you have, you must have had some experience

of cases of hardship. Do you consider real hardship cases have been caused by this?

Mr. EDWARDS: Yes; we have had evidence of cases where people have written to us and hardship has been created because of the estate tax liabilities.

Senator FERGUSSON: Hardship to a very high degree, I mean; not just unpleasant.

Mr. EDWARDS: Of course, it varies. Certainly, I would think there is evidence of hardship to a very high degree.

Senator FERGUSSON: Thank you.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Hymmen.

Mr. HYMMEN: I have a comment, Mr. Chairman. I appreciate your concern and Mr. Bell's and Mr. Knowles' interest over the years, but this is a very big subject. If we make an interim report to take care of the people on retirement now, we are going to do exactly what was done in 1958 or 1960 and say we cannot and are not prepared to consider the whole problem. The people who retire a year or two years from now and pass away are going to be in exactly the same position until the government of the future decides the over-all matter, and what are you going to do with it?

I just wanted to make another comment or two in regard to what Mr. Ballard said. We are on the summary now, but I have the same problem as Mr. Ballard with your recommendation No. 4, and I wish you had used some other word beside productivity, because my understanding is that the Economic Council of course mentioned that productivity over the country has not matched the increase in the gross national product. I fail to see where the civil service salaries, for example, have too much relation to this productivity—that was just my feeling.

Another thing was the concern of the people on retirement, retiring now and retiring in the future. I think it is a very big problem to try to relate salaries as Mr. Walker mentioned, because it is hard to relate the contribution of a person who is on retirement on a very low salary, a clerk of $100 a month who paid, say 5 per cent, for 35 years and contributed over all in the period $2,100, to a contribution by a later employee who has contributed over 35 years three or four times as much. This is a very big problem, and rather than make an interim adjustment, I wish this Committee or the government could try to resolve this problem. On the question of Bill No. C-170 in reference to what has been done in private industry through management and labour, is this going to be a matter for collective bargaining?

Mr. EDWARDS: No, not at the present time. It is excluded, you see, under the terms of Bill No. C-170, under the act. However, I think there is reason to believe that some time later it would be included, but at the present time it is not included.

Mr. HYMMEN: I think the main concern, from the charts you have shown us this morning, is the relation of the annuity to the purchasing power. I think if we could do something with that, we would be accomplishing a great deal, but the over-all question of wages and relation of past wages to present and future wages is a much bigger problem.

Mr. KNOWLES: Mr. Chairman, Mr. Hymmen knows that we all agree with him, in that we do not want just another piecemeal solution; that we want this problem resolved on a permanent basis if we can, but we do have the problem of our term of reference. I think we have to draft a report within that term of reference and I think we can. I think we can come up with a recommendation for the people now retired, and can recommend in a sentence or two in our report that the government give consideration to carrying this principle forward.

I remind Mr. Hymmen that as a Committee we do not legislate; we make the recommendation back to the house and at that point all of us can call on the government to carry forward for the future any plan that we worked out for the people now retired. But, like you, Mr. Chairman, I do not want us to go into such a detailed study of the whole superannuation problem, which we have had around for a hundred years, that we fail to report before this session prorogues, as might happen some time this year.

The JOINT CHAIRMAN (*Mr. Richard*): So I said, Mr. Knowles, I would be very adverse to making any recommendations for the future just on the basis of the evidence which has been heard, or can be heard within the short time that we are going to be sitting. I would be much more interested personally in any recommendations that would say that either this Committee or a similar committee be formed immediately in the next session, to study this, because I think, and you will agree with me, that it is a very interesting subject and it would be almost as important as a Bank act as far as I am concerned, for the civil servants anyhow.

Senator FERGUSSON: This about all we can do, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions for the witness this morning?

(*Translation*)

Mr. ÉMARD: As an ex-union man, I would like to congratulate very sincerely the Public Service Alliance of Canada for the quality of the brief which they have submitted this morning.

I did not expect any less from them. I appreciate the fact that the Alliance have decided to be concerned with the retired civil servants, even if they are no longer members. The Alliance has shown its sense of responsibility by doing more than its duty, it is a decision which is a credit to it and is in the best tradition of the Union Movement.

I would like an explanation with regard to the increase given in 1958, I was told, to 15,000 employees earning less than $3,000 a year. Has this increase been given only for the year 1958, or have the amounts been given for a readjustment?

(*English*)

Mr. EDWARDS: The amounts that were granted have been a continuing amount. An adjustment was made at that time for people retired before 1953. If those people are still living, they are still getting the increase that was granted at that time.

(*Translation*)

Mr. ÉMARD: Now why is it that in your brief you always refer to the year 1953, why not start from the year 1958?

Mr. DESLAURIERS: Because it is since 1953 that there has been no change. This was years ago. In other words those who retired since the 1st of January, 1953 did not get any change in their annuities.

Mr. ÉMARD: But you told me that in 1958 when there was a certain amount allowed to those 15,000 retired people. Did this not remain in their pension?

Mr. DESLAURIERS: Those who have retired after 1953 have enjoyed no increase, neither in 1958 nor even from 1953. It applied only to those persons who retired before 1953, even if this has been announced in 1958.

Mr. ÉMARD: Therefore, that which was done in 1958 was only for the period before 1953?

Mr. DESLAURIERS: Yes.

Mr. ÉMARD: This is what I did not understand. Now, if we would like to stay within the terms of reference given to us as a Committee, I think that, at the present time, we are all convinced that we must do something to rectify particularly the pensions of those who are now retired.

We have had a choice between several formulas presented to us, which we could discuss later on, but I think that the main problem is where are we going to find the funds. We can always say that funds can be contributed by the government. But if we look at some of the formulae presented, I think that the cost would be so high that the government would not be able to agree to all the formulae presented. Now, there is one question I have. I think that this is a curious fund. It is a fund while not being a fund. It is actually not a fund at all. We are told that the money is deposited and that the government, instead of using this money and keeping it there, puts it in a fund and uses it for something else, and when the time comes to pay for the pensions, the government dips into its own fund to pay these. Now, there is one thing which I would like to know and that is: what is the share of the government in the employee pension fund? Is the government supposed to contribute the same amount of money to the fund as the employees for their pensions?

(*English*)

Mr. EDWARDS: The government contributes the same amount. It contributes in excess of what the employees contribute because it must keep the fund in balance and it must make continued contributions in order to do this as required after the actuarial evaluation of the fund. It has to bring it up, and this means a constant requirement on the Government to maintain the fund at the actuarial level so that it has been—I cannot give you the exact percentage but I believe the government in its contributions is contributing about double what the actual employees' contributions are.

(*Translation*)

Mr. ÉMARD: But the government did not promise to contribute the same amount as the employees, did it?

(*English*)

Mr. EDWARDS: No. I do not think it is a case of a promise to contribute the same amount. The government is required under the terms of the superannuation act to keep the fund actuarially in balance and it has to make the contribu-

tions on that basis. It makes contributions in keeping with what the employee makes but it makes these additions as well.

(*Translation*)

Mr. ÉMARD: The government also pays an interest of 4 per cent, does it not?

(*English*)

Mr. EDWARDS: That is correct.

(*Translation*)

Mr. ÉMARD: On the money in the fund. Is this simple interest or compound interest? This may be a question for an actuary, but I thought perhaps you might know about this.

(*English*)

Mr. EDWARDS: I believe this is it.

Mr. MAGUIRE: Compounded, 1 per cent quarterly.

Mr. EDWARDS: Compounded, 1 per cent quarterly, I believe.

(*Translation*)

Mr. ÉMARD: Now, if I understand correctly, the government does not pay interest on the amount which it is supposed to contribute to the fund. For example, in an industrial fund, the employees contribute 50 per cent and the company contributes 50 per cent also. In this case, this money is put into a fund and the interest, the compound interest, is paid on all the money deposited in the fund. This is also a question which I should ask of the actuary. But does the government pay interest on the money deposited or which it is supposed to have deposited itself? I think that this is very important.

(*English*)

Mr. EDWARDS: I believe it paid interest on the full amount of the fund.

(*Translation*)

Mr. ÉMARD: Which includes the money which the government has deposited itself. This is about all I had to ask.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: I am sorry I had not discovered earlier how to turn that heat up.

The JOINT CHAIRMAN (*Mr. Richard*): Well, Mr. Edwards and gentlemen, I thank you very much. It was a very good brief. By my remarks I do not want to imply that the questioning we have had this morning is sufficient if we are to go into all aspects of what you have brought before us. I hope you did not misunderstand me. I believe that this brief deserves a great deal more questioning and a great deal more attention than the few hours that we have given it this morning, and I have no reason to say this; I am only the Chairman. I would hope that there would be a future opportunity for this Committee or a similar committee to meet where we can go into this in the proper manner.

Mr. EDWARDS: We would agree with you that first things might come first.

The JOINT CHAIRMAN (*Mr. Richard*): I do not want you to think that these are the only questions that this Committee feels it should ask or the only information it should elicit from you at the present time.

Mr. EDWARDS: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): You have done a good job. Thank you very much.

APPENDIX "Y"

SUPERANNUATION PLANS OF PROVINCIAL AND FOREIGN GOVERNMENTS

The following brief descriptions have been prepared on the features of the Superannuation Plans which appear to be of greatest relevance to the present study of the pensions of retired civil servants by the Special Joint Committee of the Senate and the House of Commons on the Public Service of Canada.

British Columbia: Basic Pension Provisions

The normal pension formula applying to a former civil servant is now calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the last ten years). Those employed prior to 1958 have the option of taking the benefits under a money-purchase plan to which they previously contributed if the benefits under it are higher than the normal formula. These formulae are subject to reduction in the future due to co-ordination with the Canada Pension Plan. Retirement on immediate pension can take place on account of age at 60. Survivors' benefits are provided.

Funding

Employee rates of contribution are determined according to schedules and depend on the age of the employee at the time at which he became a contributor. They ranged from 4% to 10%. Canada Pension Plan contributions are deducted from the contribution. Employee contributions, together with an equal amount from the employer, are paid into the Civil Service Superannuation Fund which is part of the Consolidated Revenue Fund.

The Minister of Finance may invest in prescribed securities any monies in the fund not required for foreseeable commitments. Separate accounts are kept for each contributor showing the amount to the employee's credit to the fund and interest at the rate of 4% is credited by the Minister of Finance to each account on the last day of March and September in each year.

Pension Increase

In 1958 legislation was passed that provided for persons who retired with 25 years service or more before April 1, 1958 a supplementary allowance in the amount of $5 per month plus an extra $1 per month for each year of service over 25 years. Widows would get half the amount provided they were married before the contributor reached 60 and before he retired. In 1960 legislation was passed to provide for employees who had less than 25 years service. They received:

$4 per month if service was greater than 20 and less than 25
$3 if service was greater than 15 and less than 20
$2 if service was greater than 10 and less than 15.

Widows received half that amount for those applicable years of service. In 1962 there was legislation that provided for a further supplementary allowance provided that the contributor had at least 10 years service. It was provided according to the following table:

Period of Retirement	Monthly Allowance
up to March 31, 1949	$10
April 1, 1949 to March 31, 1950	9
" " 1950 " " " 1951	8
" " 1951 " " " 1952	7
" " 1952 " " " 1953	6
" " 1953 " " " 1954	5
" " 1954 " " " 1955	4
" " 1955 " " " 1956	3
" " 1956 " " " 1957	2
" " 1957 " " " 1958	1

More recently there has been an Act to amend the Civil Service Superannuation Act which provides for a still further supplementary allowance to be provided according to the following table:

Last Period of Service	Allowance per month for each year of service	Widows etc.
up to March 31, 1955	$1.00	$ .70
April 1, 1955 to March 31, 1956	.90	.63
" " 1956 " " " 1957	.80	.56
" " 1957 " " " 1958	.70	.49
" " 1958 " " " 1959	.60	.42
" " 1959 " " " 1960	.50	.38
April 1, 1960 to March 31, 1966*	.50	.38

* only until OAS payments start.

Throughout the Supplementary Bonus enacted by the B.C. Legislature there is no relation made to average salary or amount of pension of contributor. The increases are paid out of the Consolidated Revenue Fund.

Alberta:

Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of either his average salary over the highest 5 year period or $8,000 whichever is the lesser). This is subject to adjustment in the future due to co-ordination with the Canada Pension Plan on a basis not too different from that under the federal Public Service Superannuation Act. Normal retirement age is 65 and survivors' benefits are provided.

Funding

Employee contributions (up to $900 p.a.) at the rate of 5% of salary are credited to the General Revenue Fund. Interest at the rate of 4% per annum is credited to each employee's account. The Provincial Treasurer appropriates from the General Revenue Fund sufficient monies to provide each year for the payment of all superannuation benefits under the Act, with payments guaranteed by the Government.

Pension Increase

The Superannuation Increase Act of 1959 provides to those persons receiving pensions under the Superannuation Act (which does not apply to present employees but only those retired up to April 1, 1957) a supplementary allowance of $1.25 per month for each year of service. The total of this supplementary allowance and the pension payable under that Act cannot exceed $150 per month.

Saskatchewan:

Basic Pension Provisions

The pension of a former civil servant is now calculated by multiplying (the number of years of service up to 35) by (2% of the average salary over the highest 6 year period of service). The maximum pension is $6,000. Co-ordination with the CPP is similar to that under the Federal PSSA. Survivors' benefits are provided.

Funding

There are no special funding arrangements. Employee contributions of 6%, 7%, or 8% of earnings depending on the age of the employee at the commencement of employment. Each year the Legislature appropriates sufficient funds to provide for all superannuation benefits, with payments guaranteed by the Government.

Pension Increase

Legislation in 1965 provided that a superannuated employee shall receive an additional $10 per annum for each year or portion thereof, of service up to 35. It also provides for $5 per annum to widows or dependent husbands. The total for those respective

groups must not exceed $2,400 per annum and $1,200 per annum, respectively, including the basic pension.

In addition there have been a series of cost of living adjustments under which at present certain former employees or their widows with pension of less than $100 may have them increased by up to $70 so long as this does not bring the pension plus supplement beyond $100. These are now paid until the Old Age Security Pension becomes payable to persons retired prior to April 1954 but a bill has been before the provincial legislature this month which would extend these payments to those retired before April 1, 1958.

Manitoba: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his salary on the last 10 years of service.) This is subject to adjustment in the future due to co-ordination with the Canada Pension Plan on a basis not too different from that under the federal PSSA. Normal retirement age is 65½. Optional survivors' benefits are available through an actuarial reduction of employee's pension.

Funding

The Act provides for the establishment of a Civil Service Superannuation Fund. The Fund is credited with employee contributions equal to 4.4% on the CPP earnings and 6% on the remaining salary and a contribution by the Government, which is provided at the time pensions are paid. In addition the Government pays interest on an accrued liability of the Fund assumed by the Government for persons who were employees immediately before May 1, 1939. The monies in the Fund less such amount necessary to meet current expenditures may be invested and uninvested monies are kept on deposit in a chartered bank.

Pension Increase

The earlier plan of 1954 provided for an allowance of 1 2/3% for each year of service times the career average earnings, i.e. the average over his full period of service. When the Act was amended to provide for a 2% benefit for each year's service times the average salary for the last 15 years before retirement (this has since been changed to 10 years, as mentioned above), a special clause was put in which had the effect of granting to every employee who had retired under the career average earnings formula, a pension calculated on the 15 year average basis effective April 1, 1961. If this increase in pension, by going from one formula to the other, did not provide the employee with an increase equal to 4% per annum of his annual annuity, then he would receive such an increase.

Effective January 1, 1965, when the last 15 years was replaced by the last 10 years in the pension formula, all pension in pay were recalculated on the new basis, and any increase resulting from this recalculation was paid to the retired pensioner.

Ontario: Basic Pension Provisions

The pension of a former civil servant is now calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the CPP on a basis similar to that under the federal PSSA. Ten years of service are required to qualify for the pension. Survivors' benefits are provided.

The pension was formerly based on an average salary over the last three years but this was changed to a 10 year basis and more recently to the highest five year period.

Funding

The Superannuation Fund is made up of employee contributions, presently 6% less the CPP contribution, matching employer contributions and interest on the balance remaining after benefits are paid as well as interest on the deficit in the Fund which is a liability of the government.

Pension Increase

Effective January 1, 1967 all pensions are to be increased to $1200 per annum in respect of former civil servants on pension and to $600 in case of widows of former civil servants regardless of date of retirement or length of service so long as the 10 years required to qualify for the basic pension were completed. The cost of these increases is met by the Government of Ontario.

Quebec: Basic Pension Provisions

The pension of former civil servants is calculated by multiplying (the number of years of service up to 35) by (2% of his salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the QPP on a basis similar to that under the federal PSSA. Ten years of service are required to qualify for pension. Normal retirement age is 65 but pensions may be granted at an earlier age when 35 years service has been reached. Survivors' benefits are provided.

Funding

There is no funding. Employee contributions are recorded in the provincial books as "Appropriated Surplus". Expenditures on pension benefits are recorded as ordinary expenditures of the Department of Finance.

Pension Increase

An Act of 1960 provided that where pensions granted prior to March 31, 1961 were less than $3,000 (or in the case of widows' pensions less than $1,500) they should be increased by the following percentages, dependent upon the calendar year in which the pension was granted:

(1) Calendar Year (inclusive)	(2) Percentage Increase
up to end of 1939	30
1940 - 1944	24
1945 - 1949	18
1950 - 1954	12
1955 - 1959	6
1960 - March 31/66	3

The increases under this section can not provide a total pension of more than $3,000 nor a total widow's pension of more than $1,500.

Effective January 1, 1961, provision was made whereby any pension or widow's pension would be increased to $660 provided that the pensioner could not avail himself of the Old Age Security Act, Blind Persons Allowances Act or the Act respecting assistance to Disabled Persons. This minimum was increased to $780 effective February 1, 1962 and to $900 effective April 1, 1964.

New Brunswick: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the CPP on a basis similar to that under the federal PSSA. A minimum of 10 years service is required and normal retirement age is 65. Survivors' benefits are provided.

Funding

The Superannuation Fund is made up of employee contributions, presently 6% of salary less the CPP contribution, together with interest from the investment of the balance remaining after the benefits are paid. If the Superannuation Fund is insufficient to make payments required under the Act, the Provincial Secretary-Treasurer is directed to pay into the Superannuation Fund, out of the Consolidated Revenue Fund, an amount sufficient to enable superannuation benefits to be paid.

Pension Increase

There is no provision for increasing pensions in pay.

Nova Scotia: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the CPP on a basis similar to that under the federal PSSA. However, since contributions on salary exceeding $6,000 p.a. are optional those who do not elect to make these contributions can use an average salary of the last three years (instead of the best five) providing this does not yield a pension exceeding $4,200 p.a. A minimum of 10 years service is required and normal retirement age is 65 for males and 60 for females. Survivors' benefits are provided.

Funding

The Superannuation Fund is made up of employee and matching employer contributions, as well as interest earned from the investment of the funds not immediately required for benefit purposes as well as interest on the invested monies. Employee contributions are 5%, 5½% and 6% for males depending on salary and 5% for females. Should this prove inadequate to pay benefits, there is authority for payment from the Consolidated Revenue Fund of the Province.

Pension Increase

A cost of living bonus has been paid since the 4th day of June, 1948 pursuant to an Order in Council to certain persons in receipt of pensions under the Public Service Superannuation Act. Effective April 1, 1966 the Order in Council of the 25th of April revoked that bonus and provided a new bonus described below to persons whose income inclusive of the cost of living bonus did not exceed $1260 per annum. Income for these purposes includes all allowances, gratuities and contributions received whether in cash or in kind and this is administered by the Department of Public Welfare. Those in receipt of Old Age Security pension prior to the effective date will not include that amount as income, but those who qualify after the effective date will use OAS pension in determination of their bonus. Anyone in receipt of assistance under the Old Age Assistance Act is not entitled to a bonus. The bonus is as follows:

Pension	Bonus
$600 and under	An amount sufficient to increase the pension to $780.00
$601.00 to $700.00	20% of pension, plus $60.00
$701.00 to $800.00	An amount sufficient to increase the pension to $900.00 or 15% of the pension plus $60.00, whichever is greater.

(Continued)

Pension	Bonus
$801.00 to $900.00	An amount sufficient to increase the pension to $980.00 or 10% of the pension, plus $60.00, whichever is greater.
$901.00 and over	An amount sufficient to increase the pension to $1,050.00 or 5% of the pension, plus $60.00, whichever is greater.

In no case shall the amount of the Bonus be such as to increase the income of a pension to an amount in excess of $1,260.00 per annum. (These "bonuses" are paid from the Consolidated Revenue Fund.)

Prince Edward Island: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest three year period). A minimum of 10 years service is required and the normal retirement age is 65 for males and 55 for females. Survivors' benefits are provided.

Funding

Employees contribute into the Superannuation Fund at a rate of 5% for no more than 30 years. Benefits are paid out of a Superannuation Fund and if at any time there are insufficient funds to make such payments the Provincial Treasurer is directed to make payments out of the Consolidated Revenue Fund sufficient to enable the benefits to be paid.

Pension Increase

Up to the end of January 1967 no pension of a retired civil servant had been increased.

Newfoundland: Basic Pension Provisions

Normal provision is that obtained from multiplying the number of years of pensionable service by 1 3/4% of the average salary over the last three years provided, however, that if the average salary is $1,000 or less, 2% will be used instead of 1 3/4% and that a pension calculated on the 1 3/4% basis should not be less than if the average salary had been $1,000. In addition the pension cannot exceed 2/3 of the average salary over the last three years. There are no survivors' benefits.

Funding

There is no funding as there are no contributions. It is a simple pay-as-you-go plan provided by the provincial government.

Pension Increase

In 1961 legislation was passed which provided for increase to those in receipt of pensions on December 1, 1961, on the following basis:

Category Pension p.a.	
up to $600	25% or up to $600 whichever is greater
$600 - $800	20%
$800 - $1000	15%
$1000 and over	10%

In 1965 the above provision was amended to include all persons then receiving pensions and those who shall hereafter receive a pension from the province.

There is a general proviso in this legislation that a person in a higher category should not receive a pension smaller than the highest pension of the person in the next lower category.

The Northwest Territories and Yukon Territory

The employees of the Government of these Territories are included under the Public Service Superannuation Act of Canada.

Britain: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of completed years of service up to 40) by (1/80 of the average salary during the last three years). The normal retirement age is 60 and a minimum of ten years of service is required to qualify for a pension. The basic pension of a civil servant is provided entirely by the Government. In addition there is a lump sum payment equal to three times the amount of the annual pension.

Survivors' benefits are not automatically provided but may be obtained under certain conditions by exercising an option to provide the actuarial equivalent of a portion of his pension to his wife or a dependent.

In addition survivors' benefits may be provided if the civil servant elects to contribute for them.

It should be noted that these employees participate under the part of the national plan which provides flat rate benefits but not under the part which provides graduated benefits related to earnings between certain limits.

Funding

Benefits are paid out of the Consolidated Fund. Contributions are paid into the Exchequer.

Pension Increases

The history of pension increases in Britain is reflected in the Pensions (Increase) Acts of 1920, 1924, 1944, 1947, 1952, 1954, 1956, 1959, 1962 and 1965. Until 1956 the increases were, in effect, subject to a means test since they did not apply to those whose incomes were above a certain level. In that year these limitations were removed but a maximum increase in pounds was provided.

Under subsequent Acts a sliding scale of percentages has been applied to increase existing pensions, i.e. the basic pension plus previous increases.

Thus the 1962 Act provided the following rates of increase:

For pensions beginning	Per cent.
On or before 1st April 1956	12
Between 2nd April 1956 and 1st April 1957	10
Between 2nd April 1957 and 1st April 1958	8
Between 2nd April 1958 and 1st April 1959	6
Between 2nd April 1959 and 1st April 1960	4
After 2nd April 1960	2

while the 1965 Act provided

For pensions beginning	Per cent.
On or before 1st April 1957	16
Between 2nd April 1957 and 1st April 1958	14
Between 2nd April 1958 and 1st April 1959	12
Between 2nd April 1959 and 1st April 1960	10
Between 2nd April 1960 and 1st April 1961	8
Between 2nd April 1961 and 1st April 1962	6
Between 2nd April 1962 and 1st April 1963	4
Between 2nd April 1963 and 1st April 1964	2

These two tables illustrate the recent pattern which has been adopted when a new Pension Increase Act is introduced.

United States: Basic Pension Provisions

The pension formula contains alternative methods of calculation but the basic method involves the use of the average salary over the highest consecutive five-year period with a maximum of 80% of that average, thus

(a) Take: 1½ percent of the "high-5" average salary and multiply the result by 5 years of service;
(b) Add: 1-3/4 percent of the same "high-5" average salary multiplied by years of service between 5 and 10;
(c) Add: 2 percent of the same "high-5" average salary multiplied by all service over 10 years.

Survivors' benefits are available unless the employee requests in writing that none be paid. If no such request is made then the employee's annuity is reduced.

It should be noted that an employee who is contributing under the Civil Service Retirement Act is excluded from contributing under the national Old Age, Survivors and Disability Insurance Plan. However, before an employee becomes a contributor he is covered under the national plan.

Thus the only overlapping of the two plans occurs in respect of that early service if the employee chooses to pay for it once he comes under the Civil Service Retirement Law.

Funding

Contributions by employees are now 6½% of salary and these are matched by the employing Agencies. These are credited to the Civil Service Retirement Fund which is invested in Government securities.

Pension Increases

The pattern of pension increase policy has been somewhat similar to that in Britain. There has been provision for augmentation of civil Service pensions after retirement for a number of years. Up to 1958 the increases there, however, did not apply to the highest pensions for where the full increase would bring the pension above $4,104 only the amount required to bring it to that level is paid. In 1958 legislation authorized a further increase of 10% on all pensions being paid to those retired before October 1, 1956 subject to a maximum increase of $500 in case of former employees and $250 in case of widows.

By 1964 future adjustments in the annuities of retired employees and survivors were geared to percentage rises in nationwide living costs as measured by the Consumer Price Index, as follows: "Beginning in January 1964, yearly changes in the nationwide cost of living will be reviewed by the Civil Service Commission. Effective April 1 of any year the Commission finds living costs have risen at least 3 percent since 1962 (or since the year before the most recent cost-of-living increase granted after 1962), annuities which commenced earlier than January 2 of the preceding year will be increased by a percentage equal to the rise in living costs." However, this method was short-lived.

Legislation was passed during 1965 to provide for certain increases effective December 1, 1965. This legislation was designed in part to remove certain anomalies arising out of previous legislation of this nature and established a new basis for automatic adjustment in the future.

Apart from some special provisions related to survivor benefits of employees who died prior to April 1, 1948, the main adjustment was to increase annuities which

commenced on or before October 1, 1956, by 11-1/10% and those which commenced after October 1, 1956, but no later than December 1, 1965, by 6-1/10%. These are in addition to increases authorized by previous legislation.

The general rule for increases in the future is that whenever the cost of living, nationwide, goes up by at least 3% over the monthly price index used as a basis for the last previous cost-of-living annuity increases, and stays up for at least three months in a row, an increase equal to the percentage rise in living costs will be granted automatically. This permits such a change to be made at any time during the year whereas the previous law permitted such a change only on the 1st of April after a three per cent increase since the previous adjustment had taken place.

Continental Europe

In Continental Europe the usual procedure appears to be to use a form of wage index to adjust the pensions of civil servants. This is so in France and West Germany.

APPENDIX "Z"

PUBLIC SERVICE ALLIANCE OF CANADA

BRIEF

TO THE PARLIAMENTARY

SPECIAL JOINT COMMITTEE

OF THE SENATE

AND

THE HOUSE OF COMMONS

ON

THE PUBLIC SERVICE OF CANADA

CONSIDERING ADJUSTMENTS TO ANNUITIES

FOR

SUPERANNUATED PUBLIC SERVANTS

February, 1967

Introduction

The Public Service Alliance of Canada welcomes this opportunity to present a brief on behalf of retired public servants who are faced with the increasingly frustrating problem, not only of maintaining a reasonable standard of living, but of making ends meet on fixed incomes in a moving economy, experiencing year after year, sizeable gains in the consumer price index and in the index of real wages. Large numbers of annuitants are undoubtedly becoming second-class citizens in comparison with their neighbours and members of their community because of the constant erosion of their purchasing power. The disparity is further emphasized by increases in the standard of living being enjoyed across the nation by millions of other people who benefit from steadily increasing gains in productivity.

We would like to make clear at the outset that wherever in this presentation we make reference to retired federal public servants and annuitants, our intention is to include retired members of the Armed Forces and of the Royal Canadian Mounted Police. Also, the term annuities, as we use it, is intended to include allowances payable to or in respect of widows, and surviving children, where applicable.

There is, of course, no need for us to remind this committee that annuities of retired federal public servants have not been increased since 1958. Even then, the authority ultimately contained in the

Public Service Pension Adjustment Act of 1959[1] permitted increases effective July 1, 1958 only for certain annuitants who were superannuated prior to 1953. We will return to this point later.

The reasons given by the then Minister of Finance for payment of increased annuities are set forth in pages 2757 to 2759 of the Hansard of July 28, 1958, and again on page 4716 of the Hansard of June 15, 1959. Briefly, they refer to a combination of increases in both the cost of living and the general salary levels of Federal public servants from 1946 to the date of the Minister's statement. In other words, it was recognized by the government of the day that superannuated public servants living on fixed incomes should not be victimized by the continuous erosion of the purchasing power of their annuities due to increased living costs, without some relief being provided by their former employer. Nor was it felt that their position should worsen, vis-a-vis active employees benefiting from regular salary revisions.

There has long been an obvious need to do something further, not only for public servants who retired before 1953, but also for those who have retired in the intervening years. Having regard to the reasons given by the Minister of Finance in 1958 as previously mentioned, and the steady erosion which has since occurred in the purchasing power of the dollar, the Public Service Alliance of Canada and one of its predecessor organizations, the Civil Service Federation of Canada, have

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(1) The initial authority for increases effective July 1, 1958 was contained in the Pension Increase Regulations, 1958 PC 1958 - 1366, made pursuant to Appropriation Act No. 5, 1958. This authority expired on March 31st, 1959 and was succeeded by the Public Service Pension Adjustment Act of 1959. The latter perpetuates the authority contained in the former.

made submissions in each of the last four years, exhorting the government to fulfil the role of a good employer by taking action to alleviate this increasingly serious situation by seeking the necessary parliamentary authority to increase annuities of retired public servants. The Public Service Alliance feels that an equitable way to do this on a permanent basis would be to follow the practice of the Government of the United States whereby annuities of retired federal public servants are automatically increased on the basis of increases in the consumer price index. We will refer again to this later.

We suggest that there is no need to spell out to this committee details of the formula by which annuities were increased in 1958. Such details are carefully set out in the Public Service Pension Adjustment Act of 1959 and its attached schedules. It is perhaps sufficient to say here that the increases apply to all superannuated public servants whose annuities did not exceed $3,000 a year, and to widows whose allowances did not exceed $1,500 a year. At that time, the increases applied to some 15,400 of a total of approximately 25,000 annuitants. For the full year 1959 the cost was $3,300,000.

In 1958 the Minister of Finance said that it did not seem to the government to be fair to annuitants with long service to supplement only very low annuities. It was equally clear, he stated, that a flat percentage increase in all annuities would be inequitable and would favour those enjoying larger annuities, particularly those recently retired. Consequently, annuitants retired ten years previously, he said, had a higher claim to increases than those more recently retired whose annuities

were more closely related to current salary scales. As a result, the allowances granted provided for increases in annuities varying from 32% of the first $2,000 of annuity for those who retired prior to March 1947 whose annuities were calculated on a ten-year average salary basis, down to 2% for those with similarly calculated annuities who retired prior to December, 1952. Lesser amounts were granted to annuitants whose annuities were calculated on a more favourable basis. However, these are among the details set out in Schedules B and C of the Public Service Pension Adjustment Act of 1959.

The main point we wish to make here is that the government realized at the time that annuitants on fixed incomes, whose annuities were earned in periods of relatively low earning power, needed assistance in order to maintain a reasonable standard of living. The government of the day took steps to provide some measure of assistance.

Salary Increases

Between January, 1953 and June, 1966 (the latest date for which data are available), average weekly salaries of salaried employees of the Federal Government have increased from $54.54 to $102.96 (88.8%). From July, 1958 (when certain annuities were increased by the Pension Adjustment Act), to June, 1966, salaries increased from $71.71 to $102.96 (43.6%). Since annuities granted now are based on the best six consecutive years of service (which in most cases are the last six years), it is evident that civil service employees retiring now are entitled to annuities which are considerably higher than those in payment to annuitants who retired only a few years ago in otherwise corresponding circumstances.

In addition, since there is ample reason to believe that the upward trend in salaries will continue, it is also apparent that the annuities received by public servants retiring now will prove to be considerably less than the annuities which will be received by public servants retiring a few years from now.

It should also be appreciated that annuities which are based on the old formula of the last ten years of service, rather than the current formula of the best six years of service, have not benefited to the same degree from rising salaries because averaging over a longer period necessitates inclusion of lower salaries in computing annuities.

Cost of Living Increases

As at July, 1953 the Consumer Price Index stood at 115.4 (although "stood" is a most inappropriate word because it implies stability and since World War II there has been little, if any, stability in the Consumer Price Index). In the thirteen-year period from July, 1953 to July, 1966, the index rose to 144.3 (1949=100.0). A further increase to 145.9 has recently been reported for the month of December, 1966. This represents an increase since 1953 of 26.4%. In other words, a 1953 dollar is today worth only 73.6 cents.

As a matter of coincidence, 1953 is also the year in which the Right Honourable Louis St. Laurent endorsed the following foreword to a civil service booklet describing the salient features of the Public Service Superannuation Act:

"Foreword

This booklet deals with the salient features of the new Public Service Superannuation Act. It has been prepared for you so that you may understand and become familiar with the main provisions of this Act.

After studying it, I think you will agree with me that it is a most comprehensive Act. I can assure you that it compares favourably with the best pension plans that have been developed in this or other countries.

The benefits which it provides are now a matter of right whereas in the past they were given as an act of grace. You would do well to study this booklet so that you may be fully aware of all the benefits which you are building up for your own future and for the protection of your family. These benefits grow with each year that you continue to be employed in the Public Service of Canada.

I believe this Act will do much to provide you with a feeling of security that is in keeping with the excellent work you are doing and the fine contribution you are making to the welfare of Canada.

Louis S. St. Laurent,
Prime Minister."

Because of the continuing steady decline in the real value of the dollar since 1953, many of those public servants who made such fine contributions to the welfare of Canada before 1953 and who retired before that year, are now either struggling to make ends meet on those benefits

which were intended to provide a feeling of security, or at best, are unable to enjoy the standard of living which it was reasonable for them to expect that those benefits would provide.

We now draw your attention to the following table concerning consumer price indices. Column 2 of the table shows increases in living costs to December, 1966, as measured by the consumer price index, for each year since 1949 when that year represented a base index of 100.0. As the annuity increases authorized by the Public Service Pension Adjustment Act of 1959 apply to certain annuitants who retired before 1953, increases in living costs since 1953, using that year as a base, are shown in column 3. As previously mentioned, in 1958 the Minister of Finance cited increased living costs as a reason for the annuity increases which were effective July 1, 1958. Between July 1, 1953 and July 1, 1958, living costs had risen 8.1%. Working back from the last mid-year point of July 1, 1966, we have determined, as shown in column 4 of the table, that an 8.1% increase in living costs also occurred between July 1st, 1963 and July 1st, 1966. It is reasonable to assume, therefore, that there is justification for increasing all annuities which commenced before 1963.

It is also apparent from this table that, not only having living costs increased sharply since 1958, but also, the rate of increase has accelerated in the last three years.

Consumer Price Indices

Date (1)	1949=100.0 (2)	1953=100.0 (3)		1963=100.0 (4)	
July 1949	100.0				
July 1950	102.7				
July 1951	114.6				
July 1952	116.1				
July 1953	115.4	100.0			
July 1954	116.2	100.7			
July 1955	116.0	100.5	+		
July 1956	118.5	102.7	8.1%		
July 1957	121.9	105.6			
July 1958	124.7	108.1			
July 1959	125.9	109.1			
July 1960	127.5	110.5			
July 1961	129.0	111.8			
July 1962	131.0	113.5			
July 1963	133.5	115.6		100.0	
July 1964	136.2	118.0		102.0	+
July 1965	139.5	120.9		104.5	8.1%
July 1966	144.3	125.0		108.1	
Sept. 1966	145.1	125.7		108.7	
Oct. 1966	145.3	125.9		108.8	
Nov. 1966	145.5	126.1		109.0	
Dec. 1966	145.9	126.4		109.3	

In his book, Public Sector Pensions,[2] Gerald Rhodes mentions that "The basic principle was stated by Mr. Amory when Chancellor of the Exchequer to be that 'pensions are directly related to length of service and pay on retirement and, once awarded, are not normally altered'." This statement was made in the British House of Commons on June 2, 1959. Mr. Rhodes continues: "Such a principle presupposes that in the normal state of affairs the value of money remains stable or at least declines only slowly, but certainly in the period since the war this assumption has not proved very satisfactory to employees in practice. Adjustments have been made

(2) Published for the Royal Institute of Public Administration by the University of Toronto Press, 1965.

from time to time to pensions being paid from central and local government schemes by means of a series of specific Pensions (Increase) Acts. These have tended to become more extensive in scope, perhaps under the realization that inflation, if not a normal state of affairs, is at least not quite so abnormal as had been assumed."

Mr. Rhodes also states: "There are other ways too in which the problem might be tackled, e.g. by linking pensions to a cost-of-living index or to an index of wage or salary rates. Either of these could be done in conjunction with a regular review of pensions."

The Effect on Annuities of Salary and Cost-of-Living Increases

We now invite your attention to Charts 1, 2, 3 and 4, the supporting data for which appear in Appendix A to this brief. These charts plot the movement of the consumer price index (C.P.I.) using the years 1949, 1953, 1958 and 1963, respectively, as base years. In other words, for each of the base years the index is taken as 100.0. The C.P.I. curve, therefore, shows the percentage increases in the C.P.I. from the base year to 1966. Also on these charts, and giving all indices a value of 100.0 for each of the base years, are shown the movement to date of the following indices:

FSI = Federal Salaries Index, which is related to average weekly salaries of salaried employees in the federal government as at December 31st of each year (except 1966, for which June is the last month for which data are available);

IRFS = Index of Real Federal Salaries, which is determined by dividing the Federal Salary Index by the concurrent Consumer Price Index, thus removing the influence of the latter to provide an index of the real value of federal salaries;

AI = Annuity Index, which, of course, remains at 100.0 in terms of the year in which an annuity commenced;

IRAV = Index of Real Annuity Value, which is determined by dividing the AI (i.e. 100.0) by the concurrent Consumer Price Index. Because the CPI continues to rise, the IRAV is always less than 100.0 and indicates the progressively eroding effect which the increasing living costs have on fixed annuities income.

It is obvious from these charts that, in order for an annuitant to hold his own (that is, retain the purchasing power which he hoped his annuity would continue to have), his annuity must be increased in direct relation to increases in the Consumer Price Index. It is also obvious that if an annuitant is to benefit from general economic improvement (that is, increased productivity), a higher factor than the cost of living index must be applied in order to close the gap between the fixed annuity index of 100.0 and the index of real federal salaries. (We will bring to your attention later in this presentation that such a practice has recently been adopted by the government of the Federal Republic of Germany).

The years 1949, 1953, 1958 and 1963 were selected for the following reasons:

1949 - this is the base year for the Consumer Price Index;

1953 - there have been no increases in annuities which commenced during and since 1953;

1958 - this is the year in which the government approved increases in certain (but not all) annuities which commenced prior to

1953, based in part on an increase of 8.1% in the Consumer Price Index from 1949 to 1953;

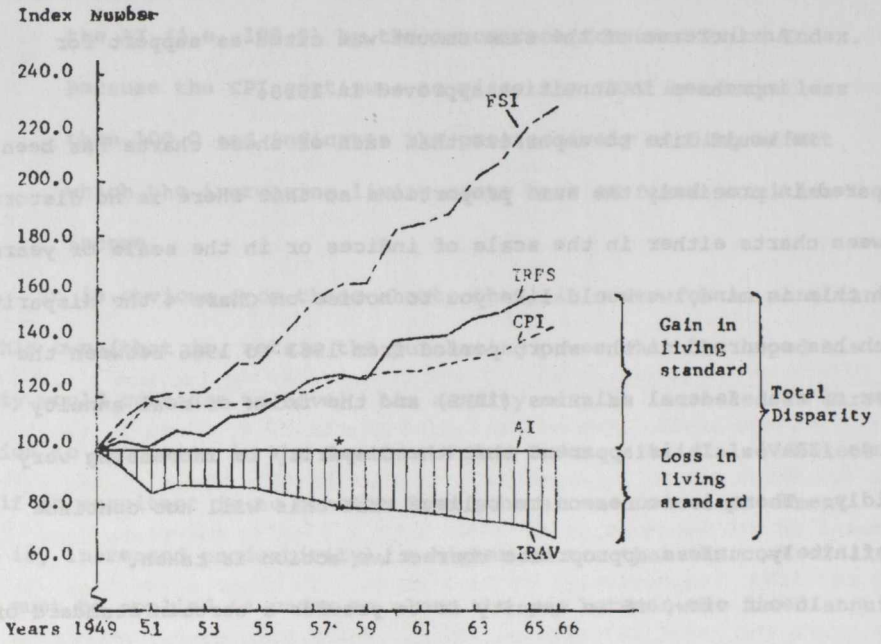
1963 - from 1963 to 1966 the Consumer Price Index had risen 8.1%. An increase of the same amount was cited as support for increases in annuities approved in 1958.

We would like to emphasize that each of these charts has been prepared in precisely the same proportions so that there is no distortion between charts either in the scale of indices or in the scale of years. With this in mind, we would like you to notice on Chart 4 the disparity which has occurred in the short period from 1963 to 1966 between the index of real federal salaries (IRFS) and the index of real annuity values (IRAV). It is apparent that the disparity is increasing very rapidly. There is no reason to believe that this will not continue indefinitely, unless appropriate corrective action is taken.

In our view, if an annuity is to provide a certain standard of living, it is unrealistic and does not make sense to guarantee that standard only at the moment of superannuation. And yet, this is what is occurring, as we have endeavoured to demonstrate graphically in the charts which follow.

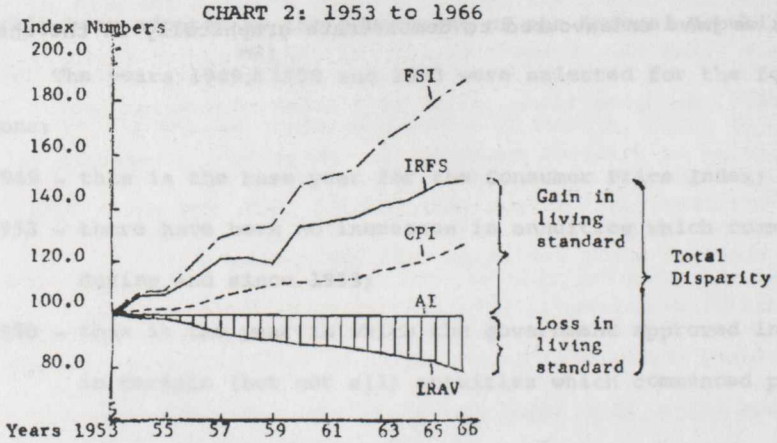
Consumer Price Indices (CPI), Federal (Government) Salaries Indices (FSI), Indices of Real Federal (Government) Salaries (IRFS), Annuity Index (AI), and Indices of Real Annuity Values (IRAV)

CHART 1: 1949 to 1966



* From 1958 to 1966 AI and IRAV pertain only to annuities which were not increased effective July 1, 1958.

CHART 2: 1953 to 1966



Source: Dominion Bureau of Statistics and Pay Research Bureau

Consumer Price Indices (CPI), Federal (Government) Salaries Indices (FSI), Indices of Real Federal (Government) Salaries (IRFS), Annuity Index (AI), and Indices of Real Annuity Values (IRAV)

CHART 3: 1958 to 1966

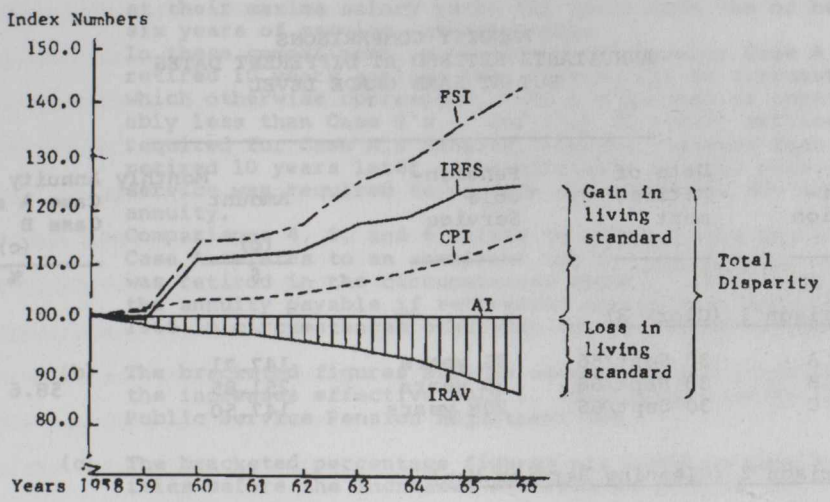
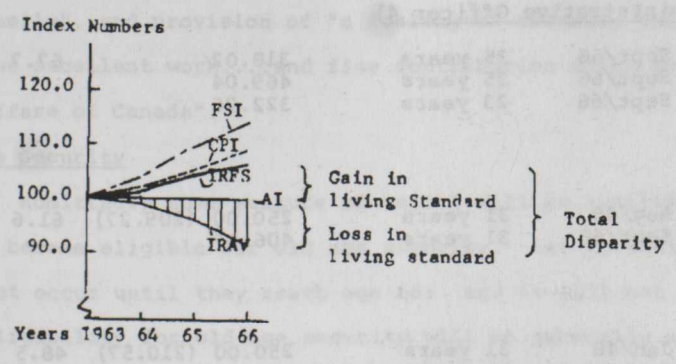


CHART 4: 1963 to 1966



Source: Dominion Bureau of Statistics and Pay Research Bureau

The effect which rising costs of living and increasing salaries have had on annuities placed in payment at different times, but in otherwise corresponding circumstances, is shown in the following comparisons.

ANNUITY COMPARISONS
ANNUITANTS RETIRED AT DIFFERENT DATES
BUT AT SAME GRADE LEVEL

Case Identification (a)	Date of Retirement	Pensionable Service	Monthly Annuity Amount (b) $	Case A as % of Case B (c) %
Comparison 1 (Clerk 3)				
Case A	30 Sept/56	35 years	147.71	
Case B	30 Sept/66	35 years	251.85	58.6
Case C	30 Sept/66	20½ years	147.50	
Comparison 2 (Cleaning Service Man)				
Case A	30 Sept/56	35 years	135.45	63.5
Case B	30 Sept/66	35 years	213.41	
Case C	30 Sept/66	22 years	134.75	
Comparison 3 (Administrative Officer 4)				
Case A	30 Sept/56	35 years	318.02	67.7
Case B	30 Sept/66	35 years	469.04	
Case C	30 Sept/66	23 years	322.26	
Comparison 4				
Case A	18 Aug/45	31 years	250.00 (209.27)	61.6 (51.5)
Case B	30 Sept/66	31 years	406.07	
Comparison 5				
Case A	31 Jan/46	31 years	250.00 (210.57)	48.5 (40.8)
Case B	30 Sept/66	31 years	515.87	

Comparison 6

Case A	5 May/51	20 years	110.73	50.1
Case B	30 Sept/66	20 years	220.92	

Notes : (a) Comparisons 1, 2 and 3 relate to typical civil service annuitants, and are based on the employees having been at their maxima salary rates for their last ten or best six years of service, as applicable.
In these comparisons, note that : (i) because Case A retired 10 years earlier than Case B, but in circumstances which otherwise correspond, Case A's annuity is considerably less than Case B's ; and (ii) 35 years' service was required for Case A's annuity, whereas, because Case C retired 10 years later, a considerably shorter period of service was required to produce approximately the same annuity.
Comparisons 4, 5, and 6 relate to armed forces annuitants. Case A relates to an annuitant who is living today and who was retired in the circumstances shown. Case B indicates the annuity payable if retirement occurred on September 30, 1966 in circumstances otherwise corresponding to Case A.

(b) The bracketed figures are the amounts of annuities before the increases effective July 1, 1958 authorized by the Public Service Pension Adjustment Act.

(c) The bracketed percentage figures are based on Case A annuities before the increases referred to in Note (b).

The above examples give a somewhat hollow ring to the assurances of "benefits....building up for your own future and for the protection of your family", and provision of "a feeling of security which is in keeping with the excellent work....and fine contribution which you are making to the welfare of Canada".

Old Age Security.

Admittedly some measure of relief will be available when annuitants become eligible for old age security. At present, however, this will not occur until they reach age 68; and it will not be until 1970 that eligibility for old age security will be generally established at age 65. Regardless of what may be done for these annuitants in the intervening years, there is no sound reason why old age security, which itself is an earned, contributory entitlement, should be regarded as an offset against the deterioration which has occurred in another contri-

butory entitlement earned by retired public servants.

In addition, the fact should not be overlooked that Canadian men tend to be older than their wives -- 1963 statistics indicate an average age difference of three years (3). Also, the age at death of the average Canadian male is four years less than that of the average Canadian female (male - 60.5 years ; female - 64.1 years) (4). If a public servant dies at age 60, and assuming a three-year age difference, his 57-year-old widow, who at that age has a life expectancy of approximately 22 years (5), will have no entitlement to old age security for eight years and is left with an annuity income only one-half of what her deceased husband was receiving or would have received. And, as already demonstrated, the real value of the reduced annuity deteriorates rapidly because of increased living costs. If the widow is a few years younger, the situation is even worse, bearing in mind that the occupation of many widows for many years has been simply that of housewife. They may have lost any marketable labour skills they once had, and consequently are ill-equipped to earn supplementary income until becoming eligible for old age security at age 65.

Tax Escalation

Let us not forget that, in addition to the eroding effect of increasing living costs on annuities, in 1964 there was a 33-1/3% increase (i.e. from 3% to 4%) in the contributions made by Canadians for old age security. Also, aside from income and old age security taxes, there have been significant increases in taxes generally at all levels of government, for example, municipal property taxes, provincial

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(3) Canada Year Book, 1966, p. 277
(4) Idem p. 260
(5) Idem p. 280

retail sales taxes, federal sales tax, etc., the sum total of which has placed an extremely heavy tax burden on persons whose major source of income is a fixed annuity and for whom such taxes are almost completely regressive.

The Public Service Alliance also feels that, in the case of a deceased contributor whose survivor is entitled to an annuity under the Public Service Superannuation Act, there should not be included in the aggregate net value of the estate for the purpose of determining estate tax liability, the commuted value of future annuity entitlements. We are aware of Section 30 (1) (ac) of the Act and Regulation 32 which permit payment from the Superannuation Account of that portion of the estate tax liability which is attributable to future annuity benefits, subject,of course, to future annuity payments being reduced until the Superannuation Account has recouped the amount paid for estate tax. Nevertheless, since the annuity payments themselves are subject to income tax, we feel that there should be no question of estate tax liability on the commuted value of future annuity payments.

Precedents Established Elsewhere

The cases outlined below indicate a trend, both in the public and private sectors, towards acceptance by employers of a moral obligation to ensure that the measure of security earned through years of loyal and devoted service is not eroded by what some refer to as creeping inflation, but which, indeed, in the past few years, has accelerated from the "creeping" to the "running" stage. The Public Service Alliance earnestly hopes that this committee will see fit to recommend an appropriate remedy now, rather than wait until inflation breaks into a "gallop" before taking steps to alleviate the situation in which retired public servants now find themselves.

(a) Public Sector

On November 19, 1965, the Civil Service Federation provided the government with information concerning the practice of the United Kingdom Government of escalating pensions already in payment. Briefly, the situation in the United Kingdom is that pensions placed in payment on or before April 1st, 1957, were increased by 16%. For pensions placed in payment during each subsequent year, the percentage amount of increase is 2% less than for the preceding year (e.g. 1958 - 14%, 1959 - 12%, etc.), so that for pensions placed in payment between April 2nd, 1963 and April 1st, 1964, the increase is 2% only.

In the United States, legislation was enacted in 1963 which provides that, effective January 1964, whenever the cost of living goes up by at least 3% over the Consumer Price Index for the month used as a basis for the most recent cost-of-living annuity increase, and stays up by at least 3% for three consecutive months, an increase in annuities equal to the percentage rise in the Consumer Price Index will be granted automatically. We emphasize and commend the automatic feature of this arrangement.

It is also interesting to note that under the Superannuation Act of Australia, the Superannuation Fund is administered by a Superannuation Board which is a corporate body having statutory authority to invest the Superannuation Fund within prescribed limits. It is also of interest to note that the 43rd Annual Report of the Australian Superannuation Board reveals that for the fiscal year 1964-65, "The effective rate of interest earned by the Fund during the year was £5 10s 7d per centum (i.e. slightly more than 5.5%)* compared with £5 9s 9d per centum (i.e. slightly less than 5.5%)* in the previous year."

Additional information concerning the superannuation policy of the Government of the Commonwealth of Australia appears in Appendix B to this brief. Suffice it to say here that it is apparent that the discretion

* Bracketed phrasing inserted by P S A C.

permitted the Australian Superannuation Board to invest funds, not only relieves the tax payer of the burden of payments for actuarial liability adjustment, but also permits enhancement of benefits already in payment. In other words, such benefits are not permanently "crystallized" at the time of retirement, as is the case in Canada.

The Public Service Alliance believes that if the Public Service Superannuation Fund possessed the ability to invest funds, the fund could earn a more realistic rate of return than the 4% now paid by the government. We will come back to this point later.

This Committee will be interested to know that the Government of the Federal Republic of Germany has recently taken steps to improve retirement pensions for public servants. This information was gleaned from the November/December, 1966 newsletter of the Public Services International, London.

"GERMANY - Improved Retirement Pensions for Public Servants.

In October of this year the Federal German Ministry of Finance approved the new Constitution of the Federal and Provincial Retirement Pension Institute. This means that more than 1,300,000 manual and non-manual employees of the Federal and Provincial Governments and of municipalities will enjoy much better conditions as regards retirement pensions. This settlement was the result of four years of negotiation and it represents one of the greatest successes of the German Union, Gewerkschaft, OeTV (6), in the social field. It provides, after 35 years' employment, for a pension amounting to 75%

(6) Gewerkschaft OeTV = Oeffentlicher Dienst, Transport und Verkehr (i.e. Public Service, Transport and Trade & Commerce Union)

of the last earnings (automatically adjusted in proportion to the current salary of the grade concerned)*. The Union emphasises that such an innovation in retirement provisions is the topical answer to the problem of old people in a modern industrial society."

* Underlining is by P S A C

(b) Private Sector

On November 1st, 1965, the Civil Service Federation forwarded to the Prime Minister a brief on this subject. Among other things the brief outlined the action taken by General Motors of Canada to alleviate the situation resulting from loss of purchasing power of pensions. Details of the General Motors action are contained in Appendix C to this brief. Suffice it to say at this point that the increases range in the order of 50 to 60 per cent, and that since June 1950 General Motors has increased pensions from $1.50 per month for each year of service to a possible maximum of $4.25 per month for each year of service. This difference of $2.75 per month represents an increase of approximately 183%.

The principle now established has also been honoured in the case of a more recently negotiated agreement between the United Packinghouse, Food and Allied Workers and Canada Packers Limited. Although final details of this settlement are not yet known, the company has accepted the principle of increasing pensions already in payment and has committed a definite sume of money for this purpose. One formula suggested would give a supplement which is 2% greater for each year prior to 1966, but, as far as can be ascertained at this time, details have not yet been negotiated.

Some information has also come to hand concerning two additional cases in which industrial companies have accepted this recently established principle. Dehavilland Aircraft of Canada Limited has signed an agree-

ment with the United Auto Workers extending to pensions already in payment the increased pension benefit now applicable to pensions currently placed in payment. Also, the agreement between the United Steelworkers of America and the Steel Company of Canada provides for an across-the-board increase of $20.00 per month in pensions in payment.

The Public Service Superannuation Account

We would like now to make some observations concerning the Public Service Superannuation Account. We sometimes wonder whether the government is not overly concerned about the maintenance of the Superannuation Account on a full actuarial basis.

As at March 31st, 1966 (the last date for which official figures are available), the balance in the account was well over 2 billions of dollars. An examination of the balance sheet for each of the last four fiscal years reveals that the interest alone has exceeded total disbursements. In fact, for the years ending March 31st, 1963, and 1964, the employees' contributions alone exceeded the total disbursements, and for 1965 and 1966 employees' contributions were only slightly less than total disbursements.

There are precedents for paying government pensions on a pay-as-you-go basis. While the Public Service Alliance is not necessarily recommending such a course, it does submit that the senior government of the nation, as an employer, has no need for funding the superannuation account on a full actuarial basis, especially when we are experiencing an extended period in which large numbers of present-day annuitants are in dire need of additional income if they are to maintain some semblance of the first-class citizenship which they have been led to believe they justly deserve. In any event, if funding on a full actuarial basis is necessary, the Public Service Alliance submits that the rate of interest

paid by the Government for its use of superannuation funds should be a realistic rate in line with the experience of private superannuation funds, and certainly not less than the rate payable to subscribers to Canada Savings Bonds. The extra income to the fund from such an increase would be more than sufficient to finance increases in annuities which would at least compensate for increases in the cost of living. It might even permit annuities to be increased at a rate comparable to increases in real salaries paid to public servants. For example, the 4% interest credited by the government for the fiscal year ending March 31st, 1966 amounted to slightly less than 90 millions of dollars ($89,499,085). Incidentally, this is some 20 millions of dollars more than the total disbursements ($69,906,914) for that year. If a more realistic interest rate of 5% had been used, the fund would have earned an additional 22½ millions of dollars. This additional interest represents 38.8% of the annuity benefits paid during the 1965-66 fiscal year ($57,674,369). While the Public Service Alliance is not recommending across-the-board increases of flat amounts, this additional interest income represents $48.64 a month for each of the 30,923 contributors on pension, and $24.32 a month for each of the 15,252 widows on pension, as at March 31st, 1966.

Summary, Recommendations, and Conclusion

The Public Service Alliance of Canada feels that the Government, as an employer, has a definite, moral obligation, not only to further alleviate the situation in respect of annuitants who retired prior to 1953, but also to make provision for the periodic escalation of annuities placed in payment before, during, and since 1953. Having regard to the dignity of retired public servants and the fact that their annuities represent an entitlement which should permit them to maintain a standard

of living commensurate with such benefit at the time of retirement, there should be no question of a means test and no appearance of pension increases being social welfare. The Public Service Alliance can not accept the principle that Old Age Security should be applied as an offset against the deterioration which, as a result of chronic inflation, has occurred and will continue to occur, in the real value of annuities. Not only is this not the purpose of Old Age Security, which, like the public servant's annuity, is an earned, contributory entitlement ; but also, in many cases, the eroding effects of inflation reduce the real value of annuities long before annuitants become eligible for Old Age Security.

Accordingly, the Public Service Alliance recommends that :

1. all annuities which are based on average annual salaries during the last ten years of service be recomputed on the basis of average annual salaries during the best continuous six years of service;
2. in all cases where, since the date on which an annuity commenced, living costs have increased by at least three per cent (as reflected by the Consumer Price Index for Canada), and such increase of at least three per cent has persisted for at least three months, the annuity be increased by the percentage increase in the Consumer Price Index for Canada since the date on which the annuity commenced;
3. in future, annuities be increased automatically by the percentage increase in the Consumer Price Index when living costs (as reflected by the Consumer Price Index for Canada) increase by at least three per cent since the effective date of the last annuity increase, and

such increase of at least three per cent in living costs persists for three consecutive months;

4. this committee consider the feasibility of additional increases in annuities commensurate with productivity increases as reflected in the index of federal government salaries;

5. that the annual rate at which interest is paid by the government on the balance in the Public Service Superannuation Account be increased to not less than the yield rate for Canada Savings Bonds, and in any event that such annual rate be not less than 5% and that the resulting additional income to the Superannuation Account be used to increase annuities as recommended in this brief;

6. the Public Service Superannuation Act be amended to include a provision (similar to that contained in the War Veterans' Allowance Act) which would permit continuation of payment of the full annuity entitlement for one year after the death of an annuitant; such payment to be made to or in respect of the survivors of the annuitant to assist in their rehabilitation, relocation and other re-adjustments following the annuitant's death; and

7. the Estate Tax Act (SC 1958 c.29) be amended to exclude from the aggregate net value of an estate the commuted value of survivor benefits payable on an annuity basis and related to a pension plan.

The Public Service Alliance sincerely believes that there is a serious and immediate need to take action to improve the position of all former public servants now receiving annuities. The Alliance, therefore, earnestly asks this committee to use its influence to persuade the Government to introduce legislation which will implement the above recommendations.

APPENDIX A

Consumer Price Indices (CPI), Federal (Government) Salaries Indices (FSI), Indices of Real Federal (Government) Salaries (IRFS), Annuity Index (AI), and Indices of Real Annuity Values (IRAV), by years 1949 to 1966.

	1949 = 100					1953 = 100					1958 = 100					1963 = 100				
Year	CPI	FSI	IRFS (a)	AI	IRAV (b)	CPI	FSI	IRFS (a)	AI	IRAV (b)	CPI	FSI	IRFS (a)	AI	IRAV (b)	CPI	FSI	IRFS (a)	AI	IRAV (b)
1949	100·0	100·0	100·0	100·0	100·0															
1950	106·6	112·1	104·1	100·0	93·8															
1951	118·1	119·3	100·9	100·0	84·7															
1952	115·8	120·3	106·8	100·0	86·4															
1953	115·8	121·6	105·1	100·0	86·4	100.0	100·0	100·0	100·0	100·0										
1954	116·6	131·8	113·2	100·0	85·8	100·7	108·4	107·7	100·0	99·3										
1955	116·9	133·3	114·1	100·0	85·5	100·9	109·6	108·6	100·0	99·1										
1956	120·4	144·4	120·0	100·0	83·1	104·0	118·8	114·2	100·0	96·2										
1957	123·1	156·4	126·7	100·0	81·2	106·3	128·6	120·6	100·0	94·1										
1958	126·2	160·5	127·2	100·0	79·3	109·0	132·0	121·0	100·0	91·7	100·0	100·0	100·0	100·0	100·0					
1959	127·9	162·5	125·8	100·0	78·2	110·4	133·6	119·7	100·0	90·6	101·3	101·2	98·9	100·0	98·7					
1960	129·6	181·5	140·5	100·0	77·2	111·9	149·3	133·7	100·0	89·4	102·7	113·1	110·1	100·0	97·4					
1961	129·8	184·1	141·9	100·0	77·0	112·1	151·4	135·0	100·0	89·2	102·8	114·7	111·6	100·0	97·3					
1962	131·9	188·4	142·7	100·0	75·8	113·9	154·9	135·8	100·0	87·8	104·5	117·4	112·3	100·0	95·7					
1963	134·2	200·6	149·5	100·0	74·5	115·9	165·0	142·2	100·0	86·3	106·3	125·0	117·6	100·0	94·1	100·0	100·0	100·0	100·0	100·0
1964	136·8	207·0	151·3	100·0	73·1	118·1	170·2	143·9	100·0	84·7	108·3	129·0	119·1	100·0	92·3	101·9	103·2	101·3	100·0	98·1
1965	140·8	220·5	156·6	100·0	71·0	121·6	181·3	149·0	100·0	82·2	111·6	137·3	123·0	100·0	89·6	105·0	109·9	104·7	100·0	95·3
1966	145·9	(c)	---	100·0	68·5	126·0	(c)	---	100·0	79·4	115·6	(c)	---	100·0	86·5	108·7	(c)	---	100·0	92·0
June 1966	143·8	228·1	158·6	---	---	124·2	187·5	150·9	---	---	113·9	142·0	124·7	---	---	107·1	113·6	106·1	---	---

Sources: Dominion Bureau of Statistics, and Pay Research Bureau.

Notes: (a) IRFS determined by dividing FSI by CPI.
(b) IRAV determined by dividing AI by CPI.
(c) December 1966 data are not yet available.

Additional Information Concerning the Australian Commonwealth Superannuation Fund

The 43rd Annual Report of the Australian Superannuation Board reports that, as a result of the 8th quinquennial investigation of the Fund, "The Actuary's report, together with sustained growth of the Fund, led to a review by the Government of policy concerning rates of contribution and bases for distribution of surplus. As a consequence, a Ministerial Statement was presented to the Parliament on 25th March, 1965, which set out the government's intention to provide for:

- New rates of contribution from 1st July, 1962;
- Repayment to eligible contributors of excess contributions paid on and after 1st July, 1962 together with interest;
- Recalculation of the surplus previously reported at 30th June, 1962 for distribution together with interest from 1st July, 1962 to eligible contributors and pensioners".

The Commonwealth of Australia Superannuation Act 1965 (Part III) prescribes that; "the actuary shall:

(a) calculate the amount (in this Part referred to as "the surplus") by what, in his opinion, the Superannuate Fund was, at the end of the quinquennium, more than sufficient to provide for the benefits that were a charge upon the Fund as at that time;

(b) calculate the amount of the surplus equal to the amounts that by virtue of this Act, are, or may be, required to be paid from the Provident Account in respect of the quinquennium;

(c) calculate the amount of the remainder of the surplus that is available for distribution to eligible contributors and the amount of the remainder of the surplus that is available for distribution to eligible pensioners;

(d) notify the Treasurer in writing of the amounts calculated."

Section 62 of the Australian Act prescribes that; "The amount of the surplus available for distribution to eligible pensioners shall be distributed among those pensioners as the Treasurer, after receiving advice from the actuary, determines.". Section 62 then refers to actuarial principles and practice and the relevant matters which the actuary shall take into account, including "the interest earned by the assets of the Fund during the quinquennium", in furnishing advice as to the amount which can be distributed.

While there is no guarantee in the Commonwealth of Australia Superannuation Act that the quinquennial investigation will invariably result in pensioners receiving supplementary financial benefits every five years, it is apparent from the 43rd Annual Report that interest earned through investment is considerably more favourable than the four percent rate used in Canada.

(Note: Underlining in the above quotations in by the Public Service Alliance).

APPENDIX C

ADDITIONAL INFORMATION CONCERNING
STEPS TAKEN BY
GENERAL MOTORS OF CANADA LIMITED
TO INCREASE PENSIONS OF
RETIRED EMPLOYEES

General Motors of Canada Ltd. has taken definite steps to compensate retired employees for losses in the purchasing power of their pensions through increased living costs. This corporation amended its pension plan five times in the past fifteen years: in 1953, 1955, 1959, 1962 and 1964. The 1964 revisions provided for increasingly higher monthly pension adjustments. In brief the benefits payable are as follows:

(i) Those retired before November 1, 1958: the monthly pension between the period November 1, 1958 and March 1, 1965 shall be $2.35 per month multiplied by each year of credited service, and on or after March 1, 1965, the monthly pension shall be $3.80 per month multiplied by each year of credited service.

(ii) Those retired between November 1, 1958 and November 1, 1961: the monthly pensions up to March 1, 1965 shall be the addition of the following:

1. $2.40 per month multiplied by each year of credited service accrued prior to January 1, 1958;
2. $2.42 per month multiplied by the credited service accrued during the year 1958 and
3. $2.50 per month multiplied by each year of credited service accrued after December 31, 1958.

The monthly pension after March 1, 1965 shall be the addition of the following:

1. $3.85 per month multiplied by each year of credited service accrued prior to January 1, 1958;
2. $3.87 per month multiplied by the credited service accrued during the year 1958 and
3. $3.95 per month multiplied by each year of credited service accrued after December 31, 1958.

Thus, employees in these two groups received on March 1, 1965, a pension adjustment of $1.45 per month for each year of credited service or approximately 60%.

(iii) Those retired on or after November 1, 1961: the monthly pension for the period March 1, 1962 up to March 1, 1965 shall be $2.80 per month multiplied by each year of credited service; the monthly pension on or after March 1, 1965 shall be $4.25 per month multiplied by each year of credited service.

Thus, employees in this group received a pension adjustment of $1.45 or approximately 52%.

It should be noted that pensions in General Motors have increased since June 1950 from $1.50 per month for each year of service to a possible maximum of $4.25 per month for each year of service, an increase of $2.75 per month for each year of service, or approximately 183%.

First Session—Twenty-seventh Parliament
1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

No. 3

TUESDAY, MARCH 28, 1967

Respecting

PENSIONS

WITNESSES:

Chief Superintendent D. B. Usborne, Departmental Secretary, Royal Canadian Mounted Police; Mr. D. N. Cassidy, Dominion President, The Royal Canadian Mounted Police Veterans' Association; Dr. J. C. Kenell, Assistant Deputy Minister (Finance); Lt. Col. L. L. England, Office of the Judge Advocate General, Department of National Defence; Mr. D. M. Baker, Secretary-Treasurer, Association of Canadian Pension Consultants; Mr. William G. Gooder, consultant; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

Copies and complete sets are available to the public by subscription to the Queen's Printer. Cost varies according to Committees.

Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 32

TUESDAY, MARCH 14, 1967

Respecting

PENSIONS

WITNESSES:

Chief Superintendent P. R. Usborne, Departmental Secretary, *Royal Canadian Mounted Police;* Mr. D. N. Cassidy, Dominion President, *The Royal Canadian Mounted Police Veterans' Association;* Dr. J. C. Arnell, Assistant Deputy Minister/Finance; Lt. Col. L. L. England, Office of the Judge Advocate General, *Department of National Defence;* Mr. D. H. Baker, Secretary-Treasurer, *Association of Canadian Forces Annuitants;* Mr. William C. Cooper, pensioner; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, *Department of Finance.*

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25939—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Berger,	Mr. Madill,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Orange,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Sherman,
Mr. Hastings,	Mr. Éthier,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Tardif,
Mr. MacKenzie,	Mr. Hymmen,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Knowles,	Mr. Walker—24.
	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, March 14, 1967.

(53)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.15 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Emard, Knowles, Orange, Richard, Walker (7).

In attendance: Chief Superintendent P. R. Usborne, Departmental Secretary, Royal Canadian Mounted Police; Mr. D. N. Cassidy, Dominion President, The Royal Canadian Mounted Police Veterans' Association; Dr. J. C. Arnell, Assistant Deputy Minister/Finance; Lt. Col. L. L. England, Office of the Judge Advocate General, Department of National Defence; Mr. D. H. Baker, Secretary-Treasurer, Association of Canadian Forces Annuitants; Mr. William C. Cooper, pensioner; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Committee heard and questioned representatives of the Royal Canadian Mounted Police, the RCMP Veterans' Association, the Department of National Defence, the Association of Canadian Forces Annuitants and a private individual on the question of pensions paid to retired members of the RCMP and Armed Forces.

The Committee agreed to print the following as appendices to the proceedings:

R.C.M. Police Pensions—(*See Appendix AA*)

Brief re Increase in Pensions for RCMP Pensioners and Widows —(*See Appendix BB*)

Statistical Tables for the Canadian Forces Superannuation Act and Defence Services Pension Continuation Act—(*See Appendix CC*)

At 11.50 a.m., the Committee continued *in camera* to discuss procedure for upcoming meetings.

At 12.07 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

25939—1½

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, March 14, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning the Committee will hear the presentation of briefs from the Royal Canadian Mounted Police and the National Defence employees.

Our first witness is Chief Superintendent Usborne of the Royal Canadian Mounted Police.

Mr. P. R. USBORNE (*Chief Superintendent Royal Canadian Mounted Police*): Mr. Chairman, Senators, and members of the House of Commons, I have just prepared a brief on the different pension provisions applicable to retired members of the mounted police.

In brief, there are two pension acts. The first one came into force in 1889, and is still in effect. It applies to those members of the force who were engaged prior to 1949, and who did not elect to come under our new pension act which is now applicable to most of the members of the force.

The RCMP Superannuation Act, which came into force in 1949, requires members to contribute 6 per cent of their pay for pension purposes; it is 5 per cent in the case of females.

These pensions are based on the six best consecutive years of service and are calculated at the rate of 2 per cent for each year of service, not exceeding 35 years. Contributors may elect to count service in the civil service, the armed forces, in provincial police forces and in certain other government departments and provincial departments.

A contributor who is compulsorily retired having reached the age limit is entitled to pension provided he had 10 years' service in the force. If he becomes disabled he is also entitled to a pension after ten years, but in this case it is just pensionable service, not service in the force.

Voluntary retirement, other than by a commissioned officer, may take place after 20 years on a reduced basis, and upon completing 25 years, without any reduction in the pension.

An officer may voluntarily retire with a deferred pension or an annual allowance which is payable at age 60 if he has completed 20 years' service in the force. If he has completed 35 years he can retire voluntarily with a full pension.

We have provision for members who may be compulsorily retired for misconduct, or to promote economy or efficiency, and these members may be granted a pension at the discretion of the Treasury Board.

Under the superannuation act, widows are entitled to one-half of the pension received by the member, and allowances are paid to children on the

same basis as under the Public Service Superannuation act; one-fifth of the widow's pension is payable for each child up to a certain maximum.

In addition to the service pension under the RCMP Superannuation Act, a member is entitled to a disability pension, and this pension is payable notwithstanding the length of service. It is possible that a member may be injured in training after only a week. He would get a disability pension if he was unfit for service and if it was caused as a result of his service in the force. This pension is in addition to any, what we call, service pension that may be granted.

Prior to 1949, members were subject to the pension continuation act. In 1949, the new act was proclaimed and members had an election to come under the superannuation act and contribute for their pension. This pension continuation act, rather surprisingly, is a free pension and no contributions are required from the members of the force; in addition, no part of the pension under Part III of this Act is payable to a widow of a non-commissioned officer or constable.

The officer under the RCMP Continuation Act contribute 5 per cent of their pay and their pensions are calculated on one-fiftieth of the pay of their rank at the date of their retirement for each completed year of service, up to a maximum of 35 years, or 70 per cent.

An officer is compulsorily retired upon reaching the age limit or upon completing 35 years' service, whichever comes first. He may, however, be compulsorily retired prior to reaching the age limit or completion of maximum service. In these cases, he normally gets a pension if he is retired for reasons other than misconduct or inefficiency.

An officer can voluntarily retire after 35 years, and is entitled to the full pension. He may voluntarily retire after 25 years, but in this case his pension is reduced by 20 per cent. The same would aply if he voluntarily retired at 30 years, under this act. It would still be 20 per cent reduction; or at 34 years, it would still be 20 per cent.

The widow of an officer is entitled to one-half his pension, and we have a small allowance for each child. It varies from $60 a year to $80 a year in the case of children, under this act. I think one of the reasons for the small pension for the children is that the pension to the officer is quite good.

Non-commissioned officers and constables are not required to contribute for their pension, as I stated, and, in addition, no part of this pension is payable to the widow. It dies with the man. A member in this category may voluntarily retire if he has completed 20 years' service; and in this case he gets 20/50ths of his annual pay over the last year. Then from 21 to 24 years they get an additional 2/50ths for each year of service. So that at 25 years the pension is 60 per cent of the pay received over the last year of service. Upon completion of 25 years, they are entitled to 30/50ths plus 1/50th for each additional year, the pension not to exceed 2/3 of the pay and allowances during the last year of service.

Should a non-commissioned officer or constable reach the age limit, or be invalided, he is entitled to a pension if he has completed 10 years or more of service.

Under this Pension Continuation Act there is Part IV, namely, the Widows and Orphans Pension Fund. This part came into force in 1934. Prior to that we

had no pensions to widows and children unless the member was killed on duty; there was nothing. In 1934 this part came into effect, and provides for a pension to a widow and an annuity to the children of those members who joined between 1934 and 1949 when the new act came in.

In addition, those non-commissioned officers and constables who joined prior to 1934 could elect to obtain a pension for their widow and children. A deduction of 5 per cent is made from the pay of the member concerned, and, in addition, he may authorize a supplementary deduction from his pay of up to 1 per cent; and this provides for an increase in this pension. No contribution is made by the government for these widows' pensions, except that the government does pay interest on the money in this Widows and Orphans Pension Fund.

Under the RCM Police Pension Continuation Act, section 64 provides for a pension to the widow of an officer who loses his life in the performance of duty. This pension is equal to one-half of the pay received by the officer at the time of his death. At the present time I believe there are only two former commissioned officers whose widows are receiving pensions of this type.

Section 78 applies to non-commissioned officers and constables who joined prior to 1949, and provides for a pension to the widow and a compassionate allowance to each of the children of a non-commissioned officer or constable who loses his life in the performance of duty. This pension is equal to one-half of the pay and allowances authorized for pension purposes, namely, the pay over the last year of service.

The Widows and Orphans Pension Fund for non-commissioned officers and constables killed on duty is in addition to the pension that the member has purchased under the Widows and Orphans Pension Fund. It is not in addition to the officers' widows' pension.

Appendix A shows the table of compulsory retirement. The age limit for the Commissioner is 62 years: for the Deputy Commissioner, 61 years; and so on down.

We also compulsorily retire officers upon completing 35 years' service, whether or not they have reached the age limit. We do have officers who perhaps joined at age 17. They are compulsorily retired at 52, unless they are granted an extension. Sergeants and other ranks are likewise compulsorily retired upon serving 35 years, or at the age limit, whichever comes first.

Appendix B is RCMP Pension Continuation Act, Part II. That is the commissioned officers' pensions for which they contribute 5 per cent. This, as I mentioned earlier, applies to persons who joined the force prior to 1949.

There are only 165 officers who are presently contributing; and in Part III there are only 561 non-commissioned officers and constables still subject to this old part. All those non-commissioned officers and constables have the Widows and Orphans Pension Fund for which they contribute and the government does not.

At the present time, under the old act there are 100 officers and 1782 non-commissioned officers and constables receiving pensions. In addition, there are 66 widows of commissioned officers and 79 widows of non-commissioned officers and constables. That 79 is not a true figure of the number of widows

remaining. It is only those widows who are receiving pensions under this part IV. There are many other widows, a large number of whom receive no pension whatsoever under this old act, because prior to 1934 there was no pension for a widow. This 79 would cover those members who joined between 1934 and 1949.

There are 12 children of officers receiving pensions, and 58 children of other ranks. Receiving pensions because their husbands were killed on duty are 2 widows of officers and 11 widows of non-commissioned officers and constables.

The government, several years ago, in 1960, provided that for persons killed on duty their widows would be entitled to the same pension as is authorized under the Pension Act to widows of members of the armed forces who are killed on duty. At the present time the pension under the Pension Act is a minimum of $2100 to all widows of members of the mounted police who are killed on duty; they are now receiving a minimum of $2100. Some are receiving a larger amount; but if they were getting less than that the government increased it to the rates applicable under the Pension Act.

The RCMP Superannuation Act came into force in 1949. At the present time we have 7559 contributors. Twelve officers have retired since that date; two hundred and twenty-eight non-commissioned officers and constables have retired since that date; and there are 58 widows receiving pensions; and 24 children.

The question may be asked how pensions would be payable to 12 officers and 228 other members when the act only came into force in 1949. In 1950 the British Columbia provincial police and the Newfoundland constabulary were absorbed into the mounted police and all members who came over became subject to our superannuation act. Of the number now on pension the majority would be former members of those forces. The government of British Columbia and the government of Newfoundland contributed the amount required to bring all their past service up to date for pension purposes.

Of those killed on duty, there are 9 widows receiving pensions and this pension, which is also the amount under the Pension Act of $2100, is in addition to any pension the widow might receive under the Superannuation Act, provided her husband had ten years of service. She then gets two pensions—one killed on duty, and the other one-half of his service pension.

Appendix C shows the number of former members of the force receiving pensions. As you will see, under the old act there are 132 officers and N.C.O.'s and 50 widows receiving pensions under $600.

Under the superannuation act, which, as I mentioned, came into force in 1949, there are no pensioners receiving amounts under $600. Therefore, under the Pension Continuation Act we have 882 pensioners, and the pension for those 882 would normally die with them because no part of it is payable to the widow.

There are 158 widows receiving pensions under the old act. They would include officers' widows and also the 79 widows who are receiving pensions because their husbands contributed to the Widows and Orphans Pension Fund. That 158 would not include what we call the free pension for non-commissioned officers and constables.

We have a total pension list of 2338 persons receiving pensions under the mounted police act.

I am sorry, Mr. Chairman, that we do not have figures showing the length of service of those individuals receiving a pension of under $600. They must have had at least ten years' or more, but some could have had ten and perhaps some could have had 20.

As a matter of interest, we are paying one pension for a man who retired from the force in 1923. That is the earliest. Those prior to 1923, I must presume, have all died off. So that 1923 is the earliest pension we are presently paying. That amounts to $255.50. It was increased under the increased pension regulations in 1950, I think it was. That person who retired in 1923 is now getting $337.22 a year with ten years' service.

Mr. KNOWLES: How old is he?

Mr. USBORNE: I am sorry, sir, I just got that this morning, and I do not know, but he would have to be 30 when he went out, so I presume he is still in his early seventies

Mr. KNOWLES: He is still a young man.

Mr. USBORNE: But most of our pensioners would be from 1932 on. The pensions in 1932 were quite small because our pay was $2.25 a day plus an allowance for pension purposes. The most a man could receive would be 2/3 of about $1200 a year in those days, in the thirties.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. KNOWLES: Mr. Chairman, I wonder if this document should not be appended to the record of todays' proceedings?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. Does the Committee agree?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, Mr. Usborne.

The Royal Canadian Mounted Police Veterans' Association is represented by Mr. D. N. Cassidy, the Dominion President. Mr. Cassidy.

Mr. D. N. CASSIDY (*Dominion President, RCMP Veterans' Association*): Mr. Chairman, Senators, and members of the House of Commons, on behalf of the members of the RCMP Veterans' Association, and particularly those who are pensioners from the force, I would like to thank you for inviting us to submit a brief and for the opportunity to express to you some of our thoughts on the matter of increasing RCMP service pensions.

First, with your permission, Mr. Chairman, I would like to introduce two of my colleagues, Mr. D. J. Heath, the president of the Ottawa division, and Mr. J. H. Aldred, the chairman of the Dominion Headquarters Pensions Committee.

I have had the privilege of being Dominion President since 1965, the year that Dominion Headquarters was transferred from Calgary, Alberta to Ottawa, after having been there for some 40 years. We felt that it would be a little closer to the horse's mouth down here.

With your permission, and before I make our presentation on pensions, I would like to pay tribute to our first Honourary Patron, His Excellency the late General Georges P. Vanier. We members of the RCMP Veterans' Association were greatly saddened by his sudden and untimely passing, as were all Canadians.

Perhaps I should also say a word about our Association, which is not too well known in eastern Canada.

The first organized meetings took place shortly after the South African war when members of the force returned from service in Africa.

In 1912 several divisions were formed and operated independently. In 1924 the Association formed a Dominion Headquarters, and it is federally incorporated. We have some 1800 members located in 16 divisions throughout Canada. Some of our members reside in many countries throughout the world. All of our members have an honourable discharge from the force, and not all of them are pensioners.

Among our objects and aims are to work for the best interests of Canada, to assist the parent body, the RCMP, and to help such ex-members of the force, their widows and dependents as are in need. We do all of these things.

In the past several years we have submitted briefs to the government of Canada requesting that service pensions be increased, and the latest of these were submitted on January 10, 1966, and on February 4, 1967, in the form of a memorandum.

Because of the lateness of the invitation to appear before you—and I may say that, we appreciate and welcome the invitation—we did not have an opportunity to prepare a fresh brief. I hope that you will accept, Mr. Chairman, the folder which has been distributed, containing the briefs submitted on January 1966 and February 1967.

In summary, the recommendations contained in these two briefs are as follows:

(a) that the pensions of retired members of the Royal Canadian Mounted Police and their widows, civil service, Armed Forces and the Public Service be increased:

(b) that R.C.M. Police, civil service, Armed Forces and public service pensions be administered in a more enlightened manner so that the value of a pension in terms of its purchasing power will be guaranteed for the life of the pension;

(c) that the $300.00 marriage accommodation allowance and all other allowances which were paid to the R.C.M. Police and which were subject to Income Tax, be incorporated into the pension of those so qualifying;

(d) that whatever method is used to adjust pensions upwards, the provision of the Section 4 of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, should not apply;

(e) that the R.C.M. Police Pension Continuation Act be amended to provide for pension payment to the end of the month in which the pensioner dies, same as the R.C.M. Police Superannuation Act, the Public Service Superannuation Act, the Canadian Forces Superannuation, the Pension's Act, and the Family Allowance Act.

I would now like, with your permission, Mr. Chairman, simply to read a few extracts from the brief of February 4. We all realize that

there has been a general movement upwards in salaries since the last adjustment was made to pensions of retired members of the RCMP,

I am reading from page 3 of the letter dated February 4, 1967.

> There has been a general movement upwards in salaries since the last adjustment was made to pensions of retired members of the RCMP, civil service, Armed Forces and Public Service, or their dependents in 1969—

Mr. WALKER: Excuse me, Mr. Chairman; obviously, I am late. Could you identify the page? What letter are we on?

Mr. CASSIDY: I am sorry. There are two briefs one dated January 10, 1966 and if you turn on to about page 7 there is a second letter dated February 4, 1967. I am now reading a few extracts from page 3 of that letter at the top of the page,

> —and there has been an undeniable increase in the cost of living. As living expenses continue to rise the plight of the pensioner become most difficult.
>
> The following examples of several of the pensioners of the RCMP demonstrate the hardship—

that some of these people are facing; and this is under the RCMP Pension Continuation Act. Of the ranks held, four were constables and one was an acting corporal, all with roughly 20 years' service, who retired between 1937 and 1939 with pensions of about $550 a year. With the pension increase granted in 1959, these pensions were raised to in the neighbourhood of $724.06.

> The Canada Pension Plan will help RCMP pensioners in the years to come, and it will help all Canadians, but it will have little effect, if any, on those individuals who because of their age do not have the opportunity to contribute to it or will it help others, to any extent, who because of their age will not be permitted to pay into it for very long.
>
> An example of those who fall withing the 'gap years'...is reflected in the following case.

It concerns a retired sergeant of the RCMP, who wrote to me this year, a few weeks ago. He joined the force in 1929 and took his discharge in 1949 after 20 years' service.

> "As pensioned member of the RCMP Sgt. as of Sept. 1949 I find myself in need of a job—I have exhausted the possibilities around here so I know that I should make an effort to contact you as you may be in a position to hear of any openings which escape me here. Although I am 62 years of age I am in good health and would be able for quite a few years to pull my weight.
>
> My wife is confined to hospital and will probably be there for the rest of her life otherwise I have no ties here and could move around should an opportunity arise.
>
> Would you kindly let me know if you can be of any assistance as my pension is only $96.17 a month which does not go very far these days."
>
> We will do everything we can to find work for this man who holds the RCMP Long Service Medal and so must have done good work for the Force and for Canada during his service years.

We were pleasantly surprised when this Special Joint Committee's terms of reference were extended to look at the pension situation, and upon learning of

this we sent a telegram to the Honourable Mr. Benson requesting that equal consideration be given to pensioners of the RCMP, the armed forces and the remainder of the public service in general.

With reference to our request that legislation be passed allowing for automatic increases to the pensions paid to the RCMP, etc. as the cost of living rises, recommendation (c) above, in our view the Parliament of Canada has created such a precedent in the Canada Pension Plan and in recent amendments to the Old Age Security Act. If this provision was made part of the several acts governing the payment of pensions to retired members of the RCMP, civil service, etc., or their dependents there would be automatic adjustments in pensions and the difficulties of bringing in new legislation, such as, the Public Service Adjustment Act, 1959, Chapter 32, might not be required in future years.

With reference to recommendation (c) dealing with the $300.00 Marriage Accommodation Allowance paid to members of the RCMP from 1951 to 1966 and never incorporated into pensions, it is noted that when the last pay increase was given to the RCMP in October, 1966 one of the features of the raise was the incorporation of the marriage allowance for pension purposes. We are happy that this has finally been done. We wonder if it came about as a result of our recommendation. Many members of the Force when proceeding to pension between 1951 and 1966 asked why this allowance should not be included in their pension for after all it was considered income and they had paid income tax on it.

If the principle of incorporating the marriage accommodation allowance for pension purposes can be adopted in 1966, surely it has existed since 1951 and those retiring to pension since 1951 should receive any benefits derived therefrom. As a matter of interest I understand that in the Armed Forces certain allowances, i.e. medical, uniforms, have been considered in the computation of pensions for some years and since October 1966 certain other allowances have been added.

There is one other feature about the RCMP Pension Continuation Act that bothers all of us:

...we have received complaints as to why pension entitlements under this particular act...

...are "for life" and cease from the day following the death of the recipient whereas the pension entitlement under the RCMP Superannuation Act are payable until the end of the month during which the pensioner dies.

The discrimination between the two acts on this point has caused concern particularly as we have been informed that in some cases money has had to be returned to the government resulting in ambarrassment to the families of the deceased pensioners.

It is indeed regrettable that there should have to be any delay in making such a minor change...

in this particular act,

the results of which would be most humanitarian.

Mr. Chairman, that is our brief.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. KNOWLES: Mr. Chairman, will the whole brief be appended to today's proceedings?

The JOINT CHAIRMAN (*Mr. Richard*): I think so. Agreed?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Do the members have any questions to put to Mr. Cassidy?

Mr. WALKER: Well, Mr. Cassidy, I may have missed some of the earlier part, but your suggestion is that any increase in superannuation would be right across the board? You are not setting any ceilings in connection with the increases? In other words, you are speaking of people whose pensions may be $5,000, $6,000 or $7,000 as well as those who may have only $75.00 a month?

Mr. CASSIDY: I am speaking for all of them, but I would hope that any increase, particularly for the older pensioners, would be a meaningful one. Those who are receiving $40 or $50 a month are not going to be helped by a five per cent increase; and if you are receiving $100, $5.00 a month is not going to help. We feel that for all pensioners there should be some sort of a basic level, if this is possible.

Mr. WALKER: Apart from this basic level, then, you are talking in terms of relating cost to the cost-of-living increases?

Mr. CASSIDY: That is right.

Mr. WALKER: This applies to all superannuates of your Association?

Mr. CASSIDY: Yes, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Senator MacKenzie?

Senator MACKENZIE: Would you think it right, Mr. Cassidy to have it on the salaries earned plus the number of years of service?

Mr. CASSIDY: I would say that at certain levels this would be the case. I also think sir, that at the lower level, where a person had, say, ten years' service and had a small pension, you might have to adjust for this.

Senator MACKENZIE: Have you any formula that would fit this necessary adjustment?

Mr. CASSIDY: No, sir, I have not. I am neither an economist nor an actuary. I do not think that I can help there.

Senator MACKENZIE: I was thinking more of a yeardstick, in terms of what would be the minimum, as it were, in your view, when dealing with a pensioner at the lower level?

Mr. CASSIDY: Well, I feel that at least $100 a month would be, for the lower levels, a basic pension; and to start from that.

Senator MACKENZIE: Would this be affected by the number of years of service?

Mr. CASSIDY: That would have to be considered, yes.

Mr. CHATTERTON: As I understand the discussion there are a number of widows who do not receive any pension at all?

Mr. CASSIDY: There are some widows, yes, who do not receive pensions. I did not say that, mind you, but there are some widows who do not receive pensions.

There are some, sir, that are widows of members who never paid out of their own pocket for the widows' and orphans pension plan which came in in 1934.

Mr. CHATTERTON: Those would be the only ones who would not be receiving?

Mr. CASSIDY: That is right. And there are a number of pensioners whose widows, once their pension dies out, have nothing.

Mr. CHATTERTON: Would you say that an adjustment would have to take in these people, too?

Mr. CASSIDY: I do not know how that could be done. It would be very good if it could be done, but I do not know how it could be done.

The JOINT CHAIRMAN (*Mr. Richard*): Well, Mr. Cassidy, you are basing your point more on equity than on need, I suppose? We have had some represesentations of some people, either in the armed forces or in the RCMP, or even civil servants, who have a small pension, say, but who, after having served, acquired either a business or were in a firm which provided them with another pension, and it was not really a matter of need. They have a pension of, say, $80 a month but after they retire they do fairly well otherwise. The need of everyone who is receiving a small pension cannot be established.

Mr. CASSIDY: No; I agree with you.

Mr. CHATTERTON: Mr. Chairman, may I ask a question about the fund itself. Is there a separate pension fund for the RCM police? Is it part of the Civil Service Superannuation Fund, or is it a separate fund?

Mr. KNOWLES: This is a separate fund. Money is paid into it, and there is interest paid every year; and the interest paid in is greater than the amount paid out. It was in the tables that were circulated.

Mr. USBORNE: Under the old act, sir, the pensions were paid straight out of consolidated revenues.

Mr. WALKER: It is in the same type of fund, then, as the ones that we have been dealing with for civil servants?

Mr. USBORNE: The Superannuation Act, yes.

Mr. KNOWLES: Since 1949.

Mr. WALKER: Yes.

Mr. USBORNE: I think there are six to seven million dollars or so in the fund now.

Mr. WALKER: With contribution; and it is administered in the same way as the other funds?

Mr. USBORNE: Yes, sir.

Mr. WALKER: And the interest is the same—4 per cent?

Mr. USBORNE: Four per cent.

The JOINT CHAIRMAN: (*Mr. Richard*): Mr. Knowles?

Mr. KNOWLES: Mr. Cassidy, our immediate concern in this Committee, of course, is the aid of pensioners who are now retired. I am wondering, however, if you have any feeling that the legislation generally needs to be overhauled? One gets the impression, that it is a very complicated hodge podge.

Mr. CASSIDY: I have the same impression, sir. That is why we would like to see something positive, if possible, done to the legislation, so that we will not have to come back every few years and go through this again.

Mr. KNOWLES: The Chairman will rule us out of order—and properly—if we go very far into this, and that is why I made it just a brief question.

The immediate problem is the low pensions of those that are now retired.

Mr. CASSIDY: Exactly.

Mr. KNOWLES: You want for them the same treatment that we can give retired civil servants?

Mr. CASSIDY: Yes, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. CHARTTERTON: Mr. Chairman, have the terms of reference been broadened by the House?

The JOINT CHAIRMAN (*Mr. Richard*): Oh, yes.

Mr. CHATTERTON: They have so that we can recommend on these.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Cassidy.

Our next witness is Dr. J. C. Arnell, Assistant Deputy Minister, Finance, Department of National Defence.

Dr. J. C. ARNELL (*Assistant Deputy Minister, Finance, Department of National Defence*): Mr. Chairman, honourable members of the Senate, members of the House of Commons. I have with me today four members of the department; Mr. Whatley of the Deputy Minister's office; Lieutenant Colonel England of the Judge Advocate General Branch; and Wing Commander Crossfield and Mr. Sonley, who are responsible for handling the details of the military pensions within the department.

I want, this morning, just to review briefly for you the provisions of the two acts which are now in force and which provide for the payment of pensions or annuities to retired servicemen and pensions or annual allowances to their dependants.

The first legislation to provide pensions to retired servicemen was the Militia Pension Act which was assented to in 1901. It was stated to be an Act respecting pensions to the permanent staff and officers and men to the permanent militia and for other purposes. In 1928, the Act was amended by bringing into force Parts II and III which made the Act applicable to the Navy and Air Force. Part IV of the Act, which deals with matters affecting Parts, I, II and III, was added in 1937. On 31 August, 1946, the Act was further amended by bringing into force a new section—Part V. In 1950, the title of the Act was changed to the Defence Services Pension Act.

Thus, the Defence Services Pension Act embodied what might be termed two separate pension schemes, namely, Parts I—IV and Part V.

Parts I—IV did not apply to any person who joined the regular forces on or after the 31st March, 1946. Thus, its provisions will cease to apply as those persons who are presently subject to it reach retirement age. The number still serving in the regular forces governed by Parts I—IV is 112 officers and warrant officers and 27 men, regular forces prior to the 31st March 1946 and who elected to become contributors under Part V.

In 1960, Part V of the Defence Services Pensions Act was repealed and was replaced by the Canadian Forces Superannuation Act. At the same time, Parts I—IV were renamed the Defence Services Pension Continuation Act.

I now want to turn briefly to the provisions of the Defence Services Pension Continuation Act, that is, Parts I—IV of the former Militia Pension Act or in the interim called the Defence Services Pension Act.

Mr. CHATTERTON: I wonder if I could interrupt on a point of clarification: Those that you mention in Parts I and IV are these the ones that did not elect to go into Part V?

Mr. ARNELL: Yes.

Mr. CHATTERTON: There are quite a number that elected to go into Part V?

Mr. ARNELL: Yes, there were.

Under this act, the Continuation Act, only officers, which, in the Army and Air Force, included warrant officers, are contributors. Contributions are five percent of pay and allowances. There is no provision for any matching contribution by the Government. A person whose service was governed by this Act was eligible for a pension after having served twenty years. In addition, a non-contributor could receive a pension after fifteen years' service, if he were released on medical grounds.

The pension paid to officers and men on retirement was originally based on an amount equal to one-fiftieth of the pay and allowances received at the time of retirement multiplied by the number of years of service.

In 1929, in the case of officers, and in 1950, in the case of men, the method of calculating the pension was amended by prescribing a three-year average of pay and allowances on which to base the amount of the pension. An officer, however, who is retired due to disability or reasons other than misconduct prior to having served twenty years in the forces can receive a gratuity in an amount of not more than one month's pay for each year of service. The widow of a contributor is entitled to one-half the pension to which her husband was entitled or would have been entitled had he been released for medical reasons. There is also a compassionate allowance payable for each child ranging from twenty-five dollars to eighty dollars a year, depending on the rank of the contributor at the time of his retirement or death. No benefit, except a pension, is payable to a non-contributor under the Act.

The Defence Services Pension Continuation Act is not on an actuarial basis. The payment of benefits is provided for in the estimates.

These are the general provisions of the Defence Services Pension Continuation Act, which I believe are relevant to your deliberations. Unde rthis Act, there are approximately 3970 pensions currently being paid, of which 1125 are paid to officers, 532 to warrant officers, 1622 to men and 691 to widows of former officers and warrant officers.

With respect to Part V of the Militia Pension Act, all members of the regular forces governed by it paid into the Superannuation Permanent Services Pension Account six percent of their pay and allowances, with the Government paying an additional five-thirds of that amount or ten percent of the pay and allowances.

Under Part V a person became eligible for a pension after serving ten years in the regular force. The pension was based on one-fiftieth of the average pay and allowances received by the contributor during the last six years of his service multiplied by the number of years of his pensionable service. Pensionable

service included not only regular force service, but prior service in the Navy, Army or Air Force of Canada, the public service, Royal Canadian Mounted Police or service in the Commonwealth Forces during the Second World War, for which the contributor elected to contribute.

A contributor who was released from the regular forces prior to having served ten years was entitled to a gratuity of one month's pay and allowances for each year of his pensionable service or to a return of the constributions made by him, depending on the reason for his release.

Where a contributor had over ten years of service in the regular forces and died while serving or died while in receipt of a pension under Part V of the Act, his widow received one-half the pension that would have been paid to him had he been released on medical grounds or that he was receiving at the time of his death. Each child received one-fifth of the pension paid to the widow with a maximum total pension paid to the widow and children equal to seventy-five per cent of the pension payable, or that would have been payable to the contributor, had he been released on medical grounds.

If the contributor had less than ten years of service in the regular forces and died whilst serving, his widow received a gratuity equal to one month's pay and allowances for each year of his pensionable service.

Part V of the Act was repealed with the coming into force of the Canadian Forces Superannuation Act on 1 March, 1960. The benefits payable under the Canadian Forces Superannuation Act are generally the same as those provided under Part V of the former act. Like its predecessor, the act is on an actuarial basis, but since 1 January, 1966, the contribution made by the contributor is six per cent of his pay and allowances, less the amount paid under the Canadian Pension Plan. The six year average used in calculating the amount of the pension is the best consecutive six years and the maximum amount of annual allowance paid to a widow and children has been increased from the seventy-five per cent mentioned previously to ninety per cent.

Under the Canadian Forces Superannuation Act, there are approximately 16,600 annuities and annual allowances being paid. Of this amount, approximately 4,365 are being paid to officers, 1,575 to warrant officers, 9,457 to men below the rank of warrant officer and 1,203 to dependents.

I have provided, as tables, six appendices, which attempt to display for you the basic statistics of the amounts of annuities or pensions listed against the years of pensionable service.

Appendix "A" is the Defence Services Pension Continuation Act—the original act—Parts I to IV. The second one reflects the same information as the first, except that it shows the age of retirement rather than the number of years of service. Appendix "C" shows those contributors on pension who were retired because of disability and became entitled to immediate annuity or pension. Appendix "D" shows the statement of the Canadian forces superannuation account. Appendix "E" gives you the transactions out of the account; and Appendix "F" lists the statistics of the number of annuities, allowances and so on, up to the end of the last fiscal year.

If there are any specific questions of detail I would hope that I could call on the experts who are with me.

The JOINT-CHAIRMAN (*Mr. Richard*): Is it agreed that these tables be made part of the record?

Some hon. MEMBERS: Agreed.

Mr. WALKER: I have one question, Mr. Chairman.

Year by year, for the same length of service, are the pensions that are now available under the Armed Forces Superannuation Act the same as or, nearly the same as, or is there a great differentiation between, the pensions being paid to the R.C.M. Police and the civil servants? Are there any comparative figures at all? In other words, for 15 years' military service does the pension amount to about the same as that of a civil servant?

Mr. ARNELL: I think one of the fundamental problems of making the comparison here is that the civil servant does not receive his pension until age 65, or, in the case of having served thirty-five years, at age 60; whereas the armed forces and police pensions come into effect after a specific number of years; and in all cases in the armed forces the retirement ages are generally between about 45 and 55 for people who have served a full tour. The result is that probably there are more pensioners of the armed forces with fewer years of service than is the case in the civil service.

I am afraid that I have not checked this. My only reference point on this was to compare our tables with those that were submitted to you earlier by the Department of Finance. The thing that did strike me, just on a quick comparison, was that the military pensions were in fact, I think, a little higher. They were certainly more high pensions among them than in the civil service.

You will notice in our tables that the first level at which we have pensions is in the bracket of $721 to $1080, in other words $60 to $90 a mouth; whereas in the Department of Finance table, as I recall, there were some in the $30 to $60 a year bracket.

I am afraid that it would take a great deal of work by the staff supporting you really to dig into this. We can support any of our data further if you need it.

The JOINT CHAIRMAN (*Mr. Richard*): On the average your men would receive a pension for a greater length of time?

Mr. ARNELL: For a greater length of time; and in many cases—this was raised earlier by yourself, I believe—quite a large number of them go on to other sort of second careers.

Senator MACKENZIE: Do you have any compulsory retirement age?

Mr. ARNELL: There are compulsory retirement ages which vary with rank and which also vary with occupation, you might say, in that the operational side of the aviation field retires earlier than does the technical side.

Senator MACKENZIE: It is the early age at which they retire that accounts for the possibility of a second career.

Mr. ARNELL: As a matter of fact, school teachning has become a rather popular second career for quite a large number of retiring air force officers, just to quote an example of second careers.

Mr. CHATTERTON: Mr. Chairman, I notice that the funds for the three branches of the services are kept separately; but there is no difference in the

pensions, under the Canadian Forces Superannuation Act, as between the Army, Navy and air force, is there?

Mr. ARNELL: No; there are no differences; but there are differences in the regulations on compulsory and voluntary retirement. These are details which are available in the regulations, if you require them.

Mr. KNOWLES: Is there a formula, such as is the case in the RCMP legislation, under which certain pensions are reduced when people retire early?

Mr. ARNELL: Yes.

May I ask Colonel England to speak on this.

Lieutenant-Colonel L. L. ENGLAND (*Judge Advocate General's Office/Pensions, DND*)

In a voluntary retirement there is a provision for a reduction in pension. In the case of officers the pension is reduced by five per cent for each year less than the prescribed age limit for his rank. That is fixed by statute. There is no discretion vested in any person in respect of that reduction.

In the case of men it is five per cent for each year less than the prescribed age limit for their rank, of five per cent for each year less than twenty-five years' service in the regular forces, whichever is the lesser; and wartime service now counts. There is no discretion. This is provided in the Act.

Mr. KNOWLES: Would you comment on the difference that seems to exist, if I understood correctly, between this and the RCMP Act, under which I think it is a straight 20 per cent in all cases.

Mr. USBORNE: No matter what circumstances, it is a straight 20 per cent under 25 years.

Mr. ENGLAND: Under the old Act, if I may term it such—the Defence Services Pension Continuation Act—which is probably very similar to the old RCMP Act, there is a provision whereby an officer who has 25 years' service may retire voluntarily with a flat 20 per cent reduction; if he had 25 years service and retired at his own request.

The Act was subsequently amended in 1960 also to provide that on a voluntary retirement the reduction would be five per cent for each year less than his prescriged age limit. So under the Defence Services Pension Continuation Act there was a choice, and the officer received the benefit of that choice.

An other rank, that is, a person below the rank of warrant officer, which includes petty officers, could retire voluntarily under the Defence Services Pension Continuation Act after twenty years' service without any deduction.

Mr. WALKER: Mr. Cassidy, I notice that in your brief you say that the purpose of the superannuation act has been eroded to such an extent that untold privation is being experienced by many of those who thought they had made adequate provisions for retirement. Are you speaking for those cases, particularly? Are you relating your requested pension increase right across the board or just for this particular group?

Mr. ARNELL: I am merely here from the Department of National Defence to tell you exactly what the situation is. I believe that there is a group following me who will give you the other side of the story.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator MACKENZIE: There is no relationship between the pension plan provisions and those for injury in war service...?

Mr. ENGLAND: Under the Pension Act which comes under the Department of Veterans Affairs and is administered by the Canadian Pension Commission, that pension is based on disability and has no relation to salary or length of service. It has a slight relation to rank at the time the disability was announced. It has no relation whatsoever to this Act.

Senator MACKENZIE: That was my understanding; and it does not involve age, or anything of that kind. It has to do with injury and incapacity?

Mr. ENGLAND: It has nothing to do with age or length of service or salary.

Senator FERGUSSON: At one stage in his evidence the witness used the phrase "in the case of men".

Were you differentiating between men and officers or between men and women when you said that?

Mr. ARNELL: Officers and men. It is the business of the ranks other than the officers, with the exception, as I noted along the way, of warrant officers who are classed with the officers in the navy and air force.

Mr. CHATTERTON: I have a question on voluntary retirement. I have had a few cases brought to my attention where a person had re-engaged for a five-year term. If, at the end of that time, he requested non-renewal of the contract then this would not be voluntary retirement; is that correct?

Mr. ENGLAND: When an other rank has a fixed period of engagement and his period of re-engagement comes up, he is either offered to re-engage and continue his service in the forces, or he is not offered. If he is not offered, then he is compulsorily released. If he is offered to continue service, in whichever service he is in, and refuses that offer then he is voluntarily retiring.

The actual reason for his release from the service, as would normally be determined by the Service Pension Board, would be that he severed his connection with the service at his own request, and it is therefore a voluntary release.

Mr. CHATTERTON: That sounds like an anomolous position. I mean when his term expires, in any event, it is merely a non-re-engagement. Why should there be a distinction between the two? Is there a reason for that?

Are all the members of the permanent force subject to this term engagement?

Mr. ENGLAND: At the present time a person below the rank of officer is enrolled for a fixed period, as prescribed by the Governor in Council—One, two, three, four, five, six, or seven years; he can re-engage during the period of his service provided that the unexpired portion of his engagement, together with his re-engagement period, does not exceed nine years. The answer to your question is Yes in the case of people below the rank of commissioned officer.

Mr. CHATTERTON: Has this created a great deal of trouble amongst the men on the non-re-engagement—some of them receiving a reduced pension and others not—simply on whether they had been offered re-engagement or should they not have been offered re-engagement?

Mr. ENGLAND: Will, what happens is that when a person's period for re-engagement comes up someone must re-assess whether that man should

continue to be in the service in which he is serving. An assessment of his service takes place at that stage, if not before.

Mr. CHATTERTON: Actually, the man with a poor record is given an advantage. A man who is not offered renewal gets a full pension, whereas the man who has given good service, and has reason not to renew, is penalized.

Mr. ENGLAND: Well, he is penalized because he is voluntarily retiring and he is going out at his own time and at his own choice. On the other hand, the person who is not re-engaged because of his prior conduct or inefficiency is subject to a reduced pension.

Mr. CHATTERTON: Oh, I thought you said that the reduction applied only in the case of voluntary dis-engagement.

Mr. ENGLAND: No, no. I may have said that; I did not go into the details; but the Act provides for a reduced pension, or a return of contributions in certain cases, where a person is not re-engaged, or is compulsorily retired, prior to his engagement and the reason for his not being re-engaged or for being compulsorily retired was his inefficiency in the performance of his duties, then the Act provides that he receive a reduced annuity.

Mr. CHATTERTON: What if this disengagement is occasioned by his service being surplus to requirement?

Mr. ENGLAND: In that case there is a provision in the Act for a reduction due to economy, or efficiency in the forces. If it is due to an over-all reduction in the forces he may be subject to a reduction in his pension. That reduction would be based on five per cent for each year of service in the regular forces less than twenty, and his wartime service would count as regular force service for that purpose.

If he was in the service before 1949, or if he has 20 years' regular force service and he is compulsorily retired to promote economy and efficiency due to a reduction in the establishment of the overall forces, or for some other reason that would promote economy or efficiency in the forces—in other words, compulsorily released, and it is not due to age, medical, misconduct or inefficiency, or through any fault of the man—then he would receive a pension without any reduction.

Senator FERGUSSON: I would like to know if there are a great many who are not offered re-engagement?

Mr. ENGLAND: I am not in a position to answer that question, Mr. Chairman. I am on the legal side, advising the Service Pension Board. This would be a service matter, and I really could not answer it.

Mr. ARNELL: I think we will have to get you the information, Senator Fergusson, if you want it. It is not available to us today.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions.

Mr. WALKER: I only have this comment to offer. I would bet that there are not very many armed forces people who have a clue about how much pension they are going to get if it is as confusing to them as it is to me at the moment.

How does an ordinary mortal decide what his pension is going to be before he leaves the armed forces?

Mr. ENGLAND: Well, the ordinary mortal, on general principles, knows how many years' service he has and he knows that he is going to get two per cent for each year of service. We have a great deal of literature out to explain his pension

calculations as much as possible, in orders and so on. It is based on a six year average of his pay and allowances. Therefore, the ordinary mortal can make a rough guess; and he can also receive the exact amount, if he asks for it from the service because they will give him an estimate if he is due to retire.

Mr. WALKER: Do most of them know about what I call the penalizing clause of not renewing their contract.

Mr. ENGLAND: I am sure that they certainly know the penalizing aspects of it, on the voluntary retirement. No one would know better than Mr. Chatterton and Mr. Knowles as a result of letters that they have received and of which I am aware. Therefore, they are aware of reduced pension benefits; and it is surprising how many are aware of the possible benefit that they will receive on retirement.

Mr. KNOWLES: The old age pensioners trying to figure out their supplements are in troble.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker probably forgot that many men would not want to take a contract to enter the forces for a fixed term higher than some of the terms that are offered. They would not want to have to guarantee that they were going to stay in the forces for twenty years.

Are there other questions?

Thank you, gentlemen.

The Association of Canadian Forces Annuitants is represented today by the Secretary-Treasurer, Mr. D. H. Baker.

The members of the Committee have a copy of the brief before them.

Mr. H. D. BAKER (*Secretary-Treasurer, Canadian Forces Annuitants*): Mr. Chairman, ladies and gentlemen: On behalf of the Association of Canadian Forces Annuitants I wish to thank you for inviting us to appear before this Committee. It is regretted that because of the short time at our disposal we were not able to obtain a French translation of our brief. As you can see, it is a very brief brief. Our submission is as follows:

Knowing that other briefs on public service annuities have given facts and figures concerning the loss of purchasing power of pensions this submission, in dealing with the principles involved, has been kept as short as possible.

The Association of Canadian Forces Annuitants contends that the Canadian Forces Superannuation Act was instituted to provide retired military personnel with a standard of living based on the salary and length of service that each individual had attained at the time of retirement. However, because of the continued and increasing devaluation of the Canadian dollar in terms of its purchasing power, and the early age at which military personnel are retired, the purpose of the superannuation act has been eroded to such an extent that untold privation is being experienced by many of those who thought they had made adequate provision for retirement.

It is true that the Canadian government has long been aware of this problem and that in 1958 it provided partial but temporary relief by putting a floor under pensions—under some of the pensions. However, that was nearly ten years ago—ten years in which the cost of living has gone up alarmingly. It is encouraging to note that the present government has recognized the fact that a pension must maintain its original purchasing power, as demonstrated by the

built-in escalation features in both the Canada Pension Plan and the old age security program.

Because many military personnel are retired between the ages of 45 and 50, often with military skills that have no counterpart in civilian life, the loss of the purchasing power of their pensions over a period of 10, 20 or 30 years is a serious problem. Social justice demands that the government take action now to ensure that military personnel who are retired will have the original purchasing power of their pensions restored, and that those who will retire in the future will be freed from the haunting fear that hangs over servicemen as they enter their forties.

The restoration of the original purchasing power of pensions would restore confidence in military service as a career and would enable the Canadian government to regain the lead it once held in pension plans.

That is our submission, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you.

Senator MACKENZIE: You made mention of a floor that was put under pensions. How much was that floor? What would it be?

Mr. BAKER: I believe, sir, that in 1958 pensions were increased either by 35 per cent, to up to $3,000, whichever was—

Senator MACKENZIE: Up to $3,000 per year?

Mr. BAKER: Yes; per year.

Perhaps Mr. Clark from Finance could confirm that.

Mr. H. D. CLARK (*Director, Pensions and Social Insurance, Department of Finance*): Mr. Chairman, it is correct that the pensions which had been in place since 1945 were increased by 32 per cent. This percentage was graded down, and it was possible to get a $640 increase as related to a pension of $2,000. There was also the other provision, which Mr. Baker mentioned, that the pension, after the increase, could not exceed $3,000.

Mr. LEWIS: It did not mean that everybody was up to $3,000?

Senator MACKENZIE: No. This was the ceiling rather than the floor. It does affect the general problem of pensions in a sense that if you think of them in terms of as a reward for services rendered, that can be calculated, if you like; but if you think of them in terms of need, obviously the needs of those who are 65 or over may be greater than those who retire at 45 and find other employment. This would make the setting of a plan to take care of those two groups difficult.

Mr. BAKER: Yes.

Senator MACKENZIE: The main problem is still the eroding of the purchasing power of what might be considered a return for services rendered.

Mr. BAKER: Yes.

Mr. CHATTERTON: Mr. Baker, is your organization affiliated with others such as the petty officers' association, the retired naval officers' association, the air force officers' association, and so on?

Mr. BAKER: No, sir; our association if I might use the term, is an integrated association of the three services. The members in general are also civil servants.

Mr. CHATTERTON: They are also civil servants?

Mr. BAKER: Or are interested in joining the civil service.

Mr. CHATTERTON: What would your membership be, roughly?

Mr. BAKER: Oh, we have about 250 members in the Ottawa area.

Mr. CHATTERTON: That is strictly in the Ottawa area.

Mr. BAKER: Our association is just over a year old.

Mr. CHATTERTON: I see.

Mr. BAKER: It was formed locally, and most of the members are in Ottawa.

Mr. CHATTERTON: Are most of them working in the civil service now?

Mr. BAKER: Yes; most of them are.

Mr. KNOWLES: I should like to ask you, Mr. Chairman, whether any associations such as Mr. Chatterton named—that is, associations such as retired armed forces personnel who are not in the civil service—have asked to appear?

The JOINT CHAIRMAN (*Mr. Richard*): One organization related to the Royal Canadian Air Force made some inquiries, but they have made no further approaches.

Mr. BAKER: Sir, when writing our brief we consulted the secretary of the RCAF association.

Mr. CHATTERTON: What is our intent on procedure? Will there be time to hear from these other organizations? They may not have been notified.

I may have been remiss, too. I know of several that exist. Perhaps they could just send in a brief.

The JOINT CHAIRMAN (*Mr. Richard*): It all depends on how long you want to keep this open. That could take quite a long time.

Mr. CHATTERTON: It could, yes.

The JOINT CHAIRMAN (*Mr. Richard*): If you want to hold this over until the next session, it would be all right. I am not going to say much more than that at this time, but we could—

Mr. CHATTERTON: Well, I do not want to delay. It seems to me that their problem from my general knowledge, is very similar to the problem of the retired civil servants.

The JOINT CHAIRMAN (*Mr. Richard*): I think everyone in this country is very well aware that this Committee has been sitting and has been willing to receive representation from all parties concerned.

Mr. KNOWLES: And if we had these other associations they would make the the same point, namely, that they would want to be treated in the same way as we treat other government annuitants.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. CHATTERTON: Is it proposed, Mr. Chairman, in general terms, that this Committee report in this session?

The JOINT CHAIRMAN (*Mr. Richard*): That has been my hope, and it was my understanding at the time I joined this Committee; although it may depend on how many more witnesses you want to have and on how long it will take us to complete our report.

I think it is much more important for us to decide what kind of report we want to make, or what suggestions we have to make among ourselves, than to hear many more witnesses at this time.

We could have had a number of individuals. There is a gentlemen here in this room this morning, I understand, who has an individual case. He sent a letter. I would not want to make it a precedent, that the Committee hear individual cases, because we all have files of individual cases. However, I have this letter from the gentleman who is here. Does the Committee want to hear facts? The gentleman is here.

Mr. CHATTERTON: I know that many of these organizations have made presentations to the government, and I am wondering whether it would be in order and proper for us to acquire some of these representations that have been made, for our guidance?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. CHATTERTON: If we could do that, perhaps we might avoid the delay of hearing further witnesses.

The JOINT CHAIRMAN (*Mr. Richard*): For example, the brief which we received this morning from the Royal Canadian Mounted Police Veterans' Association was presented to the government on January 10 and on February 4. There may be other briefs of the same nature from other organizations such as you mentioned. I shall be happy to find out if these are available.

Mr. KNOWLES: Perhaps we should have a meeting of the Steering Committee to decide where we go from here.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: If this meeting terminates very soon perhaps it could be held right now, if they are here.

The JOINT CHAIRMAN (*Mr. Richard*): Should I just table this letter, or do you want to hear this gentleman? He is here now.

Mr. KNOWLES: It is up to you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Cooper, we shall take a few minutes.

You will understand that as an individual...

Mr. WILLIAM C. COOPER: I should like only five minutes of your time.

The JOINT CHAIRMAN (*Mr. Richard*): You are welcome.

M. KNOWLES: We could have had thousands.

The JOINT CHAIRMAN (*Mr. Richard*): We could have had many. I think the most simple method would be for you to read the letter. It can be part of the record then.

Mr. COOPER: Mr. Chairman, Senators, Members, my letter says:

May I submit to your Committee three pertinent facts that I feel you should consider when investigating the increases for pensioners.

1. A man leaving the naval service of Canada in 1948 completing 20 years of service and discharged as a chief petty officer received under the military Pension Act, Part IV, a pension of approximately $83 a month.

2. A man leaving the same service in 1966, completing 20 years of service and discharged as a chief petty officer, receives a pension of approximately $238 a month.

3. The pension for a man discharged in 1948 was calculated on wages established in the early twenties. During World War II an increase of $15 a month marriage allowance was granted. The next increase in wages was July 1948 when a chief petty officer received approximately $10 a month.

During the last 18 years a service man's pay for pension calculation has increased about 284 per cent, and the pensioner's pension has increased by 8 per cent authorized by P.C. 1958-1366. Increases in Certain Public Service Pensions.

I am in receipt of a military pension No. A-402504. May I request permission, providing you feel I can contribute something useful to this investigation, to appear on my own behalf before the Committee to answer relevant questions on these three facts.

Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): With respect to what you suggest, some representations have been made in tables which have been presented to us. For example, the pension in 1948 would be about a third of the pension in 1966.

Mr. Cooper, we have several tables submitted to us by organizations and by the Treasury Board, showing this. However, this confirms the tables.

Mr. COOPER: In the various briefs from the government and from the different organizations reference is made to that order in council. I am just speaking from memory now, but, for instance, the man that went on pension in December, or in the last quarter, of 1948, compared to the man that went on in January of the same year, showed a 12 per cent difference in the amount of increases, as I mention in my letter, and so on down the line.

I do not wish the Committee to feel that I am complaining. All I am saying is that the ratio between the pensions received and the amount of the pay increases in the civil service and in the military forces is just too far apart. During the last 18 years I have received $18,000, and the man who goes out with a pension of $238 is going to reach $18,000 in a very few years—perhaps six years.

Nobody has come up with a definite method of increasing the pension. I do not know whether you are interested in hearing a possible solution, but it is one that has been used in the British Royal Navy, and, as far as I am aware, in navy pensions in the United States. They have increased the pensions at a certain rate. I think it is time in Canada, because of our high cost of living today and the great spread in purchasing power between now and 1948, and realizing that the wages we were paid in 1948 were based on the 1920's—that is, we are going on a spread of 40 years—that the pension should be calculated on the rate of salary that a man earns today, so that we arrive at an arbitrary figure somewhere in this line.

The JOINT CHAIRMAN (*Mr. Richard*): How old were you when you retired?

Mr. COOPER: I joined the navy when I was 19 and a half, and I retired at 39 and a half.

The JOINT CHAIRMAN (*Mr. Richard*): What did you do after you retired?

Mr. COOPER: I was living in Victoria, and there was no work in Victoria. I moved to Ottawa and joined the civil service as an assistant technician 3.

The JOINT CHAIRMAN (*Mr. Richard*): Are you retired now?

Mr. COOPER: I am not retired, sir. I am still working for the government, in the Department of National Defence, as a Technical Officer 3, in the supply branch.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Are there any other questions?

Thank you, Mr. Cooper.

Mr. COOPER: Thank you.

The JOINT CHAIRMAN (*Mr. Richard*): This public meeting is adjourned. We will constitute ourselves as a committee *in camera*.

APPENDIX AA

R.C.M. POLICE PENSIONS

Pensions are payable to retired members of the Force and to widows and children under two Statutes, namely, the *Royal Canadian Mounted Police Superannuation Act* and the *Royal Canadian Mounted Police Pension Continuation Act.*

1. *R.C.M. Police Superannuation Act*

Application—This Act applies to all members of the Force who have been engaged since March 1, 1949, as well as those members who were engaged prior to that date and have elected to become contributors to this Act.

Contributions—Members are required to contribute 6 per cent of their pay for pension purposes (5 per cent in the case of females), less the amount which they are required to contribute to the Canada Pension Plan.

Service Pensions—Pensions are based on the pay received over the best consecutive six years of pensionable service and are calculated at the rate of 2 per cent for each year of service or part thereof, not exceeding thirty-five years. Contributors may elect to count as pensionable service, service as set forth in Section 5 of the Act.

A contributor who is compulsorily retired from the Force, having reached the age limit and having completed at least ten years' service in the Force, is entitled to an immediate pension in accordance with Section 10(1)(b).

A contributor, having become disabled, may be invalided from the Force with an immediate pension without penalty if he has to his credit at least ten years' pensionable service. Section 10(2)(b).

A member, other than an Officer, may voluntarily retire with a reduced pension upon completing 20 years' service in the Force, or with a full pension based on his pensionable service upon completing 25 years' service in the Force.

An Officer, not having reached retirement age, may voluntarily retire with a deferred pension or an annual allowance upon completing 20 years' service in the Force, or with a full pension based on his pensionable service upon completing 35 years' service in the Force.

Members of the Force may be compulsorily retired by reason of misconduct or to promote economy or efficiency. Such members, having completed at least ten years' service in the Force, may be granted a pension.

The widow of a contributor who had completed 10 or more years of pensionable service is entitled to a pension. This pension is equal to one-half of the pension to which the contributor would have been entitled had he been compulsorily retired from the Force by reason of having become disabled. In addition, the children of the contributor are entitled to allowances.

Disability Pensions—Under Section 27 of the Act, an ex-member or his widow and children are entitled to a disability pension if the member has suffered a disability or has died as a result of his service in the Force. This pension is payable in accordance with the rates set out in Schedules "A" and "B" of the Pension Act and is in addition to any service pension payable.

2. *R.C.M. Police Pension Continuation Act*

Application—This Act applies to all members of the Force who were engaged prior to March 1, 1949 with the exception of those who have elected to become contributors to the R.C.M. Police Superannuation Act.

Officers' Pensions—Part II—Officers are subject to Part II of this Act and are required to contribute 5 per cent of their pay for pension purposes. Their pensions are calculated on the basis of 1/50th of the pay of their rank at the time of their retirement for each completed year of service not exceeding 35.

An Officer is compulsorily retired upon reaching the age limit for his rank or upon completing 35 years' service, whichever occurs first, unless he has been granted an extension of service. He may, however, be compulsorily retired prior to reaching the age limit or completion of maximum service.

An Officer who is compulsorily retired, for any reason other than misconduct or inefficiency, having completed at least ten years' service, is entitled to a pension.

An Officer who retires voluntarily after 35 years' service is entitled to the same pension as if he were retired compulsorily. He may retire voluntarily after 25 years' service, however, with a pension reduced by 20 per cent.

The widow of an Officer is entitled to a pension equal to ½ the pension payable to her late husband. A compassionate allowance is also payable to the children.

Non-Commissioned Officers and Constables Pensions—Part III

Non-Commissioned Officers and Constables who are subject to Part III of this Act are not required to make any contribution for their pension.

(a) If they have completed 10 but less than 21 years' service, their pension is calculated on the basis of 1/50th of their annual pay and allowances during the last year of service for every year of service;

(b) If they have completed 21 but less than 25 years' service, they are entitled to a pension equal to 20/50ths of their annual pay and allowances during the last year of service, with an addition of 2/50ths of such pay and allowances for every completed year of service above 20 years;

(c) If they have completed 25 years' service, they are entitled to a pension equal to 30/50ths of their annual pay and allowances during the last year of service, with an addition of 1/50th of such pay and allowances for every completed year of service above 25 years.

The pension shall not exceed 2/3rds of such annual pay and allowances.

A Non-Commissioned Officer or Constable is entitled to a pension upon reaching the age limit or upon being invalided from the Force if he has completed 10 years' service.

A Non-Commissioned Officer or Constable may voluntarily retire after completing 20 years' service.

A Non-Commissioned Officer or Constable is compulsorily retired upon reaching the age limit for his rank or upon completing the maximum service for

pension purposes, which is 29 years, unless an extension of his service has been authorized.

The widow of a Non-Commissioned Officer or Constable is not entitled to any part of the pension paid to her late husband.

Widow's and Orphans' Pensions—Part IV—This Part came into force in November, 1934 and provides for a pension to the widow and an annuity to the children of Non-Commissioned Officers and Constables who joined the Force prior to March 1, 1949, as well as those Non-Commissioned Officers and Constables who joined the Force prior to November 1, 1934 and elected to become contributors.

A deduction of 5 per cent is made from the pay of the member concerned, and in addition, a member may authorize a supplementary deduction from his pay to purchase additional benefits.

Pensions Payable in Respect of Death While on Duty

Section 64 of the R.C.M. Police Pension Continuation Act provides for a pension to the widow and a compassionate allowance to each of the children of any Officer who loses his life in the performance of duty as a result of hardship, accident, misadventure, or violence.

The pension to a widow is equal to 1/2 the pay and allowances that would have been permitted her deceased husband for pension purposes at the time of his death. This pension is payable notwithstanding the length of service.

Section 78 of the R.C.M. Police Pension Continuation Act provides for a pension to the widow and a compassionate allowance to each of the children of a Non-Commissioned Officer or Constable who loses his life in the performance of duty as a result of hardship, accident, misadventure or violence.

The pension to a widow is equal to 1/2 the pay and allowances which would have been permitted her deceased husband for pension purposes at the time of his death. This pension is payable notwithstanding the length of service.

R.C.M. POLICE PENSIONS—APPENDIX A

TABLE OF RETIREMENT AGES APPLICABLE TO RANKS AND CLASSES OF MEMBERS OF THE R.C.M. POLICE

Commissioner	62 years
Deputy Commissioner	61 years
All other Officers, and all members of the Force not holding a rank in the Force	60 years
Corps Sergeant Major, Staff Sergeant Major, Sergeant Major and Staff Sergeant	58 years
Sergeant	57 years
Corporal, Constable, Special Constable and Marine Constable	56 years

R.C.M. POLICE PENSIONS—APPENDIX B

1. R.C.M.P. Pension Continuation Act

	Part II	Part III	Part IV	Killed on Duty Sec. 64	Killed on Duty Sec. 78
a) Number of Contributors/Members to whom applicable	165	581	581		
b) Pensions payable to Officers	100				
c) Pensions payable to N.C.O.'s & Csts		1782			
d) Pensions payable to Widows	66		79	2	11
e) Allowances payable to Children	12		58	—	4

2. R.C.M.P. Superannuation Act

	Part	Killed on Duty Section 27
a) Number of Contributors	7559	
b) Pensions payable to Officers	12	
c) Pensions payable to N.C.O.'s & Csts	228	
d) Pensions payable to Widows	58	
e) Allowances payable to Children	24	12

R.C.M. POLICE PENSIONS—APPENDIX C

Distribution of Pensions by Amount

Amount of Pension	Continuation Act Officers and N.C.O.'s	Continuation Act Widows*	Superannuation Act Officers and N.C.O.'s	Superannuation Act Widows	TOTALS
Under $600	132	50		10	192
600 to 899	16	29	9	16	70
900 to 1,199	77	11	9	13	110
1,200 to 1,799	384	35	37	10	466
1,800 to 2,999	633	26	107	9	775
3,000 to 3,999	344	6	44		394
4,000 to 4,999	213	1	14		228
5,000 to 5,999	27		4		31
6,000 to 6,999	13		3		16
7,000 to 7,999	13		13		26
8,000 to 8,999	5				5
9,000 to 9,999	9				9
10,000 to 10,999	11				11
11,000 and Over	5				5
	1,882	158	240	58	2,338

*This column includes widows who are receiving pensions under Part IV of the Act. Benefits under this part are purchased solely by contributors. No contributions are made by Government.

APPENDIX "BB"

BRIEF TO THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON THE PUBLIC SERVICE OF CANADA RE INCREASE IN PENSIONS FOR ROYAL CANADIAN MOUNTED POLICE PENSIONERS AND WIDOWS

presented by the Royal Canadian Mounted Police Veteran's Association

March 14, 1967.

On January 10, 1966 a brief was submitted to the Government requesting an increase to Royal Canadian Mounted Police Service pensions, on February 4th, 1967 a further brief was made, copies of both briefs are included herewith.

In summary the recommendations contained in such briefs are as follows:

(a) that the pensions of retired members of the Royal Canadian Mounted Police and their widows, civil service, Armed Forces and the Public Service be increased;

(b) that R.C.M. Police, civil service, Armed Forces and public service pensions be administered in a more enlightened manner so that the value of a pension in terms of its purchasing power will be guaranteed for the life of the pension;

(c) that the $300.00 marriage accommodation allowance and all other allowances which were paid to the R.C.M. Police and which were subject to Income Tax, be incorporated into the pension of those so qualifying;

(d) that whatever method is used to adjust pensions upwards, the provisions of Section 4 of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, should not apply;

(e) that the R.C.M. Police Pension Continuation Act be amended to provided for pension payment to the end of the month in which the pensioner dies, same as the R.C.M. Police Superannuation Act, the Public Service Superannuation Act, the Canadian Forces Superannuation, the Pension's Act, and The Family Allowance Act.

January 10, 1966

ROYAL CANADIAN MOUNTED POLICE VETERANS ASSOCIATION

Dominion Headquarters

2451 Riverside Drive, Box 400, R.R. No. 5, Ottawa 8, Ontario

Request to Increase RCMP Service Pensions

On May 28, 1965, the Dominion President wrote to the Right Honourable Lester B. Pearson, P.C., M.P., Prime Minister of Canada, drawing to his attention that the pensions paid to former members of the RCMP, civil service and the

Armed Forces or their dependents, were last increased on July 1, 1958. The authority for the increases was first dealt with by Order-in-Council P.C. 1958-1366 of October 2, 1958, and by Vote No. 667 of the Appropriation Act, November 5, 1958, and later in the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959.

In the letter to the Prime Minister it was stated that due to the increased cost of living since 1958, the recipients of RCMP pensions have been unable to maintain a decent standard of living and their needs were continually being brought to the attention of Dominion Headquarters of the Royal Canadian Mounted Police Veterans' Association. Even with the assistance of Old Age Security those pensioners of an age to qualify for benefits were having a difficult time. On the other hand many of the pensioners had not reached an age to qualify for Old Age Security and their welfare was affected accordingly. It was pointed out that the majority of pensioners affected by the 1958 revision would never benefit from the Canada Pension Plan. It was urgently requested that pensions be adjusted in accordance with the principles laid down in 1958 and with the principles for automatic adjustments brought about by the escalation in the cost of living as recognized in the Canada Pension Plan and Old Age Security.

A copy of the letter of May 28th to the Prime Minister was sent to the Honourable Guy Favreau, Minister of Justice and to the Honourable Walter Gordon, Minister of Finance.

Under date of June 3, 1965, the Dominion President was advised by the Secretary of the Prime Minister that the Right Honourable the Prime Minister had noted the representations made and, at his direction, the matter was being referred to the Ministers of Justice and Finance.

In answer to the Dominion President's request of July 10th, 1965, to the Honourable Lucien Cardin, Minister of Justice for an appointment to discuss the matter of increasing the pensions of retired members of the RCMP, the Minister in his reply of August 4th, 1965, drew to attention the remarks of the Prime Minister as recorded on page 838 of the House of Commons Debates of Monday, May 3, 1965, when replying to a request by a Member of Parliament for the Government to reconsider the matter of increasing the pensions of retired civil servants as follows:

> "...I should like to add that we have considered the representations made on behalf of retired civil servants on at least two occasions during the past year. The government considers that the additional provision which Parliament has recently made to increase the amount of the old age security benefit by $10 a month, and to lower the age of eligibility next year to 69 and progressively thereafter to 65, does represent an added benefit for most retired civil servants and indeed for most elderly Canadians, which is more substantial and significant and applies to a larger number of retired civil servants than the request...made..."

The Minister of Justice also said in his letter of August 4th, 1965, that he believed it was fair to say that all retired federal employees must be treated in the same manner and that one group of former government employees must be related to an equal consideration of service pensions of all former government employees.

On August 24th, 1965, the Dominion President had the pleasure of meeting with the Minister of Justice and among several things discussed was the service pensions of retired members of the RCMP.

During the discussion of service pensions the Dominion President made the following points:

1. The Prime Minister's statement on pensions made in the House of Commons on May 3, 1965, pre-dated the submission to him of May 28, 1965, and there was no reference to it in his letter to the Dominion President on June 3, 1965;

2. the Prime Minister said that he had directed his colleagues, the Minister of Justice and the Minister of Justice and the Minister of Finance to look into the matter;

3. that RCMP pensions were adjusted upwards in 1925, apart from other members of the public service, and in 1958 they had been adjusted upwards, along with the pensions of retired civil servants and former members of the Armed Forces, because of increased living costs;

4. that the Prime Minister's answer of May 3, 1965, in the House of Commons, was in reply to a protest made by the Civil Service Federation of Canada and concerned civil service pensions. The Dominion President's submission was different as RCMP pensioners were not retired civil servants and in addition we had made representations on behalf of all retired employees of the Public Service and the Armed Forces;

5. that the extra $10 per month given to old age pensioners referred to in the Prime Minister's reply in the House of Commons on May 3, 1965, had little or no bearing on the pensions of the retired employees of the federal public service as their relative position remained the same because the extra $10 applied to all old age pensioners;

6. that the lowering of the age of eligibility for old age pensioners to 69 years in 1966 and progressively thereafter to 65, had a great deal of merit for all Canadians, but the plight of the older federal public service pensioners was now;

7. that no one could find fault with the government's responsibility to curb inflation but the fact could not be ignored that the cost of living continued to rise as demonstrated by the 14.4 points (11.5%) increase in the consumer's price index since the last adjustment to pensions in 1958 and that between July 1964 and 1965 the increase was 3.3 points—in fact nearly 40 cents had been whittled off the 1949 dollar in terms of what the consumer buys;

8. that Judge J. C. Anderson's report on the pay of postal employees showed the injustice of making wage revisions every two years, surely a federal government pension revision every 15 to 20 years was equally unjust;

9. did not all former employees of the Public Service deserve better treatment from their former employer and should not the pensioners of the RCMP who continued to work for the good of Canada deserve some consideration for their efforts;

10. that the pay of members of the RCMP was never sufficient to build security for the future by way of savings because the members during service were subject to a great many transfers at considerable inconvenience and expense to themselves and their families;

11. that particularly during the period prior to and immediately after World War II, the older pensioners who saw service at that time were subjected to rigours, isolation and hardships with very low pay and now a dwindling pension was their only reward;

12. that the $300 marriage allowance paid to members of the RCMP for several years had never been applied to pensions and yet the federal statutes under which the RCMP are constituted and operated states that pensions are based on pay and allowances;

13. that the government had recognized the need for automatic adjustments in the Canada Pension Plan and Old Age Security because of increased cost of living and adjustments to the wages of the civil service, RCMP, Armed Forces and other members of the Public Service from time to time, why therefore could not the pensions of former federal government employees be automatically given the same treatment. Such action would remove the stigma attached to federal government pensioners that they who had worked so hard in the interests of Canada while in service now felt that Canada was no longer interested in them.

The Minister of Justice expressed interest in the Dominion President's arguments and said that he would make them known to the members of the Treasury Board. Quite rightly, he said that no preference could be given to RCMP pensioners without giving equal consideration to other retired federal government employees.

On November 26, 1965, the Minister of Justice requested that the Dominion President again write to him on this matter.

It is noted that the responsibility for the Royal Canadian Mounted Police, and consequently for the affairs of RCMP pensioners, has been transferred, effective January 1, 1966, from the Honourable Lucien Cardin, Minister of Justice, to the Honourable L. T. Pennell, Solicitor-General.

Because of the change in Ministers, it is the privilege of the Dominion President to bring this very important matter to the attention of the Honourable L. T. Pennell, Solicitor-General, along with the following supporting information which justifies an increase in service pensions.

The following figures are very enlightening as to the amount of pensions payable under the RCMP Pension Continuation Act based on the maximum pay and the maximum service for selected ranks over the past 30 years:

Ranks	1935	1945	1955	1965	Percentage change 1935-1965
Constables	$ 914.16	$1,218.33	$2,560.00	$3,773.33	+312.8%
Corporals	1,008.33	1,373.33	2,776.00	4,156.66	+312.4
Sergeants	1,216.66	1,642.50	3,112.00	4,676.66	+284.3
Staff-Sergeants	1,277.50	1,703.33	3,424.00	5,046.66	+295.2
Inspectors	2,401.00	2,744.00	4,989.60	7,140.00	+197.4
Superintendents	2,905.00	3,234.00	5,636.40	8,610.00	+196.4

It will be agreed that these figures are very illuminating and that the difference in pension paid for comparable service demonstrates very clearly the

need for an upward revision in pensions, and the implementation of automatic adjustments as the cost of living rises.

Another very important consideration is that pensions payable to former constables and non-commissioned officers under Part III of the RCMP Pension Continuation Act are terminated upon the death of the pensioner. The surviving widow receives nothing unless she is covered by Part IV of the same Act which was made mandatory to those joining the Force after October 1, 1934, but not for those joining prior to that date.

Of consideration is the position of pensioners in relation to other Canadian taxpayers, as arranged according to average incomes, and taken from the 1965 edition of Taxation Statistics published by the Department of National Revenue:

Occupation	Number	Average Income
Doctors and Surgeons	15,019	$ 19,433
Lawyers and Notaries	7,728	16,283
Engineers and Architects	2,594	14,989
Dentists	5,092	13,679
Accountants	4,590	10,994
Salesmen	51,311	6,290
Other Professionals	8,637	6,139
Investors	147,424	6,055
Entertainers and Artists	3,606	5,997
Business Proprietors	214,007	5,457
Fishermen	4,177	4,985
Farmers	92,026	4,582
Employees	4,295,491	4,351
Unclassified	13,759	4,106
Pensioners	61,912	3,233
Total	4,927,373	4,550

Also of significance are the figures recently published by the Dominion Bureau of Statistics on the average income for all non-farm families and unattached individuals which rose to $5,195 in 1963 compared to $4,815 in 1961. Families whose income came mainly from wages and salaries recorded a gain of 6.6 per cent in average over this two-year period. Unattached individuals reported an average income of $2,397 and all families containing two or more persons $5,939; for both groups these figures indicate increases in average income of over 10 per cent as compared to 1961.

There has also been a significant upward movement in the labour income per paid worker from the fourth quarter of 1959 to the same quarter in 1964. For this period the movement was 19.3 per cent or about 5 per cent per annum. This movement has accelerated in recent years, for example, from the second quarter of 1964 to the same quarter in 1965 it was 10.5 per cent.

In addition, Canada's consumer price index rose 0.6 per cent to 140.2 in November, 1965, from 139.3 in October. The November index was 3.2 per cent higher than the November, 1964, index of 135.9.

On the basis of the movement of salaries since 1959, the significant increase in labour income and the accelerated cost of living, there is ample justification for an increase in pensions.

In summary, it is requested:

(a) that the pensions of retired members of the RCMP, civil service, Armed Forces and Public Service be increased;
(b) that pensions be automatically increased as the cost of living rises;
(c) that the $300 marriage allowance paid to members of the RCMP for several years be incorporated into the pensions of those so qualifying;
(d) that whatever method is used to adjust pensions upwards, the anomaly created by Schedule C of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, relative to the recipients of more than one federal pension be cancelled as the limitations imposed therein are considered to be no longer realistic.

Finally let it be said that there has been a progressive deterioration in the morale of the older RCMP pensioners as result of the failure of the government to improve their very unsatisfactory position.

606 Bathurst Ave.,
Ottawa 8, Ontario.
FEBRUARY 4, 1967.

Mr. T. D. MacDonald, Q.C.,
Deputy Solicitor General,
Justice Building,
Ottawa, Ontario.

Dear Mr. MacDonald:

Thank you for the interview on January 30th, 1967 and for the opportunity of making representations for an increase in the pensions paid to retired members of the RCMP or their dependents.

It was thoughtful of you to have present Chief Superintendent P. R. Usborne, RCMP, and Mr. Gordon Brown, Director of Personnel of your office.

At the completion of our discussion you requested that I write to you confirming the several points covered and I am most pleased to reply at this time.

Number of Pensioners

The number of pensions presently being paid under the RCMP Pension Continuation Act and the RCMP Superannuation Act to former members and widows are as follows:

Pensions Payable Under Part II and III of the RCMP Pension Continuation Act

Officers' Pensions	99
Officers' Widows	70
NCOs. @ Csts. Pensions	1770
NCOs. & Csts. Widows	11
Total	1950

Pensions Payable Under the RCMP Superannuation Act

		1950
Officers' Pensions	11	
Officers' Widows	5	
NCOs. & Csts. Pensions	213	
NCOs. & Widows	53	
Total	282	282
Grand Total		2232

Pension Brief

On January 10, 1966 this Association sent a brief to the Honourable L. T. Pennell, Solicitor General requesting an increase in RCMP service pensions. I am pleased to enclose a copy of the brief.

On February 10, 1966 at Mr. Pennell's invitation the contents of the brief were discussed with him, and the four recommendations contained in the brief were reviewed.

Recommendations

These recommendations are as follows:

(a) that the pensions of retired members of the RCMP, civil service, Armed Forces and Public Service be increased;

(b) that pensions be automatically increased as the cost of living rises;

(c) that the $300 marriage accommodation allowance paid to members of the RCMP for several years be incorporated into the pensions of those so qualifying;

(d) that whatever method is used to adjust pensions upwards, the anomaly created by Schedule C of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, relative to the recipients of more than one federal pension be cancelled as the limitations imposed therein are considered to be no longer realistic.

Mr. Pennell was sympathetic to our recommendations and on April 7, 1966 he wrote to me saying that a copy of the brief had been sent to officials in the Department of Finance. He noted with particular interest, recommendation (c) above, that certain allowances were not included in the computation for pension benefits.

As stated in our discussion on January 30th, the need for a pension increase, recommendation (a) above, is more serious than ever. There has been a general movement upwards in salaries since the last adjustment was made to pensions of retired members of the RCMP, civil service, Armed Forces and Public Service, or their dependents in 1959, and there has been an undeniable increase in the cost of living. As living expenses continue to rise the plight of the pensioner becomes most difficult.

The following examples of several of the pensioners of the RCMP demonstrate the hardships they are facing:

RCMP PENSION CONTINUATION ACT

Rank Held	Pensionable Service	Annual Pension	Effective Date	Pension Increase	Total
Cst.	20 years 214 days	$548.50	1.10.37	$175.56	$724.06
Cst.	20 years	548.50	1.10.38	175.56	724.06
A/Cpl.	20 years 95 days	573.10	17.12.38	183.48	756.58
Cst.	20 years	548.50	25. 4 .39	175.56	724.06
Cst.	20 years 223 days	548.50	3. 9 .39	175.56	724.06

The Canada Pension Plan will help RCMP pensioners in the years to come, as it will help all Canadians, but it will have little effect, if any, on those individuals who because of their age do not have the opportunity to contribute to it or will it help others, to any extent, who because of their age will not be permitted to pay into it for very long.

An example of those who fall within the 'gap years' we spoke of at our meeting is reflected in the following case. After our discussion on Monday, January 30th I received the following letter from a retired Sergeant of the RCMP who engaged in the Force in the year 1929 and took his discharge in 1949: "As pensioned member of the RCMP Sgt. as of Sept. 1949 I find myself in need of a job—I have exhausted the possibilities around here so I know that I should make an effort to contact you as you may be in a position to hear of any openings which escape me here. Although I am 62 years of age I am in good health and would be able for quite a few years to pull my weight.

My wife is confined to hospital and will probably be there for the rest of her life otherwise I have no ties here and could move around should an opportunity arise.

Would you kindly let me know if you can be of any assistance as my pension is only $96.17 a month which does not go very far these days."

We will do everything we can to find work for this man who holds the RCMP Long Service Medal and so must have done good work for the Force and for Canada during his service years.

Special Joint Committee on the Public Service

Some glimmer of hope may be in the wind for retired members of the public service in general as the Honourable E. J. Benson on January 10th, 1967, filed a Government Notice of Motion in the House of Commons directing the Special Joint Committee on the Public Service of Canada to inquire into and report on the pension scale of pensions paid to retired civil servants or their dependents. Upon learning of this we sent a telegram to Mr. Benson requesting equal

consideration for the pensioners of the RCMP, Armed Forces and the Public Service in general or their dependents.

Automatic Increases as Cost of Living Rises

With reference to our request that legislation be passed allowing for automatic increases to the pensions paid to the RCMP, etc. As the cost of living rises, recommendation (c) above, in our view the Parliament of Canada has created such a precedent in the Canada Pension Plan and in recent amendments to the Old Age Security Act. If this provision was made part of the several acts governing the payment of pensions to retired members of the RCMP, civil service, etc., or their dependents there would be automatic adjustments in pensions and the difficulties of bringing in new legislation, such as, the Public Service Adjustment Act, 1959, Chapter 32, might not be required in future years.

Incorporation of Allowances for Pension Purposes

With reference to recommendation (c) dealing with the $300.00 Marriage Accommodation Allowance paid to members of the RCMP from 1951 to 1966 and never incorporated into pensions, it is noted that when the last pay increase was given to the RCMP in October, 1966 one of the features of the raise was the incorporation of the marriage allowance for pension purposes. We are happy that this has finally been done. We wonder if it came about as a result of our recommendation. Many members of the Force when proceeding to pension between 1951 and 1966 asked why this allowance should not be included in their pension for after all it was considered income and they had paid income tax on it.

When it was learned that the allowance was going to be included for pension purposes I wrote to Mr. Pennell as he had expressed interest in this very point when I had the opportunity of discussing our brief with him one year ago.

Under date of December 6, 1966, Mr. Pennell's executive assistant, Mr. E. R. M. Griffiths, replied as follows:

"Reference is made to my letter of October 4th, 1966, regarding certain proposals you advanced in respect to the incorporation of marriage allowance for pension purposes.

The Solicitor General has looked into this matter and it is reported that under the R.C.M.P. Pensions Continuation Act and the R.C.M.P. Superannuation Act, pensions payable to ex-members of the Force are based upon pay and such "allowances" as are prescribed or determined by the Governor-in-Council to be counted for pension purposes. The Marriage Accommodation Allowance of $300.00 per annum, which came into effect in 1951, was not allowed by the Governor-in-Council as an allowance for pension purposes and consequently was never included in the calculation of pensions.

On October 1st, 1966, the Marriage Accommodation Allowance was incorporated into the pay of members of the Force. As a result, it is now included for pension purposes for those members of the Force who retire on or after that date. Insofar as I am aware, however, there is no existing statutory authority which would permit such an allowance to be counted for pension purposes with

retroactive effect, and I have been given to understand that it would be contrary to normal practice to seek authority to make any such regulation retroactive."

It will be noted that Section 67(1) of the RCMP Pension Continuation Act states that the amount of pensions *shall be based on pay and allowances*, and Section 67(2).... "The Governor-in-Council may by regulation determine the amount of allowances for pension purposes...". This Association is not requesting a retroactive regulation for something that did not exist but we are asking for incorporation into the computation of pensions an allowance which we feel we were unjustly deprived of. If the principle of incorporating the marriage accommodation allowance for pensions purposes can be adopted in 1966, surely it has existed since 1951 and those retiring to pension since 1951 should receive any benefits derived therefrom. As a matter of interest I understand that in the Armed Forces certain allowances, i.e., medical, uniforms, have been considered in the computation of pensions for some years and since October 1966 certain other allowances have been added.

Termination of Pensions on Death

As discussed we have received complaints as to why pension entitlements under the RCMP Pension Continuation Act are "for life" and cease from the day following the death of the recipient, whereas the pension entitlement under the RCMP Superannuation Act are payable until the end of the month during which the pensioner dies.

The discrimination between the two acts on this point has caused concern particularly as we have been informed that in some cases money has had to be returned to the government resulting in embarrassment to the families of the deceased pensioners.

This matter was taken up with the RCMP about one year ago and Commissioner Geo. B. McClellan was in complete agreement with our representations. However, it was pointed out that in order to bring the change about the Act would have to be amended. The Treasury Board officials agreed to give consideration to the amendment the next time the RCMP Pension Continuation Act was being amended which was not expected at the present session of Parliament.

It is indeed regrettable that there should have to be any delay in making such a minor change the results of which would be most humanitarian.

May I thank you for the interview of January 30th and say that I look forward with anticipation to a resolving of the several matters raised within a reasonable period of time.

APPENDIX "CC"

DEPARTMENT OF NATIONAL DEFENCE

STATISTICAL TABLES FOR THE CANADIAN FORCES SUPERANNUATION ACT AND DEFENCE SERVICES PENSION CONTINUATION ACT FOR THE FISCAL YEAR 1 APRIL 1965–31 MARCH 1966

APPENDIX "A": Contributors retiring because of age and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of annuity or pension and years of pensionable service.

APPENDIX "B": Contributors retiring on account of age and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of annuity or pension and age at retirement.

APPENDIX "C": Contributors retiring on account of disability and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of annuity or pension and age at retirement.

APPENDIX "D": Statement of Canadian Forces Superannuation Account Standing as at the end of the Fiscal Year 1965–66.

APPENDIX "E": Statement of Canadian Forces Superannuation Account Transactions during the Fiscal Year 1965–66.

APPENDIX "F": Canadian Forces Superannuation Act—Statement of Annuities, Annual Allowances, Cash Termination Allowances and Return of Contributions, as at the end of the Fiscal Year 1965–66.

SUB-APPENDIX 'A'

CANADIAN FORCES SUPERANNUATION ACT

DEFENCE SERVICES PENSION CONTINUATION ACT

Contributors retiring because of age and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of annuity or pension and years of pensionable service

Amount of Annuity or Pension	Years of Pensionable Service						TOTAL
	10–14	15–19	20–24	25–29	30–34	35–	
$							
0— 360							
361— 720							
721—1,080	12	1	1				14
1,081—1,440	17	27	2				46
1,441—1,800	4	73	14	3			94
1,801—2,160	5	37	64	14			120
2,161—2,520	2	10	123	20			155
2,521—2,880		15	84	63	2		164
2,881—3,240		5	44	83			132
3,241—3,600		6	26	49	2		83
3,601—3,960		2	24	52	10		88
3,961—4,320			10	49	2		61
4,321—4,680			20	46	7	1,	74
4,681—5,040		1	5	49	15	3	73
5,041—5,400			3	36	12	1	52
5,401—5,760			3	16	12	1	32
5,761—6,000			2	10	6		18
6,001—6,360			1	11	9	1	22
6,361—6,720			2	7	4	2	15
6,721—7,070				1	2	1	4
7,071—7,430				2	4		6
7,431—7,790				1	4	1	6
Over 7,790				4	6	2	12
TOTALS	40	177	428	516	97	13	1,271

SUB-APPENDIX 'B'

CANADIAN FORCES SUPERANNUATION ACT

DEFENCE SERVICES PENSION CONTINUATION ACT

Contributors retiring on account of age and becoming entitled to immediate annuities April 1, 1965 to March 31, 1966—Classified according to amount of Annuity or pension and age at retirement

Amount of Annuity or Pension	Age at Retirement											
	45	46	47	48	49	50	51	52	53	54	55 and Over	TOTALS
$												
0— 360												
361— 720												
721—1,080												
1,081—1,440					1	9		2	1	1		14
1,441—1,800						40	4	1	1			46
1,801—2,160				1	2	69	11	6	1	2	2	94
2,161—2,520	1		1	1	2	92	18			2	3	120
2,521—2,880	2		3	1	1	123	17	4			4	155
2,881—3,240	2	2	8	2	6	113	13	9	4	1	4	164
3,241—3,600	4	2	11	5	6	48	8	36	5		7	132
3,601—3,960	4	2	8	9	8	11	1	18	2	1	19	83
3,961—4,320	10	2	14	20	10	11	1	10	2	1	7	88
4,321—4,680	8		10	14	14	12	1				2	61
4,681—5,040	7		10	19	16	17	1			3	1	74
5,041—5,400	5		11	10	20	17	2	2		2	4	73
5,401—5,760	1		4	7	16	19	2	1			2	52
5,761—6,000	1			2	7	11	8	1	1		1	32
6,001—6,360					6	5	6			1		18
6,361—6,720					6	9	4	2			1	22
6,721—7,070					1	4	7	1	1		1	15
7,071—7,430						2	1	1				4
7,431—7,790						1	3	1			1	6
Over 7,790							4	1		1		6
TOTALS							4		1	2	5	12
	45	8	80	91	122	613	116	96	19	17	64	1,271

SUB-APPENDIX 'C'

CANADIAN FORCES SUPERANNUATION ACT

Defence Services Pension Continuation Act

Contributors retiring on account of disability and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of Annuity or Pension and age at retirement

Amount of Annuity or Pension	Age at Retirement						TOTALS
	Under 35	35–40	41–45	46–50	51–55	Over 55	
$							
0— 360							
361— 720		1					1
721—1,080	66	30	9	7			112
1,081—1,440	87	80	42	14			223
1,441—1,800	21	69	57	28	1		176
1,801—2,160	5	68	72	28			173
2,161—2,520	1	22	77	53	2		155
2,521—2,880		3	44	54			101
2,881—3,240		4	30	30	5		69
3,241—3,600		1	6	14	7		28
3,601—3,960		2	6	3	4		15
3,961—4,320			5		1		6
4,321—4,680			3	2	1		6
4,681—5,040			3	2			5
5,041—5,400				4			4
5,401—5,760				1			1
5,761—6,000							
6,001—6,360							
6,361—6,720				1			1
6,721—7,070							
7,071—7,430							
7,431—7,790							
Over 7,790							
TOTALS	180	280	354	241	21		1,076

SUB-APPENDIX 'D'

1965–66

STATEMENT OF CANADIAN FORCES SUPERANNUATION ACCOUNT STANDING AS AT THE END OF THE FISCAL YEAR 1965–66

Balances in Accounts	Navy	Army	Air	Total
Current	64,966,841.63	170,711,083.91	172,976,789.37	408,654,714.91
Arrears	3,712,411.38	16,282,857.75	14,532,558.38	34,527,827.51
Transfer from other pension funds	1,157,221.50	1,727,020.17	4,926,830.47	7,811,072.14
Interest	52,762,558.07	157,048,812.61	150,716,572.38	360,527,943.06
Government Contributions	114,030,215.12	308,884,737.55	314,833,651.68	737,748,604.35
Sub-Totals	236,629,247.70	654,654,511.99	657,986,402.28	1,549,270,161.97
Less:				
Annuities and Annual Allowances	11,076,164.08	46,864,748.20	33,518,871.05	91,459,783.33
Cash Termination Allowances and Return of Contributions	20,200,215.98	49,370,573.57	40,775,211.29	110,346,000.84
Contributions Transferred	62,187.16	671,925.77	267,841.82	1,001,954.75
Unclaimed Accounts	44,213.65 cr	335,914.09 cr	17,292.92 cr	397,420.66 cr
Estate Tax and Succession Duties	466.65	2,517.36	3,724.86	6,708.87
Undelivered Cheques	10,942.72 cr	26,324.38 cr	19,096.43 cr	56,363.53 cr
Sub-Totals	31,283.877.50	96,547,526.43	74,529,259.67	202,360,663.60
Net—Totals	$205,345,370.20 cr	$558,106,985.56	$583,457,142.61 cr	$1,346,909,498.37 cr
Actuarial Liability Contributions and Interest to date				837,300,323.65 cr
				$2,184,209,822.02 cr

SUB-APPENDIX 'E'

1965-66

STATEMENT OF CANADIAN FORCES SUPERANNUATION ACCOUNT TRANSACTIONS DURING THE FISCAL YEAR 1965-66

Pension Contributions	Navy	Army	Air	Total
Current	5,468,796.03	12,888,086.46	14,021,773.90	32,378,656.39
Arrears	253,937.64	624,052.89	796,321.91	1,674,312.44
Transfer from other funds	51,664.65	108,950.59	178,011.27	338,626.51
Interest	7,766,778.06	21,284,309.56	22,177,116.75	51,228,204.37
Government Contributions	9,819,985.80	23,240,876.06	25,729,008.54	58,789,870.40
Sub-Totals	23,361,162.18	58,146,275.56	62,902,232.37	144,409,670.11
Less:				
Annuities and Annual Allowances	3,528,619.93	12,106,463.09	11,112,947.11	26,748,030.13
Cash Termination Allowances and Return of Contributions	1,739,610.72	3,629,232.28	4,793,179.36	10,162,022.36
Contributions Transferred*	6,256.95 cr*	45,606.98*	28,260.75*	67,610.78
Unclaimed Accounts	2,262.59 cr	6,512.32 cr	269.78 cr	9,044.69 cr
Estate Tax and Succession Duties	—	—	—	—
Undelivered Cheques	4,371.54 cr	9,789.27 cr	8,706.19 cr	22,867.00 cr
Sub-Totals	5,255,339.57	15,765,000.76	15,925,411.25	36,945,751.58
Net—Totals	$18,105,822.61	$42,381,274.80 cr	$46,976,821.12 cr	$107,463,918.53 cr
Actuarial Liability Contributions and Interest to date				48,623,443.92 cr
				$156,087,362.45 cr

*Navy—Amount reported in 1964-65 adjusted by $10,332.51 credit in 1965-66.

*Army—Amount reported in 1964-65 adjusted by $28,786.43 credit in 1965-66.

*Air—Amount reported in 1964-65 adjusted by $30,338.44 credit in 1965-66.

SUB-APPENDIX 'F'

1965-66

CANADIAN FORCES SUPERANNUATION ACT

STATEMENT OF ANNUITIES, ANNUAL ALLOWANCES, CASH TERMINATION ALLOWANCES AND RETURN OF CONTRIBUTIONS, AS AT THE END OF THE FISCAL YEAR 1965-66

Benefits	Navy	Army	Air	Total
Annuities to contributors	1,505	6,381	4,962	12,848
Annual Allowances to dependents	99	553	413	1,065
Return of contributions (including estates) Cash Termination Allowances to contributors Cash Termination Allowances to dependents	2,873	4,662	5,024	12,559
Totals	4,477	11,596	10,399	26,472

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 33

THURSDAY, MARCH 16, 1967

Respecting

PENSIONS

WITNESSES:

Mr. H. D. Clark, Director of Pensions and Social Insurance Division;
Mrs. J. C. Martin, Superannuation Branch, Department of Finance;
Mr. E. E. Clarke, Chief Actuary, Insurance Department.

ROGER DUHAMEL. F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

25941—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

Joint Chairmen:

and

Representing the Senate	*Representing the House of Commons*	
Senators	Mr. Ballard,	Mr. Langlois *(Chicoutimi)*,
Mr. Beaubien *(Bedford)*	Mr. Bell *(Carleton)*,	Mr. Lewis,
Mr. Cameron,	Mr. Berger,	Mr. Madill,
Mr. Choquette,	Mr. Chatterton,	Mr. McCleave,
Mr. Davey,	Mr. Chatwood,	Mr. Orange,
Mr. Denis,	Mr. Crossman,	Mr. Patterson,
Mr. Deschatelets,	Mr. Émard,	Mr. Sherman,
Mrs. Fergusson,	Mr. Éthier,	Mr. Simard,
Mr. Hastings,	Mr. Fairweather,	Mr. Tardif,
Mr. O'Leary *(Antigonish-Guysborough)*	Mr. Hymmen,	Mrs. Wadds,
Mr. MacKenzie,	Mr. Knowles,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, March 16, 1967
(54)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 3.47 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Deschatelets, Fergusson, MacKenzie (6).

Representing the House of Commons: Messrs. Bell (*Carleton*), Knowles, Lachance, Madill, McCleave, Patterson, Richard (7).

In attendance: Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Mrs. J. C. Martin, Chief Staff Services and GSM IP Division, Department of Finance; Messrs. E. E. Clarke, Chief Actuary, W. Riese, Senior Actuary, Department of Insurance.

The Committee questioned the departmental representatives on various points.

A paper "Private Pension Plans in Canada" submitted by the Department of Finance was accepted to be printed as an appendix to the proceedings. (*See Appendix DD*)

At. 4.15 p.m., the meeting went *in camera* to adjourn at 4.45 p.m., to the call of the Chair.

Edouard Thomas,
Clerk of the Committee

25941—1½

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, March 16, 1967

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, with us today are Mr. H. Clark of the Department of Finance, Mr. E. Clarke of the Insurance Department, and Mrs. J. Martin representing the Superannuation Branch. Mr. H. Clark will you come forward? The intention this afternoon is to allow members of the Committee to ask any questions they might have in connection with any of the suggestions which have been made in the past few meetings by organizations or individuals who appeared before us. The meeting is now open for questions.

Mr. KNOWLES: Mr. Chairman, I wonder if it is fair to ask Mr. Hart Clark, in his capacity as a technician, whether he can indicate to us which of the general approaches that have been made to deal with this problem is the most feasible? I have in mind suggestions that have been made of a flat increase of X dollars to everyone; a suggestion of a percentage across the board and there have been variations of the percentage. Now, I do not want to involve Mr. Clark in a statement of policy but I would plead that it is not unfair to ask which of these approaches would be most feasible.

Senator MACKENZIE: In this connection could I ask whether, in terms of our consideration of conditions of superannuated people—retired people—we should be restricted, in a sense, to the length of service they had given and the contribution to the fund they had made and their, more or less, legal rights under the existing circumstances, or whether we should take into consideration as well *ex gratia* payments because of need and because of a desire to help worthy people?

Mr. H. D. CLARK (*Director, Pensions and Social Insurance Branch, Department of Finance*): Well, Mr. Chairman, splitting these questions down into parts I would say probably the most feasible plan, that is, administratively the most simple to apply and the one that could be most quickly applied, is not the one that takes into consideration the aspects that Senator MacKenzie mentioned. I suppose the flat rate increase, regardless of the size of the pension and related only to the time of retirement, might certainly be the simplest. Whether that would be the most equitable, taking everything into consideration, is another question. But, the greatest—

Mr. KNOWLES: When I use the word "feasible" I do not mean just expedient, I mean feasible in terms of equity and in terms of its effect on any future changes we might make.

Mr. CLARK: Looking at this, it depends on what you have in mind for the future. But, knowing what has been done in the case of other countries which have gone through various stages, I may say initially they provided benefits only

to the very low pensions. Then, after a while, they provided increases to all pensioners who retired prior to a certain date, but limited the increase to a certain figure. In other words, just for example, in Canada we might have provided that the maximum increase would be $500; so that everyone in that group would get some increase with a maximum of $500. Then the two countries which I have in mind, which adopted that approach as an interim stage, subsequently went to the present basis whereby a certain percentage is applied to all pensions, including the increases which had previously been authorized. Thus, their present state was reached in three stages and they now have the relatively simple approach of applying certain percentages across th board. That is done regardless of the size of the pension but depending on the date of the retirement.

Senator MACKENZIE: Is this percentage related to the cost of living index or the wage increase of a similar post?

Mr. CLARK: In some countries, Senator MacKenzie, it is related to the cost of living. In others there is a relationship to a wage index. In the provinces, as you will have noted from the paper we presented, Quebec I think is the only one that approached it in the same way as Parliament did here in 1958 and 1959. Most of the provinces have tended to help just the very low pensions. But British Columbia has provided varying increases up to a certain maximum but made it available to all levels of pension. You get a different picture across the country.

Mr. KNOWLES: What factors do you think, if this is not an unfair question, we should take into consideration?

Mr. CLARK: I was a member of the advisory committee which recommended to the former government the formula which was adopted in 1958. The members of this committee, and I certainly shared their views, felt that there should be recognition of length of service and up to certain limits at least, the level of earnings; so that those who retired in the earlier days should have greater compensation, as it were, than the more recent ones to go on pension. In other words, this committee, of which I was a member, was quite against a simple flat rate approach.

Mr. KNOWLES: Would you think we should again pay for any such increase out of consolidated revenue rather than to try to attach it to the fund in any way?

The JOINT CHAIRMAN (*Mr. Richard*): This is a difficult question, Mr. Knowles, for Mr. Clark to answer.

Mr. KNOWLES: I think that is for him to say. I will not be offended if he does say it is too difficult.

Mr. BELL (*Carleton*): We are a public service committee and we should understand the difference between ministerial responsibility and the public service responsibility, and we are taking Mr. Chark into fields of the type of advice which he might tender to a minister. I really do not think we should ask him.

Mr. KNOWLES: That is, of course, what was done the last time.

Mr. CLARK: It was paid out of consolidated revenue, yes.

Senator MACKENZIE: What about this view that if the interest or dividend rate were increased from 4 per cent to 5 per cent, it could be paid out of revenues?

Mr. CLARK: Senator MacKenzie, Mr. Bryce, my deputy minister, is, I believe, coming on Tuesday to speak on that very point to this Committee. I really should not say anything at this time.

Mr. BELL (*Carleton*): I wonder why the Minister is not here to answer questions?

The JOINT CHAIRMAN (*Mr. Richard*): Everybody has a copy of this document, Superannuation Plans of Provincial and Foreign Governments which was tabled. It is now an appendix, and also the paper Private Pension Plans of Canada, as requested. Are there any questions members want to ask to elaborate them?

Mr. CLARK: Mr. Chairman, I have one minor correction to make in the second paper, namely, the one entitled Private Pension Plans in Canada, at the top of page 14. It started off by saying:

> In 1963 the pension commission of Ontario . . .

That should have read: "In 1965. . ." It was a study related to 1963 statistics but it was published in 1965.

Senator MACKENZIE: I have forgotten, but did you include this type in of pension any reference to the pension plans of universities? I ask that question only because they have had a good deal of varied experience in trying out various schemes.

Mr. CLARK: The universities would be included without being separated in these over-all figures.

Senator MACKENZIE: There is no separate consideration given?

Mr. CLARK: Not in this study.

Senator MACKENZIE: That is what I thought.

Mr. BELL (*Carleton*): With respect to the plans elsewhere you did not include Australia, and this point may have been raised during my absence in another committee. This was set forth in the brief of the Public Service Alliance. Did you check that, Mr. Clark?

Mr. CLARK: There is one very good reason why I did not include it. Quite apart from the fact that it was not specifically requested, a review of the Australian superannuation legislation has shown it to be one of the most complicated. You speak about our act being complicated; well, the Australian act is much more so! I hesitated even to start to review the provisions of the plan for it has been going through a number of revisions lately.

I suppose one could say that it comes closest to what we call a money purchase plan. In other words, the employee puts up so much money each year in return for which there is an expectation of a certain pension, and when he comes to retire the state puts up its contribution at that time. Over a relatively short period of time covered by the last actuarial review, the interest rates of the fund in which the assets were invested turned out to produce a higher yield than had been anticipated and so it was possible both to cut back the contribution rates

and increase certain benefits, the bases on which these had originally been calculated having been found to be related to a lower interest rate than that actually experienced. Now, it is possible that Mr. Ted Clarke has reviewed the actuarial basis of this plan and can throw further light on it. But really I have found it a plan so unlike any of ours, not only in the government but in the private field in Canada, that it is not easily compared in this study.

Mr. BELL (*Carleton*): You have refreshed my mind that some months ago I looked at it and I had the act in front of me, and I had the same difficulty.

Senator MACKENZIE: Mr. Chairman, this is as complicated a problem as any. It is even more complicated to me, at least, when I listen to the representatives of the services—the armed forces and the RCMP—because, while you may think of a member of the civil service as being in service until he reaches age 65 or has 35 years service, or what you will, the period of employment, I gather, of members of the armed forces is a much shorter period—an amazingly much shorter period. So, the kind of pension scheme you might envisage for the civil service seems to be inadequate, or not quite suitable, for those in the armed forces. I would suspect, when considering members of these organizations that we would have to consider them in different ways and make different recommendations about them, depending on whether what I am saying is realistic or makes sense.

Mr. CLARK: Well, Senator MacKenzie, the tendency over the last 20 to 25 years, and the objective, has been to bring the basic formulae of these three plans—that is, the civil service, the armed forces and the RCMP—in line. The only difference is that the members of the armed forces and RCMP can go out on an immediate pension at a much younger age whereas, unless I am disabled, I cannot go out—

Senator MACKENZIE: I have this in mind. It may be that in some respects a member of the armed forces—a pilot, for instance—may after 20 or 25 years service, cease to be serviceable, if I may use that word. This would not be true in the same sense of a person in the civil service. A person retiring after 20 years in the armed forces at the age of 39—we have had on illustration before us—might then very well find other lucrative employment.

Mr. CLARK: That is correct.

Senator MACKENZIE: So, the situations could be rather different.

Mr. KNOWLES: How was this handled in 1958 and 1959?

Mr. CLARK: In 1958 and in 1959 we had—and we still have, for that matter, I believe—six different basic pension formulae depending on the service to which a person belonged. The armed forces and the RCMP could have pensions based on the final day's pay, the last year's salary, the best three years and so on, whereas, the civil service tended to be on the best ten-year average.

Mr. KNOWLES: Did I make myself clear? I have in mind the increases that were provided in 1958 and 1959. Was there any difference?

Mr. CLARK: Yes; related to these different formulae, a smaller increase was given to those whose pension benefits were calculated on the most favourable formula. In other words, the armed forces officer who retired on a pension based

on his last day's pay would get a smaller increase than the civil servant who retired on the same day but whose pension was based on the ten-year average.

Mr. KNOWLES: Was there any difference because of age?

Mr. CLARK: No, no; that is the only difference.

Senator MACKENZIE: It is based on length of service. In other words, it is 2 per cent for each year of service. Was it 2 per cent of 20 years service in the armed services?

Mr. CLARK: Yes, that would produce a 40 per cent pension.

Senator MACKENZIE: Yes, and the other would produce a 70 per cent pension.

Mr. CLARK: On 35 years that is correct, but then the armed forces officer could go into other employment. He could go into the civil service and build up a pension.

Senator MACKENZIE: Maybe and maybe not.

Mr. CLARK: Yes.

Senator CAMERON: Mr. Chairman, on this point, part of the armed services advertising to get people into the forces is that if you get in at 19, say, you can retire at 39 or 40 with a pension. This sounds fine when you are 18 or 19 but, in the course of events, that is about the time families are the most expensive. I know lot of officers who have retired after 20 years service at 45, or even a little later, and they are having a pretty tough time because no one wants them at that age. I can name dozens of officers from colonels down who have pensions they find inadequate for educating their families and they find it very difficult to get satisfactory work at this time. Has this come to your attention very often in the course of this analysis?

Mr. CLARK: Well, they certainly do bring this out, particularly those, of course, who are not able to get good employment in their later years.

Senator CAMERON: There are lots of them, I have been surprised at how many of them there are in that category.

Mr. BELL (*Carleton*): May I ask either of the gentlemen whether the calculation has been made of what the cost would be of re-calculating all pensions to the six year average?

Mr. E. E. CLARKE (*Chief Actuary, Actuarial Branch, Insurance Department*): Mr. Riese tells me it is about $20 million to $25 million.

Mr. BELL (*Carleton*): Per annum?

Mr. CLARKE: No, this is a lump sum; it is the present value of the extra annual benefit resulting from bringing those that are now on the 10-year average to the six year average.

Mr. BELL (*Carleton*): Which would give a potential liability to the fund of $25 million?

Mr. CLARKE: Yes, at the present time.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator MACKENZIE: This may not be a proper question, but I think we were asking ourselves when we met last week whether any draft proposals were being prepared with respect to these problems because of their complicated nature, so that, in a sense, we might sit in judgment on them to decide whether this one, or that one, or the other one was the most suitable. I suspect this is something for the department and the ministers to produce when they are in a position to do it, if they want to do it, and it may be our function as a Committee to come up with our own.

The JOINT CHAIRMAN (*Mr. Richard*): I hope that members of the Committee will not depend entirely on proposals to come from departments, but that those who have sat here all this time—some of us, at least—will have some proposal to make—even a broad proposal. I have been expecting some to come out of our discussions.

Mr. KNOWLES: Ours would not compare with those that would come out of the department.

The JOINT CHAIRMAN (*Mr. Richard*): Well, at least they could be criticized, and they would form a basis for appreciation just as well. I am pretty sure that we will criticize anyway whatever proposal may come from the department. I was wondering whether members of the Committee have any intention of suggesting proposals which will enable officials of the department to estimate them, or criticize, them if necessary.

Senator MACKENZIE: I have some feelings about it, Mr. Chairman, but they are not much more than feelings at the moment.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Ted Clarke is here today. On previous occasions members have heard the briefs of associations commenting on the different features of the fund, and I was wondering whether there are any questions that could be directed to him. Or are all the members satisfied now that they have all the information they want from Mr. Ted Clarke?

Senator DENIS: But you must have the names and the addresses for the number of still living retired persons whose pension was so small that they accepted a lump sum in final settlement rather than a monthly pension?

Mr. CLARK: This is permitted under the legislation; I would have to ask Mrs. Martin if any have done so.

Mrs. J. MARTIN (*Superannuation Division*): Very, very few.

Mr. CLARK: Mrs. Martin says very few have taken that opportunity.

Mrs. MARTIN: Very few have done it, because it is only when the pension is really small that it is possible, and pensions are usually greater than that.

Senator DENIS: Do you have the number of those retired persons still living who have accepted a lump sum?

Mrs. MARTIN: No, we have not.

Senator DENIS: You do not have the number, and you do not know?

Mrs. MARTIN: No, we do not know whether they are alive or not.

Mr. KNOWLES: How could they know?

Senator DENIS: But you must have the names and the addresses for the settlements.

Mr. KNOWLES: Of the ones who died?

Senator DENIS: No, those who are still living.

Mr. KNOWLES: I think the point Mrs. Martin was making is that once a person has accepted a lump sum the department has no further interest in keeping that person's name and address.

Senator CAMERON: Mrs. Martin said, Mr. Chairman, that it is only when the pension is very low that they can take the lump sum. What is the limit of this?

Mrs. MARTIN: It is $10 a month.

Senator CAMERON: One hundred and twenty dollars a year?

Mrs. MARTIN: Yes.

Mr. CLARK: The main point here is that a person must have five years' service before he can get a pension at all, and very few of those people would have a pension as low as $10 a month.

Mr. KNOWLES: Mr. Chairman, I liked your suggestion that we might make some concrete proposals and have the officials give us their technical views about them; but I think either we should have time to work out our suggestions and bring them to another meeting or, perhaps, it is something that we should first deal with in camera. I would not want to shock the nation with the size of the increase I might recommend.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any further questions?

Mr. KNOWLES: The Senators that sit with us are not the kind to break a confidence.

Mr. PATTERSON: I was just asking: What does "in camera" mean?

Senator DENIS: There is another question I would ask. Do you have the number of retired persons receiving pensions who are not entitled to the guaranteed income, or the old age security pension?

Mrs. MARTIN: There are 87 per cent of our pensioners who are of an age where they could draw old age security payments.

Senator DENIS: That is old age security, but the recent tax legislation goes further than that.

Mrs. MARTIN: I do not have that number.

Senator DENIS: You do not have that number, but 87 per cent of the pensioners are in a position to take advantage of that.

Mr. LACHANCE: This means that people who are 68 years of age—

Senator DENIS: At the present time.

Mr. LACHANCE: Could you tell what the percentage will be in 1969 when this old age pension will be granted to persons of the age of 65?

Mrs. MARTIN: We have just projected it to the end of 1967 when it will go up another 3 per cent.

Mr. BELL (*Carleton*): At December 31, 1967, it will be 90 per cent?

Mrs. MARTIN: Yes.

Senator CAMERON: Mr. Chairman, I thought I saw in the press within the last week a statement that in the first months of this payment it was estimated that 644,000 of the pensioners would qualify for the additional benefits under old age security. Is that right?

Mr. CLARK: This is for the guaranteed income.

Senator CAMERON: Yes, 644,000.

Mr. CLARK: But this, of course, is across the country.

Senator CAMERON: Yes.

Mr. CLARK: What we would have to know would be the number whose pensions are less than $360, and over the old age security eligibility.

Mr. KNOWLES: You would also need to know what other income they might have.

Mr. CLARK: Yes, and other income too; but we just do not know that.

The JOINT CHAIRMAN (*Mr. Richard*): But you do know that 87 per cent just now are eligible for $75 a month. Are there any other questions?

Mr. KNOWLES: I hope that the gentlemen and Mrs. Martin do not feel that we have not made much use of their time today. We are so close to policy we obviously have to have—

The JOINT CHAIRMAN (*Mr. Richard*): Shall this paper, Private Pension Plans in Canada, be made an appendix to our proceedings?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): When does the Committee want to meet?

Senator MACKENZIE: Could we agree to meet briefly now and toss a few ideas back and forth Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Yes, in camera.

APPENDIX "DD"

PRIVATE PENSION PLANS IN CANADA

This memorandum has been prepared in response to the request by the Special Joint Committee on the Public Service for a paper which would permit Members to compare the provisions of the federal Public Service Superannuation Act with private pension plans in Canada.

The paper relating to a survey of pension plans of 1960, prepared by the Labour Division of the Dominion Bureau of Statistics and presented to the Special Joint Committee of the Senate and the House of Commons appointed to consider and report upon the Canada Pension Plan on December 15, 1964, is reproduced below because of the excellent way in which it described the private pension plan situation at that time.

Excepts from a more up-to-date survey made by the Ontario Pension Commission of the pension plans in Ontario follows this DBS paper. The results of a national survey by that Bureau is at present being compiled but since they are not yet available, the Ontario survey will give Members an indication of the latest trends among private pension plans in Canada.

Appendix A1 of the Proceedings of the Joint
Committee on the Canada Pension Plan

Introduction

Private pension plans in Canada have a comparatively short history. One of the earliest plans was introduced in 1870 for Federal Civil Servants. Four years later the Grand Trunk Railway inaugurated a plan for their employees. Although records are scanty for this early period in the history of private pension plans in Canada, it is known that the oldest plans were introduced mainly by government, railroad and financial institutions.

Interest in old age security in Canada increased gradually after the turn of the century. This widening interest was manifested fairly early with the introduction in 1908 of the Annuities Act marking the beginning of federal legislation in the field. This Act was designed to assist Canadians to make private provision for their old age through the offices of the Government Annuities Branch.

The growth in the number of pension plans was comparatively slow until 1940, when wartime conditions provided impetus for expansion. Production demands during World War II tended to focus employer attention on personnel problems. Labour was at a premium, and in order to meet heavy production schedules, management employed every possible means to encourage higher productivity. Furthermore, this labour shortage, coupled with a wage ceiling, led employers to place greater emphasis on working conditions and improved benefits to attract and hold their work force. Pensions therefore became one of the vehicles for providing an earnings supplement while at the same time holding the line on wages.

The number of pension plans continued to grow at this accelerated pace during the post-war period. Expanded industrialization in Canada

over the past two decades brought with it changes in the economy which tended to create a wider interest in pension planning. Increased concentration of ownership and the resultant growth in the number of large firms provided an instrument through which pension funds could be accumulated. Furthermore, the ever-expanding numbers of wage-earners in the economy tended to focus greater attention on the problems of workers laid off because of age and created wider interest in and concern for improved security for older workers.

From the employers' viewpoint there was a need for a systematic retirement policy. Pension plans permitted impartial retirement of workers who reached a selected age, and relieved the employer of the moral responsibility for retaining older employees whose industrial efficiency may have been impaired by age. Introduction of pension plans by employers also was probably influenced by federal legislation that made contributions to approved pension funds deductible for income tax purposes. Employees' interest in their future security has been reflected in the increasing frequency with which pension provisions have been among the more active issues in collective bargaining. This wider interest in all forms of social security created a climate of opinion favourable for the growth of pension programmes.

In response to this increased interest in pension plans, by November 1960, there were nearly 9,000 private pension plans in existence in Canada covering almost 2 million workers.[1] These plans were found in firms of all sizes. A total of 230 pension plans claimed a membership of 1,000 or more workers; 55 of these plans had memberships of 5,000 or more people. But pensions were not confined to the larger employers, since the survey found that over 5,000 plans were established by firms each with a membership of less than 15 employees.

The wise range in size of establishments, together with a diversity of factors peculiar to individual establishments, created many divergent requirements to be considered in the design of these pension plans. Plans appropriate for small firms may be quite inadequate for large firms. The unit costs of some benefits could conceivably be prohibitive for small firms whereas in large firms these costs, when shared by greater numbers, can be provided at appreciably lower rates. In other instances, firms engaged in seasonal activities, e.g., construction, may have difficulty designing a plan since the work force tends to vary sharply in size due to seasonal factors. These difficulties would not apply to firms with low labour turnover rates and comparatively stable work forces.

This review will be confined to the main features of pension plans which will be discussed under the following headings:

(1) Basic categories of plans
(2) Contributions
(3) Coverage
(4) Types of Benefits
(5) Eligibility for Benefits
(6) Vesting

[1] Pension Plans, Non-Financial Statistics, 1960, DBS Cat. No. 74-505.

(7) Pension Benefit Levels

(8) Integration with Federal Old Age Security Benefits.

Basic Categories of Plans

Broadly speaking, pension plans can be divided into two main categories —underwritten plans and trusteed plans. In the former type, contributions are transferred to an underwriter, usually an insurance company, or the Government Annuities Branch of the Federal Department of Labour, which guarantees to pay whatever benefits have been bought in accordance with terms of the plan. Administration is generally in the hands of the underwriter. Although this type of plan is rather rigid in its requirements, it offers the greatest security to both employer and employee and therefore tends to be favoured by the smaller companies. The vast majority, about 86 per cent, of the private pension plans are the underwritten type but they cover less than 40 per cent of the 2 million workers participating in private plans.

Under a trusteed plan contributions are put into a trust fund established by the employer and administered by him or by a trust company. The annual contributions are deposited with the trustee, who holds all monies until an employee's retirement at which time a pension may either be paid from the fund directly or purchased outright from an insurance company or the Annuities Branch.

The trusteed type of plan, managed by indicidual trustees, has certain limitations. All risks, such as exceptional longevity among beneficiaries, must be borne by the fund instead of being merged in a larger pool of risks carried by the Annuities Branch or by insurance companies. The fund may be protected from the risk of longevity if it is used to buy annuities for employees as they retire. However, some uncertainties remain due to variations in the mortality rate of participants prior to retirement, or in the labour turnover rate. Therefore this type of plan is best suited to larger companies with work forces large enough to create funds that can easily absorb these risks.

Although only 14 per cent of all private pension plans are of the trusteed type, according to a D.B.S. survey these covered 1.1 million workers, some 60 per cent of all workers covered by private plans. Furthermore the total assets held by trusteed plans were nearly $4,600 million in 1963 compared with the $2,200 million of pension plan assets held by insurance companies and the Government Annuities Branch.

Over the past few years a wider market for trusteed pension plans has been created through the development of plans more suitable for smaller employers. This has been done through the expedient of the "pooled" or " classified" funds which combine contributions of a number of unrelated employers into a central fund managed by a corporate trustee. This type of plan opens the way for smaller companies to combine their assets and participate in the diversity, security and yield previously available only to much larger concerns. The success of this development may be measured by the increased number of trusteed arrangements with firms having fewer than 50 employees. Trusteed plans for these small employers rose from 132 in 1957 to 568 in 1962 according to latest figures available.[2]

[2] "Trusteed Pension Plans, Financial Statistics 1957, and Trusteed Pension Plans, Financial Statistics, 1962," DBS Cat. No. 74-201.

Contributions

Pension plans may be classified as either "Contributory" or "non-contributory" depending on the source of contributions to the fund. In the former type both the employer and employee contribute for the employee's ultimate benefit, whereas in the non-contributory plan the employer bears the entire burden of cost. Non-contributory plans have certain advantages for the employer in that they are more economical to administer since the employer is likely to have more control of its management. On the other hand, contributory plans have the advantage of making employees conscious of the costs of their pensions. Also from labour's viewpoint, this type of plan increases the financial independence of the employee and is likely to provide him with a larger pension and greater vested rights in the fund.

The contributory type of pension plans predominate in Canada. Out of a total of nearly 9,000 plans surveyed by D.B.S. in 1960 all but approximately 600 were the contributory type. These contributory pensions, at that time, had a total active membership of 1.5 million participants whereas 0.4 million participants were recorded in the non-contributory plans.[3]

The contribution rates for employees who participate in these contributory plans vary widely according to the benefits provided. A survey of pension plans[4] showed that employee contributions ranged from 3½ per cent to 7½ per cent of annual earnings. The most common rate was 5 per cent of earnings, found in nearly three-quarters of the contributory plans and was the rate paid by more than ⅓ of the 1.5 million workers who participated in these plans. About 25 per cent of the participants were in plans that called for a 6 per cent contribution and less than 10 per cent of the participants paid 4 per cent of their income. At the bottom end of the scale, relatively few, some 91,000 members paid 3½ per cent or less into their pension funds.

One of the usual determinants of the rate of pension an individual will ultimately receive is the number of years of contributions made by him or on his behalf after the start of the plan. Credit for years of service prior to the commencement of the plan is of particular concern to workers who are already close to retirement age when the plan is first introduced. Since private pension plans in Canada are of relatively recent origin this provision is a significant one. Over 40 per cent of private pension plans provide for purchase of past service benefits.

Past service benefits are usually financed solely by the employer. If the plan is registered for income tax purposes, the Department of National Revenue requires the past service liability to be liquidated systematically. It may be paid by a lump sum payment or by instalments over a pre-determined period.

Coverage

The subject of coverage gives rise to such questions as: "which employees are permitted to join the plan?" "under what circumstances are they excluded from membership?" "what conditions if any, must be fulfilled before membership in a plan is accepted?".

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[3] "Pension Plans, Non-Financial Statistics, 1960" op. cit. p. 10.
[4] Ibid. p. 12.

In non-contributory plans employees are included at the discretion of the employer. The question of which employees have options to join the plan therefore applies primarily to contributory plans since the participating employee must make contributions. Participation in contributory plans is usually optional for employees of the firm at the time the plan is inaugurated. However, for new employees membership may be either voluntary or compulsory and can vary according to sex. The table below shows the distribution of the various combinations of voluntary and compulsory membership provisions found in contributory pension plans in Canada.

ADMISSION TO MEMBERSHIP OF NEW EMPLOYEES

Combination		No. of Contributory Plans	Percentage
Male	Female		
Compulsory	Compulsory	1,959	23.6
Voluntary	Voluntary	5,644	68.0
Compulsory	Voluntary	251	3.0
Compulsory	Not eligible	111	1.3
Voluntary	Compulsory	1	—
Voluntary	Not eligible	269	3.3
Not eligible[5]	Compulsory	9	0.1
Not eligible[5]	Voluntary	23	0.3
Not eligible[6]	Not eligible[6]	33	0.4
Total		8,300	100.0

Source: "Pension Plans, Non-Financial Statistics, 1960" Op. Cit. p. 34.

Some pension plans do not impose any restrictions on employees to prevent their participation but allow them to become members upon joining the firm. In other plans, however, eligibility is subject to either the completion of a designated period of service, or the attainment of a stated minimum age, or a combination of the two. In a 1960 survey[7] it was found that of the nearly 2 million people participating in pension plans, 45 per cent were in plans that set no restrictions on memberships. Another 16 per cent were members of plans that based eligibility on the completion of a designated period of service; for a further 9 per cent eligibility for participation was subject to the completion of a period of service and/or the attainment of a minimum age. The years of service required for eligibility rarely exceed 5 years, and for over half of the members subject to this condition the service requirement was one year.

Minimum age as a factor for eligibility was found in slightly over half of the nearly 9,000 pension plans in force during 1960, and in most cases certain service requirements were included as well. Very few of these plans set the age limit beyond age 30 and in the majority of plans the limits were 25 year of age or less—with some variations according to sex.

An additional restriction found in a number of plans was a maximum age limit beyond which participation was prohibited. In a few plans this was the

[5] Membership in plan is confined to females or is closed to new males.
[6] Membership in plan is not available to new employees.
[7] "Pension Plans, Non-Financial Statistics, 1960" Op. Cit.

only restriction to membership. However, for approximately 3,000 pension plans eligibility was subject to a maximum age provision combined with either years of service, or minimum age, or a combination of both. The net effect of this maximum age provision is that it tends to discriminate against older workers and to limit their opportunities for employment.

A fairly common restriction to membership found in many pension plans is the specific exclusion of female employees. This restriction was reflected in the findings of a survey which showed that in establishments where plans existed, nearly three-quarters of the male employees were active participants, whereas only slightly more than half of the female employees were members. Generally speaking most of the difference may be attributable to the limitations on women's participation common in non-contributory plans. In addition, however, as can be seen from the table above, membership was closed to female employees in some 380 contributory plans as well. Furthermore, where participation in a pension plan was voluntary the incidence of women who elected not to join was relatively high. Consequently the same survey showed that 30 per cent of the women in establishments with contributory plans were either permanently ineligible to participate or, where membership was voluntary, elected not to join.

Type of Benefits

Every pension plan contains a formula by which the rate of pension for each participant is accurately determined. There is a wide variety in formulae used, although the majoirty show a general similarity. The two main types of pension plans are the "money purchase" and "unit benefit". The "money purchase" formula defines both employee and employer contributions as a percentage of salaries; the amount of pension is determined by the amount of annuity such contributions will buy. A "unit benefit" formula defines the amount of pension, and the contributions are determined by the cost of providing this amount of pension, although the employee's contribution, if any, is usually a fixed percentage of his earnings.

The following variations of the unit benefit plan are designed to relate pension benefits to earnings:

(1) Final earnings—a percentage of the member's earnings at the time he retires, for each year of service.

(2) Average final earnings—a percentage of average earnings during a designated number of years immediately prior to retirement, for each year of service.

(3) Average best earnings—a percentage of average earnings during a designated period of best earnings, for each year of service.

(4) Average earnings (career average)—a percentage of average earnings over the entire period of a member's participation in the plan, for each year of service.

Private pension plans incorporate the following adaptations of either the unit benefit or money purchase type of plan:

(1) Profit sharing pension plan—a money purchase type of plan. The employer allocates a percentage of profits to the plan, or a nominal percentage of the total payroll of the members of the plan if the

employer is operating without a profit. The member may be required to contribute a stated percentage of his earnings.

(2) Composite plan—a combination of a unit benefit type and a money purchase type of plan. The employer purchases a pension of the unit benefit type and the member contributes a stated percentage of his earnings which purchases an additional pension of the money purchase type.

(3) Flat amount type of plan—the amount of pension is either a fixed dollar amount, or the unit of pension is a fixed dollar amount for each year of service.

Of the private pension plans in force in Canada in 1960 over 60 per cent were of the money purchase type. However, these were concentrated largely among the smaller companies since they covered only 13 per cent of the nearly 2 million workers participating in private plans. On the other hand nearly 75 per cent of the members in private pension plans were covered by unit benefit plans.

Of the nearly 2800 unit benefit plans recorded in 1960 nearly 2400 were designed to provide benefits calculated on the basis of average earnings; a total of 415 plans provided benefits calculated on the basis of earnings attained during the final years before retirement. Final earnings plans are designed to provide a built-in correction factor to offset any future decline in the purchasing power of the dollar up to the time of retirement. Consequently, the accurate assessment of the future costs for these plans depends upon the precision with which the actuaries predict future experience.

Eligibility for Benefits

The primary criteria for eligibility for benefits from a pension plan is the attainment of a given retirement age. The most common retirement age in pension plans operative in Canada was found to be 65 for men and 60 for women. The sex differential in retirement ages has been the subject of a great deal of discussion. There is some doubt as to whether a lower retirement age for women was justified since women on the average outlive men. This age differential, in part, may stem from the unfounded prejudice that women are incapable of gainful activity beyond a certain age which is lower for them than for men. In recent years, however, there are indications that the traditional five-year differential between male and female retirement ages is disappearing.

Comprehensive data regarding retirement provisions in pension plans are not available. An indication of the general practice in this regard may be found in a private survey conducted by the National Trust Company Limited.[9] This survey was limited to 157 plans which were selected in such a manner as to provide "a sample of the pension plans of large Canadian employers, stratified by industry and location; but not biased towards any particular formula or financing method".[10]

The National Trust Company Limited study showed that out of the 157 plans surveyed, 140 plans specified that the normal retirement age for male employees was 65 years. In the majority of these plans the normal retirement age

[9] "A Study of Canadian Pension Plans" second edition—fall 1961, National Trust Company Limited, Toronto.

[10] Ibid. p. 2.

for female employees was found to be nearly equally distributed between ages 65 and 60 in the ratio of 45 per cent and 42 per cent respectively.

Most plans allow for earlier retirement on reduced pensions in the event of disability or other special circumstances. Many plans also have provisions for the extension of employment beyond the normal retirement age, but this is subject to mutual agreement between the employer and the employee.

Vesting

An important feature of any pension from the pont of view of the employee, is the vesting policy. Vesting provisions establish the legal right of the employee who terminates his service prior to retirement to all or a portion of the contributions made on his behalf by the employer. The employer's contributions to most pension plans in Canada are irrevocable.

Most private pension plans in Canada have some form of vesting provision although the extent to which employees are given legal claim to the employer's contributions varies widely from plan to plan. Vesting rights are normally subject to certain limitations which usually consist of one or more of the following.

(a) Years of service with the employer which includes service prior to becoming a member of the plan;

(b) Years of participation in the plan;

(c) Age of the employee when termination of employment takes place.

One of the reasons for the preponderance of pension plans with vesting is the Department of National Revenue income tax requirement which established certain standards of protection for workers in regard to vesting of the employer's contributions. For example, until fairly recently, plans registered for income tax exemption were required to provide absolute vesting of employer future service contributions at age 50, subject to a minimum period not exceeding 20 years of service or participation. Exceptions to this requirement were sometimes made under certain circumstances. In negotiated pension plans, for example, the Income Tax Division would accept a collective agreement as evidence that the plan was mutually acceptable to workers and management, even without vesting, if it otherwise met desirable standards.

Although very few pension plans have no vesting rights whatsoever, they cover 30 per cent of the 2 million members of private pension plans in Canada. At the other end of the scale immediate vesting applies to less than 5 per cent of the members. Between these two extremes delayed vesting based on years of service is available for nearly 2/3 of the members. For about 2/5 of these members the right to the employer's contribution is not complete until the individual has 20 years of continuous service. One half of these members are not subject to graduated vesting and therefore they do not acquire any vested rights until they have completed the full 20 years of employment. In some plans the vesting of the employer's contribution is available only if the employee leaves his own contributions in the plan. However, almost half of the plans with provisions permit a cash refund of employee's contributions providing the employee waives his vested right to the employer's contributions.

Pension Formulas

Information regarding benefit formulas in existing pension plans is not generally available. However, an indication of the benefits normally provided may be obtained from the National Capital Trust Company Limited study mentioned earlier. Of the 157 plans studied in this survey slightly more than one half calculated benefits on the basis of career average earnings, and more than one fifth of the plans based benefits on final average earnings. In the career average earnings plans, 37 per cent provided benefits of 1½ per cent of earnings, per year of service; in another 31 per cent benefits were 2 per cent of earnings; and 1¾ per cent was found in a further 12 per cent of the plans. The survey also found that 23 per cent of the final average earnings plans provided pension benefits based on 2 per cent of earnings for each year of service. Benefits of 1 per cent and 1½ per cent of earnings each accounted for 17 per cent of this type of pension plan. In the "flat amount" benefit plans, which represented nearly 12 per cent of the plans surveyed, the most common rate was $2.50 per month per year of service. Of the money purchased plans, which represented less than one-tenth of the plans studied, 40 per cent called for a payment of 5 per cent of earnings by the employee which was matçhed by the employer, with the pension being determined by whatever the accumulated contributions would purchase.[11]

Integration with Federal Old Age Security Benefits

Many private pension plans have an enabling clause which permits adjustment or modification of benefits to make allowance for Old Age Security benefits. This process of modification or adjustment is generally referred to as "the integration" with the federal Old Age Security benefits.

In 1952 when the federal Old Age Security Act was introduced companies who elected to integrate did so in three principal ways. Retiring employees were given the option of integration which took the form of a "stepped" or "notched" adjusted pension. Under this form the benefit payments were increased from the date of retirement until age 70 and reduced thereafter by the amount of the old age security pension. Thus the individual received a uniform monthly benefit throughout his retirement period. This type of integration is widely used where employees retire before age 70; some plans do not grant this option in the event of early retirement due to ill health. The adjustment is usually made on the basis of actuarial equivalence.

The second method of integration used an automatic reduction in benefits at age 70 equal to the Old Age Security payment. This process usually provided for corresponding benefit reductions as the government old age benefits increased. Pensioners under this plan do not profit from governmental increases in universal payments; the entire gain accrues to the employer since the amount paid out of the pension plan is correspondingly reduced. Finally the third principal method of integration was to reduce the benefits payable by part of the old age security benefits at age 70.

There are no statistics available to show the incidence of integration in existing pension plans in Canada. An indication of the extent to which this practice prevails can be inferred from a limited survey conducted by the federal

[11] Op. Cit. p. 40.

Department of Labour in 1960.[12] It was found that of the 1.5 million people employed in surveyed establishments with pension plan, 40 per cent were in establishments with plans that made provisions for integration of their benefits with the Old Age Security benefits. The survey did not indicate how many of these people were members of pension plans nor did it examine the types of integration employed.

Summary

As outlined above, private pension plans in Canada had experienced considerable growth and development over the past decade or so in response to a variety of economic and social factors. The private pension plans currently in force were developed to meet a multiplicity of requirements and were designed in accordance with the particular needs of individual employers. The result has been the creation of a body of pension plans that provides a measure of security in old age for the working population.

The main limitation of private pension plans is their restricted coverage. A high proportion of the labour force is not covered and even where pension plans are available coverage tends to be limited. In a survey conducted by the federal Department of Labour it was found that only about 70 per cent of the employees in establishments with pension plans actually were pension plan members.[13] Some indication of the reasons for non-participation in pension plans, where available, was revealed by an earlier survey conducted by the Dominion Bureau of Statistics. This survey showed that in establishments with pensions, as many as 14 per cent of the employees were temporarily ineligible for membership, 7 per cent were permanently ineligible while a further 11 per cent who were eligible elected to stay out of the available plan.[14]

Generally speaking, the proportion of female membership in pension plans is lower than for men. This may be due to a number of factors. Some plans specifically exclude women employees while others make membership optional for women. In a study by the Women's Bureau of the Federal Department of Labour[15] it was pointed out that young women expecting to work only until marriage, frequently are indifferent to pensions. They prefer to avoid the deduction for this purpose so as to retain a higher level of present income. Similarly, married women also tend to elect against a plan, particularly if their husbands belong to an adequate scheme.

In addition to the restricted coverage of private pension plans vesting provisions tend to be limited. Of the nearly 2 million people in Canada who are covered by pension plans less than 5 per cent were entitled to immediate full vesting of the employer's contributions if they left before retirement. As was pointed out above, 30 per cent of the members would receive none of the employer's contribution if they changed jobs before retirement. Nearly one-half of the remaining employees were required to stay under the same plan for 20 years or more in order to get all of their employer's contributions.

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[12] "Working Conditions in Canadian Industry, 1960" Economics and Research Branch, Department of Labour, Canada.

[13] "Working Conditions in Canadian Industry, 1963" Economics and Research Branch, Department of Labour, Ottawa.

[14] "Pension Plans, Non-Financial Statistics, 1960" Op. Cit.

[15] 'Women's Bureau Bulletin" Number 1, November 1961, Women's Bureau, Department of Labour, Ottawa.

In 1965 the Pension Commission of Ontario published a non-financial survey of pension plans in that province, covering 7,476 plans which included 970,388 employee members in Ontario.

The more important characteristics of this survey have been extracted and regrouped for the members of the Committee, and appear below in tabular and descriptive form.

In Table I the surveyed plans are illustrated by the type of benefit formula used. The following is a general explanation of the benefit types:

Final earnings and final average earnings pension plans are those in which the benefit for each year of service is a fixed percentage of earnings at retirement or of the average earning of the last or best given number of years of earnings before retirement.

Career average earnings pension plans are those in which the benefit for each year of service is a fixed percentage of the earnings in *that* particular year.

Money purchase pension plans are those under which a stated sum of money is contributed for each member and is used to buy amounts of deferred annuity or are accumulated with interest and used to purchase an annuity at the time of retirement.

Flat rate pension plans are those in which the pension for each year of service is independent of earnings and is a fixed dollar and cents amount for each such year.

Profit sharing pension plans are a form of money purchase pension plan in which the employer's contribution are dependent on the profits of the enterprise and are allocated to employees according to some formula.

Composite pension plans are those which embody various provisions taken from the above major types.

TABLE I

Types of Pension Plans

Type of Benefit	Non-contributory		Contributory	
	No. of Plans	Members	No. of Plans	Members
Final Earnings and Final Average Earnings	167	90,816	246*	310,963*
Career Average	161	25,328	2,131	252,064
Money Purchase	136	1,214	3,391	61,046
Flat Benefit	263	144,218	85	17,228
Profit Sharing	52	3,938	175	16,150
Composite	126	19,836	543	27,587
Total	905	285,350	6,571	685,038

The federal PSSA, CFSA and RCMPSA are in the "Final Earnings and Final Average Earning" pension plan group, indicated in Table I by the asterisks. This group, which represents only 3.3 per cent of the number of plans surveyed but 32 per cent of the employee members in Ontario, is further illustrated in Table II, by level of contributions and benefits. The federal plans mentioned above are again in the group marked with asterisks, and account for 105,619 of the employee members.

TABLE II

CONTRIBUTORY FINAL EARNINGS AND FINAL AVERAGE EARNINGS PENSION PLANS

EMPLOYEE CONTRIBUTION

Percent of Earnings Per Year of Service	Variable		Under 3%		3–3.99%		4–4.99%	
	No. of Plans	Members	No. of Plans	Members	No. of Plans	Members	No. of Plans	Members
Not a simple percentage	5	30	—	—	—	—	1	1
Under 1%	1	703	2	17	—	—	1	1
1 – 1.24%	3	163	1	14	2	59	1	51
1.25 – 1.49%	2	1,029	1	17	2	119	4	142
1.50 – 1.74%	8	2,951	2	492	5	187	9	432
1.75 – 1.99%	2	773	—	—	3	181	2	23
2% and over	9	4,465	—	—	3	139	1	79
Total	30	10,177	6	520	15	685	19	729

Percent of Earnings Per Year of Service	5–5.99%		6% and over		Total	
	No. of Plans	Members	No. of Plans	Members	No. of Plans	Members
Not a simple percentage	2	115	—	—	8	146
Under 1%	1	330	—	—	5	1,051
1 – 1.24%	20	6,746	—	—	26	7,033
1.25 – 1.49%	11	19,440	5	15,018	25	35,828
1.50 – 1.74%	68	10,595	11	5,230	103	19,867
1.75 – 1.99%	7	196	2	8	16	1,181
2% and over	24	15,781	25*	225,393*	62	245,857
Total	133	53,203	43	245,649	246	310,963

Table III shows the normal retirement age for the plans surveyed, and also the percentage of male and female employee members covered under each of the specified plans. The federal plans are in the classification marked with the asterisk.

TABLE III

Normal Retirement Age

	Males		Females	
	No. of Plans	Percentage of Members	No. of Plans	Percentage of Members
Not specified	63	.7	412	1.2
50 and under	3	—	4	.1
55	16	4.6	67	5.6
56-59	—	—	2	.6
60	148	2.0	2,192	14.5
61-64	11	3.9	18	18.2
65*	6,919	82.5	4,603	58.1
66-69	114	4.3	72	1.1
70	202	2.0	106	.6
Total	7,476	100.0	7,476	100.0

The vesting provisions of the 7,476 plans survey are shown in Table IV with regard to the number of years service or participation which the employee member must have in order to be eligible. There are many different forms of vesting but "full vesting", the one depicted in the Table, means that the employee, whether or not he leaves his employer after completing the required number of years, has a right to all retirement benefits provided by both his own and his employer's contributions. Retirement benefits, in the sense used, do not include a return of employer's contributions. Again the federal plans are in the group marked with an asterisk.

TABLE IV

Vesting

Years of Service or Participation for Full Vesting	No. of Plans	Members	Percentage of Members
Immediate full vesting	1,646	60,828	6.3
1-5*	337	93,524	9.6
6-10	1,136	263,101	27.1
11-15	1,295	176,566	18.2
16-20	2,573	205,178	21.1
21-25	79	10,186	1.1
over 25	31	2,026	.2
No vesting	379	158,979	16.4
Total	7,476	970,388	100.0

In table V the type funding provisions required in the plans surveys are shows, according to the following types:

Advance Funding is where the plan is in a position at any given time, usually annual to meet all its future obligations with its assets and any future income. This is the approach followed by the Federal Government with regard to its plans, as denoted by the asterisk.

Terminal Funding is where the pension benefits are provided by a lump sum payment to the plan in the year when the employee retires or otherwise ceases to be employed.

Partial Funding means a plan is funded for part of the membership or for part of the benefits.

Unfunded pension plans are commonly called "pay-as-you-go", plans.

TABLE V

Funding

Type	No. of Plans	Members	Percentage of Members
Advance*	7,296	926,154	95.4
Terminal	76	13,868	1.4
Partial	6	902	.2
Unfunded	98	29,464	3.0
Total	7,467	970,388	100.0

A recent survey of the pension plans in Ontario, conducted by the Pension Commission of Ontario because of the interest shown in this matter by the Committee, indicated that of the plans selected in the sample, not one of the final earnings or final average earning pension plans, provided a better benefit than the federal PSSA.

Methods of integration varied but in all cases they were the same or less favourable to the employees, when compared with the method used for federal employees under the PSSA.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

PROCEEDINGS

No. 34

THURSDAY, APRIL 6, 1967
MONDAY, MAY 8, 1967

Respecting Pensions

WITNESSES:

Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

INCLUDING

a) Ninth Report to the Senate and House of Commons.
b) Index to Appendices, Witnesses, etc.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

26006—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

and

Representing the Senate *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*)
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-Guysborough*)
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Ethier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicoutimi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

REPORT TO THE SENATE

MONDAY, May 8th, 1967.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its ninth Report as follows:

On Tuesday, January 10, 1967, your Committee was empowered to inquire into and report upon the matter of pensions paid to retired civil servants or their dependents under the provisions of the public Service Superannuation Act. At a later date, the order of reference was widened to encompass pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces. The term retired employees in this report refers therefore to retired civil servants and retired members of the R.C.M.P. and armed forces.

A total of eight meetings was held during which the Committee heard the evidence of twenty-one witnesses representing:

The Department of Finance
Treasury Board
The Department of Insurance
The Royal Canadian Mounted Police
The Department of National Defence
The Federal Superannuates National Association
The Professional Institute of the Public Service of Canada
The Public Service Alliance of Canada
The Royal Canadian Mounted Police Veterans' Association
The Association of Canadian Forces Annuitants.

Your Committee also received correspondence from individuals outlining various points they felt should be considered.

In its deliberations on the matter of pensions, your Committee soon realized that a general solution to the problem was not an easy one. Many factors affecting the level of certain individual pensions were isolated, thereby complicating your Committee's task even further.

The witnesses have indicated uniformly their concern for the position in which a large number of retired federal employees find themselves with fixed retirement pensions being progressively eroded, sometimes over a long period of years, under the pressures of rising living costs.

In the Committee's view, the government should do what it reasonably can to protect and preserve, or failing that, to restore in some measure the original purchasing power of the contributory pensions which, under the Public Service Superannuation Act, and similar enactments, it has provided for its retired employees.

With this consideration in mind, your Committee recommends immediate action by the government, to up-date and extend the provisions of the Public Service Pension Adjustment Act (1959). This Act provided at the time of its passage limited and partial pension adjustments to meet a portion of the rise in post-war living costs. It covered only those beneficiaries who had retired prior to

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January 1, 1953: its benefits were available only to those below a pension ceiling of $3,000 ($1,500 for widows). Helpful though it was at the time of its passage, the Pension Adjustment Act of 1959 no longer meets the minimum justifiable requirement in the case of those former employees who retired prior to January 1, 1953; and, it makes no provision whatever for employees who have retired since that date.

The Committee recommends that any plan to improve the position of these retired employees should conform to the following requirements:—

(a) it should be capable of quick and early implementation in the form of legislation, in the next session of this Parliament;
(b) any adjustment in pensions should not be limited to a particular date of retirement and should be in addition to any other increase already granted under the Pension Adjustment Act of 1959;
(c) it should maintain the principle contained in the present legislation that benefits should be related to length of service;
(d) it should conform to the principle that any adjustment formula should take account also of the time which has elapsed since retirement;
(e) it should take into account the increase in living costs during that period of time; and
(f) it should increase the ceilings in the 1959 Pension Adjustment Act.

The task of the Committee was facilitated through the assistance rendered by the department representatives. In particular, your Committee wishes to acknowledge the help received from Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

REPORT TO THE HOUSE OF COMMONS

MONDAY, May 8, 1967.

The Special Joint Committee of the Senate and of the House of Commons on the Public Service has the honour to present its

NINTH REPORT

On Tuesday, January 10, 1967, your Committee was empowered to inquire into and report upon the matter of pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act. At a later date, the order of reference was widened to encompass pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces. The term retired employees in this report refers therefore to retired civil servants and retired members of the RCMP and armed forces.

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Treasury Board,
The Department of Insurance,
The Royal Canadian Mounted Police,
The Department of National Defence,
The Federal Superannuates National Association,
The Public Service Alliance of Canada,
The Royal Canadian Mounted Police Veterans' Association,
The Association of Canadian Forces Annuitants,
The Professional Institute of the Public Service of Canada.

Your Committee also received correspondence from individuals outlining various points they felt should be considered.

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* * * * *

A copy of the relevant Minutes of Proceedings and Evidence (*Issues Nos. 27 to 34 inclusive*) is tabled.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman

MINUTES OF PROCEEDINGS

THURSDAY, April 6, 1967.

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met *in camera* this day at 8.14 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Émard, Ethier, Fairweather, Knowles, Patterson, Richard, Walker (10).

In attendance: Dr. G. F. Davidson, Secretary, Treasury Board; Mr. H. D. Clark, Director, Pensions and Social Insurance, Department of Finance.

An informal discussion was held concerning plans suggested by Messrs. Bell and Knowles.

At 9.55 p.m., the meeting adjourned to the call of the Chair.

MONDAY, May 8, 1967.
(55)

The Special Joint Committee of the Senate and of the House of Commons on employer-employee relations in the Public Service of Canada met *in camera* this day at 9.12 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Choquette, MacKenzie (4).

Representing the House of Commons: Messrs. Ballard, Bell (*Carleton*), Fairweather, Hymmen, Knowles, Lachance, Lewis, Patterson, Richard, Tardif (10).

The Committee adopted the ninth report as prepared by the Sub-Committee on Agenda and Procedure.

On a motion of Mr. Bell, seconded by Mr. Knowles,

The Committee unanimously agreed to a vote of appreciation of the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard for the forthright and impartial way the business of the Committee was conducted at all times.

At 9.17 a.m., the meeting adjourned.

Edouard Thomas,
Clerk of the Committee.

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