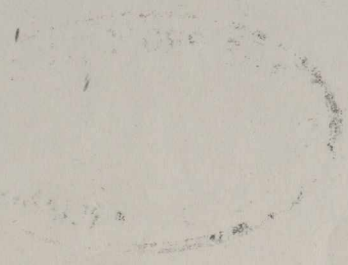

HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

SPECIAL COMMITTEE

appointed to consider

BILL NO. 305

AN ACT RESPECTING IMMIGRATION

Chairman: DON. F. BROWN, Esq.

MIINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

including

FIRST AND SECOND (FINAL) REPORT

Monday, June 16, 1952
Tuesday, June 17, 1952
Wednesday, June 18, 1952
Thursday, June 19, 1952

WITNESSES:

Mr. Laval Fortier, Deputy Minister, Mr. W. M. Cory, Legal Adviser, and Mr. C. E. S. Smith, Director of Immigration, Department of Citizenship and Immigration; Dr. W. H. Frost, Assistant Chief, Immigration Medical Service, Department of National Health and Welfare; Mr. L. A. Couture, Legal Adviser, Department of Justice; Mr. J. Q. Maunsell, Q.C., General Solicitor, Mr. H. P. Creswell, Commissioner for Immigration and Colonization, Mr. E. F. Thompson, Assistant Steamship and General Passenger Agent, and Mr. J. Lemay, Assistant to General Passenger and Traffic Manager, Canadian Pacific Railway Company, Montreal; Mr. A. B. Rosevear, Q.C., General Solicitor, Mr. Ian MacPherson, Law Department, and Mr. Donald Jones, Canadian National Railways and Trans-Canada Airlines, Montreal; and Mr. Arthur Randles, C.B.E., General Manager, Cunard Steamship Company, Montreal.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952

SPECIAL COMMITTEE APPOINTED TO CONSIDER BILL No. 305

AN ACT RESPECTING IMMIGRATION

Chairman: Don. F. Brown, Esq.

Messrs:

Ashbourne
Balcer
Bourget
Byrne
Carroll
Churchill
Coyle
Crestohl
Croll
Decore
Fleming
Fulton
Garland
Gauthier (*Lac Saint Jean*)
Gauthier (*Portneuf*)
Harris (*Grey-Bruce*)
Harrison
Helme
Henry
Kirk (*Digby-Yarmouth*)
Lafontaine
McGregor
McLean (*Huron-Perth*)
Murray (*Cariboo*)
Riley
Shaw
Smith (*Moose Mountain*)
Stewart (*Winnipeg North*)
Thatcher
Weaver
White (*Middlesex East*)
Whitman
Winkler
Wylie
(Quorum—10)

A. SMALL,
Clerk of the Committee.

ORDERS OF REFERENCE

HOUSE OF COMMONS,

TUESDAY, June 10, 1952.

Resolved,—That a Special Committee be appointed to consider the Bill with respect to Immigration; with power to send for persons, papers and records, to print its proceedings, and report from time to time to the House; and that the provisions of Section 1, Standing Order 65, be waived with respect to this Committee; and that the Committee shall consist of certain Members to be appointed hereafter.

FRIDAY, June 13, 1952

Ordered,—That the following Bill be referred to the said Committee:—
Bill No. 305, An Act respecting Immigration.

FRIDAY, June 13, 1952.

Ordered,—That the following Members comprise the Special Committee on Immigration as provided for in the Resolution adopted by this House on June 10, 1952:—Messrs. Ashbourne, Balcer, Bourget, Brown (*Essex West*), Byrne, Carroll, Churchill, Coyle, Crestohl, Croll, Decore, Fleming, Fulton, Garland, Gauthier (*Lac Saint Jean*), Gauthier (*Portneuf*), Harris (*Grey-Bruce*), Harrison, Helme, Henry, Kirk (*Digby-Yarmouth*), Lafontaine, McGregor, McLean (*Huron-Perth*), Murray (*Cariboo*), Riley, Shaw, Smith (*Moose Mountain*), Stewart (*Winnipeg North*), Thatcher, Weaver, White (*Middlesex East*), Whitman, Winkler, and Wylie.

MONDAY, June 16, 1952.

Ordered,—That the quorum of the said Committee be reduced from 18 to 10 members, and that Standing Order 65 (3) be suspended in relation thereto.

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

Attest.

LEON J. RAYMOND,
Clerk of the House.

59926—1½

REPORTS TO THE HOUSE

MONDAY, June 16, 1952.

The Special Committee appointed to consider Bill No. 305, An Act respecting Immigration, begs leave to present the following as a

FIRST REPORT

Your Committee recommends:

1. That its quorum be reduced from 18 to 10 members, and that Standing Order 65 (3) be suspended in relation thereto.

2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

THURSDAY, June 19, 1952.

The Special Committee appointed to consider Bill No. 305, An Act respecing Immigration, begs leave to present the following as a

SECOND REPORT

Pursuant to its Order of Reference of June 10, your Committee has considered Bill No. 305, An Act respecting Immigration, and has agreed to report it with amendments.

A reprint of the Bill, as amended, has been ordered by your Committee.

A copy of the evidence taken is appended hereto.

All of which is respectfully submitted.

DON. F. BROWN,
Chairman.

MINUTES OF PROCEEDINGS

MONDAY, June 16, 1952.

The Special Committee on Bill 305, An Act respecting Immigration, met at 10.30 o'clock a.m. for organization purposes.

Members present: Messrs. Ashbourne, Brown (*Essex West*), Byrne, Carroll, Churchill, Croll, Decore, Fleming, Fulton, Gauthier (*Lac St. Jean*), Gauthier (*Portneuf*), Harris (*Grey-Bruce*), Harrison, Helme, Kirk (*Digby-Yarmouth*), Lafontaine, Smith (*Moose Mountain*), Thatcher, White (*Middlesex East*), Winkler and Wylie.

A quorum being present, on motion of Mr. Croll, seconded by Mr. Winkler, Mr. Brown (*Essex West*), was elected Chairman.

Mr. Brown took the Chair, thanked the Committee for the honour conferred on him, and asked the Clerk to read the Orders of Reference.

On motion of Mr. Croll,

Ordered,—That, pursuant to its Order of Reference, the Committee print, from day to day, 750 copies in English and 250 copies in French of its Minutes of Proceedings and Evidence.

On motion of Mr. Carroll,

Resolved,—That the Committee request permission to sit while the House is sitting.

On motion of Mr. Wylie,

Resolved,—That a recommendation be made to the House to reduce the quorum from 18 to 10 members.

At 10.50 o'clock a.m., the Committee adjourned until 8.00 o'clock p.m. this day.

EVENING SITTING

The Committee resumed its sitting at 8.00 o'clock p.m. The Chairman, Mr. Don. F. Brown, presided.

Members present: Messrs. Ashbourne, Brown (*Essex West*), Byrne, Carroll, Churchill, Croll, Decore, Fleming, Fulton, Garland, Gauthier (*Lac St. Jean*), Harris (*Grey-Bruce*), Harrison, Helme, Henry, Kirk (*Digby-Yarmouth*), Lafontaine, Riley, Stewart (*Winnipeg North*), Weaver and Winkler.

In attendance: Hon. W. E. Harris, Minister; Mr. Laval Fortier, Deputy Minister, and Mr. W. M. Cory, Legal Adviser, Department of Citizenship and Immigration.

The Chairman informed the Committee that the following documents were being distributed by the Clerk to members present:

1. Office Consolidation (April 1950) of The Immigration Act and Regulations, with subsequent amendments;

2. Annual Report of the Immigration Branch, Department of Citizenship and Immigration, for the fiscal year ended March 31, 1951; and

3. Copy of *Hansard* for June 10, 1952, containing the statement to the House on Bill 305, An Act respecting Immigration, by the Honourable W. E. Harris, Minister of Citizenship and Immigration.

The Committee proceeded to a clause-by-clause consideration of Bill 305, An Act respecting Immigration.

At 8.45 o'clock p.m., the Committee's proceedings were interrupted by the division bells.

At 9.10 o'clock p.m., the Committee resumed its proceedings.

During the course of the evening sitting, the Committee called, heard and questioned Mr. Fortier and Mr. Cory, and made the following progress on the Bill:

Clause 1 was allowed to stand for consideration with the Title.

On Clause 2:

Paragraphs (*a*) to (*d*) inclusive, (*f*) to (*j*) inclusive, (*l*), (*m*), (*o*) to (*r*) inclusive, and (*w*) to (*bb*) inclusive were adopted.
Paragraphs (*e*), (*k*), (*n*), and (*s*) to (*v*) inclusive were allowed to stand.

On Clause 3:

Subclauses (1) and (2) were adopted.
Subclause (3) was allowed to stand.

On Clause 4:

Subclauses (1) and (2) were adopted.
Paragraph (*a*) of subclause (3) was allowed to stand.
Paragraphs (*b*) and (*c*) of subclause (3) were adopted.
Subclauses (4) and (5) were allowed to stand.
Subclauses (6) and (7) were adopted.

On Clause 5:

Subparagraphs (i), (ii) and (iii) of paragraph (*a*) were adopted; subparagraph (iv) thereof was allowed to stand.
Paragraphs (*b*), (*c*) and (*d*) were allowed to stand; paragraphs (*e*) to (*k*) inclusive were adopted.
Paragraphs (*l*), (*m*) and (*n*) were allowed to stand; paragraphs (*o*) to (*t*) inclusive were adopted.

Clause 6 was allowed to stand.

On Clause 7:

Subclauses (1), (2) and (3) were adopted.
Subclauses (4) and (5) were allowed to stand.

On Clause 8:

Subclause (1) was adopted.
Subclause (2) was allowed to stand.
Subclauses (3), (4) and (5) were adopted.

Clause 9 was adopted.

The witnesses retired.

At 10.25 o'clock p.m., the Committee adjourned until 8.00 o'clock p.m., Tuesday, June 17.

TUESDAY, June 17, 1952.

The Special Committee on Bill 305, An Act respecting Immigration, met at 8.00 o'clock p.m. The Chairman, Mr. Don. F. Brown, presided.

Members present: Messrs. Ashbourne, Brown (*Essex West*), Byrne, Carroll, Churchill, Coyle, Crestohl, Croll, Decore, Fleming, Garland, Gauthier (*Portneuf*), Harris (*Grey-Bruce*), Harrison, Henry, Kirk (*Digby-Yarmouth*), Lafontaine, McLean (*Huron-Perth*), Stewart (*Winnipeg North*), Thatcher, Weaver, Whitman, Winkler and Wylie.

In attendance: Hon. W. E. Harris, Minister, Mr. Laval Fortier, Deputy Minister, and Mr. W. M. Cory, Legal Adviser, Department of Citizenship and Immigration; and Mr. Cuthbert Scott, Q.C., Parliamentary Agent, Ottawa.

The Committee resumed consideration of Bill 305, An Act respecting Immigration.

Mr. Laval Fortier was recalled, being assisted by Mr. W. M. Cory.

Clause 10 was adopted.

On Clause 11:

Subclauses (1) and (2) were severally considered and adopted.

Paragraphs (*a*), (*b*), (*d*) and (*e*) of subclause (3) were severally considered and adopted; paragraph (*c*) thereof was allowed to stand.

Clause 12 was allowed to stand.

Clauses 13 to 18 inclusive were severally considered and adopted.

On Clause 19:

Paragraph (*a*) of subclause (1) was allowed to stand.

Paragraphs (*b*), (*c*), and (*d*) of subclause (1) and subparagraphs (i), (ii), (iii) and (iv) of paragraph (*e*) of subclause (1) were severally considered and adopted.

Hon. Mr. Harris moved:

That the last line of subparagraph (v) of paragraph (*e*) of subclause (1) of Clause 19 be amended to read "(*a*), (*b*), (*c*) and (*s*) of section five,".

And the question having been put, the said motion was agreed to.

Subparagraphs (vi) to (x) inclusive of paragraph (*e*) of subclause (1) were severally considered and adopted.

Paragraph (*e*), as amended, of subclause (1) was adopted.

Subclause (2) was allowed to stand.

On Clause 20:

Subclauses (1) and (2) were allowed to stand.

Subclause (3) was adopted.

Clause 21 was allowed to stand.

On Clause 22:

Hon. Mr. Harris moved:

That the fifth line of subclause (1) of Clause 22 be amended by deleting the words *such person to be detained* following the word *cause* and substituting therefor the words "an examination of such person to be deferred".

And the question having been put, the said motion was agreed to.

Subclause (1), as amended, was adopted.

Subclause (2) was adopted.

Subclause (3) was allowed to stand.

Subclause (4) was adopted.

Clause 23 was adopted.

On Clause 24:

Hon. Mr. Harris moved:

That subclause (1) of Clause 24 be amended by inserting in the fifth line thereof after the word *necessary* the words "and subject to any regulations made in that behalf".

And the question having been put, the said motion was agreed to.

Subclause (1), as amended, was adopted.

Subclause (2) was allowed to stand.

On Clause 25:

Hon. Mr. Harris moved:

That Clause 25 be amended by inserting in the first line thereof after the word *section* the words "fifteen or" and by inserting in the second line thereof after the word *arrested* the words "with or".

And the question having been put, the said motion was agreed to.

Clause 25, as amended, was adopted.

Clause 26 was allowed to stand.

On Clause 27:

Subclauses (1) and (3) were adopted; subclauses (2) and (4) were allowed to stand.

On Clause 28:

Subclauses (1) and (2) were adopted.

Subclauses (3) and (4) were allowed to stand.

Clause 29 was adopted.

On Clause 30:

Hon. Mr. Harris moved:

That the words *paragraph (a), (b) or (q) of section five* in the third and fourth lines of Clause 30 be deleted and the words "paragraph (*a*), (*b*), (c) and (s) of section five" be substituted therefor.

And the question having been put, the said motion was agreed to.

Clause 30, as amended, was adopted.

Clause 31 was allowed to stand.

On Clause 32:

Hon. Mr. Harris moved:

That all the words of Clause 32 be deleted and the following substituted therefor: "A deportation order or copy thereof shall be served upon the person against whom it is made and upon such other persons and in such manner as may be prescribed by the regulations."

And the question having been put, the said motion was agreed to.

Clause 32, as amended, was adopted.

Clauses 33 to 38 inclusive were severally considered and adopted.

Clause 39 was allowed to stand.

Clauses 40 to 60 inclusive were allowed to stand for later consideration.

On Clause 61:

Paragraphs (*a*) to (*f*) inclusive were severally considered and adopted.

Subparagraph (i) of paragraph (*g*) was allowed to stand; subparagraphs (ii), (iii) and (iv) thereof were severally considered and adopted.

Hon. Mr. Harris moved:

That paragraph (*h*) of Clause 61 be deleted together with the word *and* immediately preceding the said paragraph (*h*).

And the question having been put, the said motion was agreed to.

Clauses 62, 63 and 64 were severally considered and adopted.

Clauses 65 to 68 inclusive were allowed to stand for later consideration.

Clause 69 was adopted.

Clause 70 was allowed to stand for later consideration.

Clauses 71 to 74 inclusive were severally considered and adopted.

The Chairman informed the Committee that he had received a letter under today's date from Mr. Cuthbert Scott, Q.C., Ottawa, requesting permission for representatives of transportation companies in Montreal to appear before the Committee to make representations on the transportation Clauses of the Bill.

(*For text of letter, see today's evidence.*)

Mr. Scott was called, heard and questioned thereon, and following his retirement the Committee agreed that Hon. Mr. Harris would first meet the representatives of the transportation companies concerned tomorrow morning and, if he then deemed it advisable, invite them to appear before the Committee at its afternoon sitting.

Mr. Laval Fortier and Mr. Cory retired.

At 10.30 o'clock p.m., the Committee adjourned until 11.30 o'clock a.m., Wednesday, June 18.

WEDNESDAY, June 18, 1952.

The Special Committee on Bill 305, An Act respecting Immigration, met at 11.30 o'clock a.m. The Chairman, Mr. Don. F. Brown, presided.

Members present: Messrs. Ashbourne, Brown (*Essex West*), Byrne, Carroll, Churchill, Coyle, Crestohl, Croll, Decore, Fleming, Fulton, Gauthier (*Portneuf*), Gauthier (*Lac St. Jean*), Harris (*Grey-Bruce*), Harrison, Helme, Henry, Kirk (*Digby-Yarmouth*), Lafontaine, McGregor, McLean (*Huron-Perth*), Murray (*Cariboo*), Riley, Smith (*Moose Mountain*), Thatcher, Weaver, White (*Middlesex East*), and Winkler.

In attendance: Hon. W. E. Harris, Minister, Mr. Laval Fortier, Deputy Minister, Mr. C. E. S. Smith, Director of Immigration, Department of Citizenship and Immigration; and Dr. W. H. Frost, Assistant Chief, Immigration Medical Service, Department of National Health and Welfare.

The Committee resumed consideration of Bill 305, An Act respecting Immigration.

Mr. Laval Fortier was recalled, being assisted by Mr. Smith and Dr. Frost.

On Clause 2:

Paragraph (*e*) was reconsidered and adopted.
Paragraph (*k*) was allowed to stand.
Paragraphs (*n*), (*s*), (*t*) and (*u*) were reconsidered and adopted.
Paragraph (*v*) was allowed to stand.
Subclause (3) of Clause 3 was allowed to stand.

On Clause 4:

Paragraph (*a*) of subclause (3), and subclause (5) were reconsidered and adopted.

On Clause 5:

Hon. Mr. Harris moved:

That all the words of subparagraph (iv) of paragraph (*a*) of Clause 5 be deleted and the words "if immigrants, are epileptics;" be substituted therefor.

After discussion, the motion and the said subparagraph (iv) were allowed to stand.

Paragraphs (*b*), (*c*) and (*d*) were adopted.

Paragraphs (*l*), (*m*) and (*n*) were allowed to stand for reconsideration later this day.

Clause 6 was adopted.

On Clause 7:

Hon. Mr. Harris moved:

That all the words of subclause (4) in Clause 7 be deleted and the following words substituted therefor: "Where any person who entered Canada as a non-immigrant is in the opinion of the Minister a person described in paragraph (*a*), (*b*), (*c*), (*d*) or (*e*) of subsection one of Section 19, the Minister may at any time declare that such person has ceased to be a non-immigrant and such person shall thereupon cease to be a non-immigrant."

And the question having been put, the said motion was agreed to.

Subclause (4), as amended, was adopted.

Subclause (5) was adopted.

Clause 7, as amended, was adopted.

The Committee agreed to reconsider Clause 8 which was previously adopted.

Hon. Mr. Harris moved:

That subclause (2) of Clause 8 be amended by deleting the word *only* in the second line thereof and substituting therefor the words "not exceeding twelve months".

And the question having been put, the said motion was agreed to.

Clause 8, as amended, was adopted.

On Section 11:

Hon. Mr. Harris moved:

That paragraph (*c*) of subclause (3) of Clause 11 be amended by adding after the word *evidence* the words "in Canada".

And the question having been put, the said motion was agreed to.

Clause 11, as amended, was adopted.

The witnesses retired.

At 1.00 o'clock p.m., the Committee adjourned until 2.00 o'clock p.m. this day.

AFTERNOON SITTING

The Committee resumed its sitting at 2.00 o'clock p.m. The Chairman, Mr. Don. F. Brown, presided.

Members present: Messrs. Ashbourne, Balcer, Brown (*Essex West*), Byrne, Carroll, Coyle, Crestohl, Croll, Fleming, Fulton, Gauthier (*Portneuf*), Harris (*Grey-Bruce*), Harrison, Henry, Kirk (*Digby-Yarmouth*), Lafontaine, McLean (*Huron-Perth*), Murray (*Cariboo*), Shaw, Weaver, White (*Middlesex East*), Winkler and Wylie.

In attendance: Hon. W. E. Harris, Minister, Mr. Laval Fortier, Deputy Minister, Department of Citizenship and Immigration; Mr. Cuthbert Scott, Q.C., Parliamentary Agent, Ottawa; Mr. J. Q. Maunsell, Q.C., General Solicitor, Canadian Pacific Railway Company, Montreal; Mr. A. B. Rosevear, Q.C., General Solicitor, Canadian National Railways and Trans-Canada Airlines,

Montreal; Mr. H. P. Creswell, Commissioner for Immigration and Colonization, Canadian Pacific Railway Company, Montreal; Mr. E. F. Thompson, Assistant Steamship and General Passenger Agent, Canadian Pacific Railway Company, Montreal; Mr. Ian MacPherson, Law Department, Trans-Canada Airlines, Montreal; Mr. Donald Jones, Trans-Canada Airlines; Mr. Arthur Randles, C.B.E., General Traffic Manager, Cunard Steamship Company, Montreal; Mr. J. Lemay, Assistant to General Passenger and Traffic Manager, Canadian Pacific Railway Company, Montreal; Mr. L. A. Couture, Legal Adviser, Department of Justice.

The Committee resumed consideration of Bill 305, An Act respecting Immigration.

Mr. Laval Fortier and Mr. Couture were recalled.

Clause 12 was allowed to stand for consideration later in conjunction with Clauses 2 and 31.

On Clause 19:

Paragraph (*a*) of subclause (1) was allowed to stand for consideration later this day.

Subclause (2) was adopted, on division.

On Clause 20:

Subclause (1) was adopted.

Mr. Fleming moved:

That subclause (2) of Clause 20 be amended by deleting the word *truly* in the first line thereof and substituting therefor the word "truthfully".

And the question having been put, the said motion was agreed to.

Clause 20, as amended, was adopted.

Clause 21 was adopted.

On Clause 22:

Hon. Mr. Harris moved:

That subclause (3) of Clause 22 be deleted and that subclause (4) be renumbered subclause "(3)".

And the question having been put, the said motion was agreed to.

Clause 22, as amended, was adopted.

On Clause 24:

Hon. Mr. Harris moved:

That subclause (2) of Clause 24 be amended by inserting, after the word *an* in the last line thereof, the word "immediate".

And the question having been put, the said motion was agreed to.

Clause 24, as amended, was adopted.

Clause 26 was adopted, on division.

On Clause 27:

Hon. Mr. Harris moved:

That Clause 27 be amended by deleting all the words of subclause (2) and substituting therefor the following words "The person concerned, if he so desires and at his own expense, shall have the right to obtain and to be represented by counsel at his hearing."

And the question having been put, the said motion was agreed to.

Subclause (2), as amended, was adopted.

Subclause (4) was adopted.

Hon. Mr. Harris moved:

That subclause (5) be deleted.

And the question having been put, the said motion was agreed to.

Clause 27, as amended, was adopted.

On Clause 28:
Subclause (3) was adopted, on division.
Subclause (4) was adopted.

Clause 28 was adopted, on division.

Clause 31 was allowed to stand for consideration later in conjunction with Clauses 2 and 12.

Clause 39 was adopted.

Mr. Scott was called and introduced the representatives from the transportation systems.

Mr. Maunsell was called, heard and questioned on the joint submission of the transportation systems in respect of the transportation Clauses in the Bill (Clauses 36, 40, 41, 42, 47 and 53), copies of the said submission to be distributed to members of the Committee before tomorrow morning's meeting.

Mr. Rosevear was called, heard and questioned in respect of a submission on behalf of Trans-Canada Airlines, supplementary to the submission presented by Mr. Maunsell.

(*For text of above submissions, see Appendix A to this day's evidence*).

Mr. Jones was called, heard and questioned in respect of deportation and detention expenditures incurred by Trans-Canada Airlines.

Mr. Randles was called, heard and questioned in respect of the views of the Cunard Steamship Company.

The witnesses retired.

On Clause 4:
Messrs. Fortier and Couture were recalled for further questioning.
Subclause (4) was adopted.
Clause 4 was adopted.

On Clause 5 (discussion off the record):
Paragraphs (*l*), (*m*) and (*n*) were adopted.

On Clause 19 (discussion off the record):
Paragraph (*a*) of subclause (1) was adopted.
Clause 19, as amended, was adopted.

On Clause 50:
Paragraphs (*a*), (*b*), (*c*) and (*d*) were adopted.

Mr. Croll moved:
That paragraph (*e*) of Clause 50 be amended by deleting the word *truly* in the third line thereof and substituting the word "truthfully" therefor.

And the question having been put, the said motion was agreed to.

Paragraph (*e*), as amended, was adopted.

Paragraph (*f*) to (*j*) inclusive were adopted.

Clause 50, as amended, was adopted.

Clauses 51 and 52 were adopted.

Clause 53 was allowed to stand.

Clauses 54 to be inclusive were adopted.

The Committee resumed discussion on Clauses 12 and 31. The said Clauses were allowed to stand.

The witnesses retired.

At 5 o'clock p.m., the Committee adjourned until 11.30 o'clock a.m., Thursday, June 19.

THURSDAY, June 19, 1952.

The Special Committee on Bill 305, An Act respecting Immigration, met at 11.30 o'clock a.m. The Chairman, Mr. Don. F. Brown, presided.

Members present: Messrs. Brown (*Essex West*), Byrne, Carroll, Churchill, Coyle, Crestohl, Croll, Decore, Fleming, Fulton, Garland, Gauthier (*Portneuf*), Gauthier (*Lac St. Jean*), Harris (*Grey-Bruce*), Harrison, Helme, Henry, Lafontaine, McGregor, McLean (*Huron-Perth*), Murray (*Cariboo*), Shaw, Smith (*Moose Mountain*), White (*Middlesex East*), Whitman, Winkler and Wylie.

In attendance: Hon. W. E. Harris, Minister, Mr. Laval Fortier, Deputy Minister, and Mr. C. E. S. Smith, Director of Immigration, Department of Citizenship and Immigration.

The Committee resumed consideration of Bill 305, An Act respecting Immigration, commencing with the transportation Clauses, in conjunction with the joint submissions thereon of the representatives of transportation companies *(See Appendix "A" to yesterday's evidence)*.

The Committee reverted to Clause 36, which was previously adopted, and after discussion thereon, it was agreed that Clause 36 remain as originally adopted.

On Clause 40:

Hon. Mr. Harris moved:

That subclause (1) of Clause 40 be amended by adding after the word *Officer* in the last line thereof the words "or at the request of the transportation company and subject to the approval of the Minister, to a country that is acceptable to such person and that is willing to receive him."

And the question having been put, the said motion was adopted.

Mr. Fleming moved:

The subclause (1), as amended, of Clause 40 be further amended by deleting all the words after the word *America* in line 10 thereof.

And the question having been put, the said motion was negatived *(Yeas, 7; Nays, 13)*.

Subclause (1), as amended, was adopted.

Hon. Mr. Harris moved:

That subclause (2) of Clause 40 be amended by adding after the word *officer* in the last line thereof the words "or at the request of the transportation company and subject to the approval of the Minister, to a country that is acceptable to such person and that is willing to receive him."

And the question having been put, the said motion was agreed to.

Mr. Fleming moved:

That subclause (2), as amended, of Clause 40 be further amended by deleting all the words after the word *Canada* in line 8 thereof.

And the question having been put, the said motion was negatived (*Yeas, 6; Nays, 14*).

Subclause (2), as amended, was adopted.

Subclause (3) was adopted.

Hon. Mr. Harris moved:

That the words *deportation proceedings are instituted* in the second line of subclause (4) of Clause 40 be deleted and the words "an inquiry is ordered" be substituted therefor; and that the words *the Minister may, in his absolute discretion, direct that* in the sixth line of subclause (4) of Clause 40 be deleted.

And the question having been put, the said motion was agreed to.

Subclause (4), as amended, was adopted.

The Committee agreed to revert to paragraph (*d*) of Clause 2, which was previously adopted, for reconsideration.

Hon. Mr. Harris moved:

That paragraph (*d*) of Clause 2 be amended by inserting after the word *birth* in the fourth line thereof the words "or to such country as may be approved by the Minister under this Act".

And the question having been put, the said motion was agreed to.

Paragraph (*d*) was adopted.

The Committee resumed consideration of Clause 40:

Mr. Fleming moved:

That a new subclause (5) be added to Clause 40, as follows: "Notwithstanding anything contained in this Section, the transportation company concerned will not be liable for costs incurred during deportation proceedings, or for the cost of departation of a person if such person was in possession of valid and unexpired Immigration or non-Immigration documents."

And the question having been put, the said motion was negatived (*Yeas, 8; Nays, 14*).

Clause 40, as amended, was adopted.

On Clause 41:

Mr. Fleming moved:

That subclause (1) of Clause 41 be amended by adding, after the last word *detention* thereof, the words "if the said transportation company subsequently is held liable for his deportation under Section 40".

And the question having been put, the said motion was negatived (*Yeas, 8; Nays, 12*).

Clause 41 was adopted.

On Clause 42:

Paragraphs (*a*) and (*b*) were adopted.

Hon. Mr. Harris moved:

That paragraph (*c*) of Clause 42 be amended by deleting all the words thereof and substituting therefor the words "pay such costs and, subject to any agreement between a transportation company and its passenger respecting return fares, refrain from, directly or indirectly, making any charge to or taking any remuneration or security from the deported person concerned in respect thereof."

And the question having been put, the said motion was agreed to.

Clause 42, as amended, was adopted.

Clauses 43 to 46 inclusive were adopted.

On Clause 47:

Hon. Mr. Harris moved:

That Clause 47 be amended by inserting in the fourth line thereof after the word *transportation* the words "in Canada".

And the question having been put, the said motion was agreed to.

Clause 47, as amended, was adopted.

Clauses 48 and 49 were adopted.

On Clause 53:

Hon. Mr. Harris moved:

That Clause 53 be amended by deleting all the words after the word *offence* in the sixth line thereof and substituting therefor "and is liable on conviction to the punishment provided for the offence upon proof that the act or omission

constituting the offence took place with his knowledge or consent, or that he failed to exercise due diligence to prevent the commission of such offence."

And the question having been put, the said motion was agreed to.

Clause 53, as amended, was adopted.

On Clause 61:

Hon. Mr. Harris moved that subparagraph (*i*) of paragraph (*g*) of Clause 61 be amended by deleting the word *race,* in the first line thereof.

And the question having been put, the said motion was agreed to.

Clause 61, as amended, was adopted.

Clauses 65, 66, 67, 68 and 70 were adopted.

On Clause 3:

Hon. Mr. Harris moved:

That subclause (3) of Clause 3 be amended by inserting in the first line thereof after the word *person* the words "with Canadian domicile".

And the question having been put, the said motion was agreed to.

Clause 3, as amended, was adopted.

On Clause 5:

After reconsideration of subparagraph (iv) of paragraph (*a*), the said subparagraph was adopted.

Clause 5 was adopted.

The Committee reverted to Clause 30, as amended, which was previously adopted.

Hon. Mr. Harris moved:

That Clause 30 be further amended by deleting the words *paragraph (a), (b), (c) and (s) of section five* in the third and fourth lines thereof and substituting therefor the words "paragraph (*a*), (*b*) or (*s*) of section five".

And the question having been put, the said motion was agreed to.

Clause 30, as further amended, was adopted.

On Clause 31:

Hon. Mr. Harris moved:

That all the words of subclause (2) of Clause 31 be deleted and the following substituted therefor: "All appeals from deportation orders shall be reviewed and decided upon by the Minister with the exception of appeals that the Minister directs should be dealt with by an Immigration Appeal Board."

And the question having been put, the said motion was agreed to.

Hon. Mr. Harris moved:

That a new subclause (5) be added to Clause 31, as follows: "Notwithstanding subsection four, the Minister, in any case may review the decision of an Immigration Appeal Board and confirm or quash such decision or substitute his decision therefor as he deems just and proper and the Minister for these purposes may direct that the execution of the deportation order concerned be stayed pending his review and decision."

And the question having been put, the said motion was agreed to.

Clause 31, as amended, was adopted.

Paragraph (*k*) of Clause 2 was adopted.

Clause 12 was adopted.

Paragraph (*v*) of Clause 2 was adopted.

Clause 2, as amended, was adopted.

Clause 1 and the Title were adopted.

The Bill, as amended, was adopted.

The witnesses retired.

Ordered,—That the Chairman report the Bill to the House with amendments.

Ordered,—That the Bill, as amended, be reprinted.

At 1.10 o'clock p.m., the Committee adjourned.

A. SMALL,
Clerk of the Committee.

EVIDENCE

June 16, 1952.
10.30 a.m.

The CHAIRMAN: Mr. Harris and gentlemen, thank you very much for the honour which you have conferred upon me and the opportunity given to be of further service.

I think the first item of business will be reading the Orders of Reference.

The CLERK OF THE COMMITTEE:

HOUSE OF COMMONS,
TUESDAY, June 10, 1952.

Resolved—That a Special Committee be appointed to consider the Bill with respect to Immigration; with power to send for persons, papers and records, to print its proceedings, and report from time to time to the House; and that the provisions of Section 1, Standing Order 65, be waived with respect to this Committee; and that the Committee shall consist of certain Members to be appointed hereafter.

Ordered—That the following Bill be referred to the said Committee—

Bill No. 305, An Act respecting Immigration.

Attest.

LEON J. RAYMOND,
Clerk of the House.

The CHAIRMAN: Now, you have heard the orders of reference by the House. Now, I think there are certain motions that we would like to have. We will entertain a motion that pursuant to the orders of reference the number of printed copies of the minutes of these proceedings, I am suggesting, should be 750 copies in English and 250 in French.

Mr. CROLL: I will so move.

The CHAIRMAN: Moved by Mr. Croll, seconded by—

Mr. FULTON: Are you quite sure that 750 will be adequate? Isn't there a widespread interest in this?

The CHAIRMAN: Well, what is your pleasure?

Mr. FLEMING: What was the estimate based on?

The CHAIRMAN: It was just an estimate by the Clerk of the Committee. That was thought to be the general number printed in a case such as this.

Mr. FLEMING: Has there been any interest indicated throughout the country?

Hon. Mr. HARRIS: I think the interest is in the policy rather than in the Act. We have no particular indication of interest in the Act other than in the House.

Mr. FULTON: For the purposes of the discussion I imagine the French speaking members would know better what is required in French but I would suggest that 1,000 would be better in English. I imagine if you run 750 it would not cost much more to run 1,000.

59926—2

The CHAIRMAN: What do you think about the French, Mr. Lafontaine?

Mr. LAFONTAINE: I think that is all right.

The CHAIRMAN: You have heard the motion, any objections?

Mr. CARROLL: Did I hear 250?

The CHAIRMAN: 250 French, 750 English. Would that be all right?

Carried.

We will now entertain a motion that permission be sought to sit while the House is in session.

Moved by Mr. Carroll, seconded by Mr. Churchill.

Mr. FLEMING: Just while we are on that point, I wonder if we can have some understanding in regard to what kind of schedule the meetings are going to follow. The House is holding three sessions a day and I understand that the committees have largely wound up their work except for the Redistribution Committee and it is likely to be meeting practically every morning this week.

Hon. Mr. HARRIS: That is true; the Redistribution Committee is meeting, not tomorrow morning but on Wednesday, I hope. I think the Agriculture Committee will be meeting throughout the best part of this week and that is the chief one we shall have to have in mind.

Mr. FLEMING: What is the objective as regards the date for reporting this bill, if possible?

Hon. Mr. HARRIS: Well, that would depend largely on the preliminary discussions we may have this morning about what the members think of the procedure but I would hope that we can report the bill by the middle of next week.

Mr. FLEMING: I just advanced that question to the chairman in the hope that we could schedule our meetings to avoid conflict with others.

The CHAIRMAN: I am sure we will try to co-operate and with mutual co-operation I am sure we can get this through.

Mr. FLEMING: I am just trying to avoid this conflict of having to be in three or four places at the same time which usually takes place at this part of the session.

The CHAIRMAN: All in favour of the motion?

Carried.

We will now entertain a motion that a recommendation be made to the House to reduce the quorum from 18 to 10.

Mr. FLEMING: 10 is pretty small, isn't it?

The CHAIRMAN: Moved by Mr. Wylie, seconded by Mr. Ashbourne.

Carried.

Any other business to be brought before the committee? If not, a motion will be entertained to adjourn.

Hon. Mr. HARRIS: Before we do that could we have some indication of the extent of the activities of the members here? I would like to sit as long and often as we could and I would like to find out what would be the most suitable time for the members.

Mr. CROLL: Mr. Chairman, I suggest that we start by sitting mornings and continue sitting every morning.

The CHAIRMAN: What time?

Mr. CROLL: Well, it seems to me it would not be such a bad idea if we started, say, at 10 o'clock, adjourned for the House and came back again at about 11.30 and go through to 1. We would get through the bill very quickly.

Mr. WYLIE: Mr. Chairman, the Agricultural Committee is sitting about every morning this week. I expect their sittings will be at 11.30 and a lot of the members of this committee will also be on the Agricultural Committee.

The CHAIRMAN: That would conflict with Mr. Croll's suggestion.

Hon. Mr. HARRIS: How about meeting tonight, for example, at 8 o'clock and get in, say, two hours until we see where we stand? I do not know what the members feel about the bill but I outlined the principal changes and I know there will no doubt be some considerable discussion on one or two points but for what it is worth it is my opinion that there are not too many points of disagreement in the bill and if we can take two hours tonight, then we could let the future look after itself.

Mr. FLEMING: Were you thinking of having an agenda committee, Mr. Chairman?

The CHAIRMAN: That has not been discussed. I would see how we can get along, I would suggest.

Hon. Mr. HARRIS: The desire of the department will be merely to go through the Bill in sequence and if there were some subject matters that there was going to be a discussion on we could store those up and take them at the end but there may be some other plans.

Mr. FLEMING: What officials from the department do you propose to have in attendance?

Hon. Mr. HARRIS: Anyone you would like to have.

Mr. FLEMING: I do not know whether there is any preference there at all.

The CHAIRMAN: Let us see how we get along.

Mr. FLEMING: How would it be if we sit from 8 to 10?

The CHAIRMAN: Suggested by Mr. Fleming that we sit from 8 to 10 tonight.

All in favour?

Carried.

Mr. CROLL: I move we adjourn.

Carried.

The committee adjourned.

EVENING SESSION

The CHAIRMAN: Come to order, gentlemen. You will see before you a copy of the present Immigration Act and Regulations; the proposed revision in bill 305; and you have also the remarks of the Minister of June 10 on introducing this legislation in the House. What is the first procedure? To carry on with consideration of the Bill?

Hon. Mr. HARRIS: Yes, I think so.

The CHAIRMAN: If it is your pleasure we will proceed with the consideration of the Bill.

Hon. Mr. HARRIS: I will be glad to make any explanations either on the existing law or the proposed changes and if there is apt to be a prolonged discussion on any one section of the Bill probably we could pass it by to see the extent of our inquiries so that we could come back then to any particular problem that requires lengthy discussion. I hope as we run through the sections members will intervene and ask what they want to know.

The CHAIRMAN: Shall we proceed with section 1, short title?

Stands.

Section 2, interpretation. Is it your pleasure that we take the section as a whole or by subsections?

Mr. FLEMING: Oh, Mr. Chairman, let us take it subsection by subsection.

The CHAIRMAN: Subsection 2 (*a*)?

Mr. FLEMING: That is one that I would like to have explained, if you don't mind.

Mr. CROLL: Will you speak up? We can't hear you. Speak up, will you, please.

The CHAIRMAN: Yes. I should draw to your attention—I have had it drawn to mine—that those in the back row cannot hear what is being said, or the ones at one end of the table cannot hear what is being said at the other end; or they can't hear at the back what is being said at the front; so if you don't mind I am going to be firm and ask you—not you personally, Mr. Fleming, but impersonally to speak as loud as possible so you can be heard.

Mr. FLEMING: I will try to speak as loud as may be necessary. I was asking the minister to explain 2 (*a*) the definition of "admission", in view of the fact that you have made new provisions in this new Act in regard to admission.

Hon. Mr. HARRIS: In the present bill as enacted we have no such provision or no such word as "admission" but in this bill we make a greater distinction between landing in the sense of permanent landing and entry as a word only as to indicate the status of a non-immigrant. We have used the word "admission" to cover both conditions and throughout the Bill you will find reference to admission as including both the immigrant and the non-immigrant.

The CHAIRMAN: Shall (*a*) carry?

Carried.

(*b*) "Canadian citizen"?

Carried.

(*c*), "Canadian domicile"?

Carried.

(*d*), "Deportation"?

Mr. FLEMING: There is another change; well, there is a slight change in "deportation". Would the minister explain the changes which have been made in the definition "deportation"?

Hon. Mr. HARRIS: There is no real change in the definition. There is an extension of the word perhaps by indication that there will be a later provision which will define the extent of deportation, which may be to any one, two or three countries, either the country of nationality or citizenship or birth as the case may be.

Mr. FLEMING: I suppose there is never any such thing as deportation to another country than one of those just mentioned?

Hon. Mr. HARRIS: Well, in fact it sometimes happens that there is a great deal of argument as to which one of the three it may be. In some cases it is difficult to determine exactly what the status of a person is.

Mr. FLEMING: I quite appreciate that, but I wondered if the definition was sufficiently inclusive; if there has ever been a case where a deportation or a removal under the Act might involve deportation to any place other than a country from which a man came, or a country of nationality or a country of citizenship or a country of birth?

Hon. Mr. HARRIS: No.

Mr. FLEMING: You are satisfied that includes every possibility?

Hon. Mr. HARRIS: There can be deportation to a country which is prepared to admit that a person had such a permanent residence there and they would accept him back. That is, you can conceive of it although it is entirely unlikely that you could deport a person to the United States who was neither a citizen or a national of that country.

Mr. FLEMING: And, having come from the States—

Hon. Mr. HARRIS: No, but he did come from the States.

Mr. FLEMING: Can you conceive of that situation—

Hon. Mr. HARRIS: No, you can't—

Mr. FLEMING: —where any other country would accept a man other than under one of these three mentioned?

Hon. Mr. HARRIS: No.

The CHAIRMAN: Shall (*d*) carry?

Carried.

(*e*) "Director".

Mr. CHURCHILL: Just there, Mr. Chairman, could you say a word as to the person who would act for the director in the event of his being absent on some other duty? That is a situation which I presume does occur.

Hon. Mr. HARRIS: The director is a permanent appointment, but he is not always present; and at the moment, I speak subject to correction, he was in Washington earlier this morning.

Mr. FLEMING: What do you do in the event of anything like that?

Hon. Mr. HARRIS: The deputy minister would deal with that.

Mr. FLEMING: On what authority?

Hon. Mr. HARRIS: I think we have authority under the present Act.

Mr. CHURCHILL: And at no given time would you know who the director was though. The director means anyone authorized to act for the director when he is away. If he were away then you would name someone else to act as director. I don't quite follow that.

Hon. Mr. HARRIS: I don't think—the minister would have to make the appointment. Possibly it would be better if we were to leave this until we can see the extent of public relationship which the director has under the Act as to what functions he has to perform.

The CHAIRMAN: Stands.

(*f*) "Entry".

Mr. FLEMING: Just before you pass that I notice in the present Act a definition of deputy minister. You consider that you do not need that definition now?

Hon. Mr. HARRIS: No, the present Act is very old. Under the present ruling of justice the present minister under the Administration Act can perform all functions.

Mr. FLEMING: I was wondering, Mr. Chairman, if the minister wished to say anything further now in view of its importance in regard to the later sections of this, as the distinction between admission 2 (*a*) and entry. He has mentioned it in connection with 2 (*a*). This is a new definition, this entry in 2 (*f*). Is there anything more that you would care to say on that now?

Hon. Mr. HARRIS: No, except that entry is the word which in the previous Act referred to the status of a non-immigrant. There are several kinds of non-immigrants as you will see.

Mr. FLEMING: We are going to have to alter our use of some terms that have been in common use because of the meaning some of them are going to acquire. They are going to have a new shade in this new bill.

Hon. Mr. HARRIS: Well, I think the most commonly known phraseology was "landing", and no one was concerned about the non-immigrant; at least, that has been my experience; he was only of a temporary nature and we did not have too much to do with him.

Mr. CROLL: Well, Mr. Chairman, "entry" has been used for quite a long time. My recollection is landing of an immigrant has been common usage; perhaps it is in the new Act; but it has been used for a great length of time.

Hon. Mr. HARRIS: It is commonly used to indicate a man's entrance.

Mr. CROLL: Yes.

Hon. Mr. HARRIS: A distinction in terms to indicate temporary entrance rather than landing on a permanent basis.

Mr. CHURCHILL: Is this restricted to the non-immigrant?

Hon. Mr. HARRIS: Yes, throughout; the word refers to the entrance of the non-immigrant.

Mr. CHURCHILL: Well then, would it be in order to ask you a question as to how many immigrants have entered the country where you say, "admitted"?

Hon. Mr. HARRIS: "Admitted" refers to all persons entering the country. If you want to know the number of immigrants who have landed you would have to make it landed.

The CHAIRMAN: Shall (*f*) carry?
Carried.

(*g*) "Family";

Mr. FLEMING: There is an enlargement of the definition of family. Under the present Act "children" includes only those under 18 years of age?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: And now you are enlarging it?

Hon. Mr. HARRIS: Yes, to include any person who by reason of his condition is dependent, which would not only include all persons under 18, but perhaps some others.

Mr. FLEMING: Regardless of age?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: That could run up to—

Hon. Mr. HARRIS: It is also provided that they are mainly dependent upon their family for support.

The CHAIRMAN: Shall (*g*) carry.
Carried.

(*h*) "head of family".

Mr. FLEMING: Now, these definitions I think are rather important, Mr. Chairman, in view of the fact that they underlie our understanding of some of the later sections. I was going to ask the Minister for clarification as we go along. There is a change in the definition of "head of family" here. The definition is much shorter in this bill.

Hon. Mr. HARRIS: Would you like to let that stand until we come to the section proper?

Mr. FLEMING: Are you going to give an explanation now?

Mr. CROLL: Could you not under this heading, "head of family", include dependents as well as children?

Hon. Mr. HARRIS: Right.

Mr. CROLL: That is an intention which would seem to be sensible.

Mr. FLEMING: It is a shorter definition than it was in the old section.

Mr. CROLL: Yes, there are fewer words being used there.

The CHAIRMAN: Shall (*h*) carry?

Carried.

Paragraph (*i*), "immigrant"?

Carried.

Paragraph (*j*), "immigrant station"?

Mr. FLEMING: Just a second, Mr. Chairman, let us not go too fast on these. Under the definition of immigrant you have got a very large definition now and you have got a different and much shorter definition in the present Act?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: Would you say a word of explanation on that?

Hon. Mr. HARRIS: Well, by reason of the use of the word "admission" in (*a*) we can apply the definition of immigrant as being any person, non-immigrant or person, who would later be landed an immigrant under the heading using the word immigrant; and the persons who can qualify as immigrants are later defined and persons who cannot are also defined; so that one word—perhaps I was wrong in what I said a moment ago—the one word immigrant will cover just those persons who are going to be admitted for permanent entry. I beg your pardon.

Mr. FULTON: I think in the past reference has sometimes been made to people who have been lawfully landed. Under the new terminology you call them an immigrant until they have acquired citizenship status. Now under this you would exclude such immigrants because it seems the new definition covers them only while they are seeking admission.

Hon. Mr. HARRIS: While he is an immigrant. When he comes to a port of entry, as soon as he is landed.

Mr. FULTON: Oh, I see, and you have a different category to indicate those who are landed who are not immigrants.

Hon. Mr. HARRIS: Yes.

Mr. RILEY: Is it the intention that they should acquire citizenship?

Hon. Mr. HARRIS: You mean, as part of the status of an immigrant?

Mr. RILEY: Yes.

Hon. Mr. HARRIS: No, I do not think that is a necessary part of the definition of an immigrant at the time of admission or at the time he seeks admission. It happens to be the policy of the government at the moment that immigrants will be judged partly on the basis that they would become good citizens.

The CHAIRMAN: Shall section (*i*) "immigrant" carry?

Carried.

(*j*) "immigrant station":

Carried.

(*k*) "Immigration Appeal Board":

Mr. CROLL: Mr. Chairman, that is new, let's enlarge on that.

Hon. Mr. HARRIS: I think we had better let subsection (*k*) stand.

The CHAIRMAN: (*k*) is held over.

(*l*) "immigration officer".

Mr. FLEMING: Just a moment. All you have done in (*k*) and (*l*) is to break down a previous definition in (*k*). There is no change in substance?

Hon. Mr. HARRIS: No. There are the two officers and whoever is senior is the immigration officer in charge of the port of entry.

The CHAIRMAN: Section (*l*):
Carried.

Section (*m*), "immigration officer in charge":
Carried.

(*n*): "landing".

Mr. FLEMING: On the definition of "landing". I wonder where you get the definition of the word "land"? In the present Act you have defined the words "land, landed and landing". Why is it that you don't have the definition of the word "land"? We can derive a definition of "landed" from "land"; you could get a definition of "land" but probably not from "landing" which is a noun.

Would the minister care to say a word there?

Hon. Mr. HARRIS: Yes. I was just wondering what difficulty there is. There is no difficulty in using the verb "landed", and having in mind the connection you would have to use the word "land".

Mr. FULTON: It is "landed" in subsection (*a*).

Mr. RILEY: Yes, in subsection (*a*), you have the words "landed" and "landing".

Hon. Mr. HARRIS: Would not that follow from "land"?

Mr. FLEMING: Well, "Admission" in definition 2 (*a*)—includes entry into Canada and landing in Canada of a person—who has been previously landed in Canada.

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: The present Act defines "land", "landed" and "landing". Here we have the definition only of "landing" which is the noun; no doubt "land" and "landed" as defined would have a corresponding meaning, but I was just wondering why they are not in the definition section of the Bill.

Mr. RILEY: You would not need it normally, you would not need it any more than the words "enter" or "entered" in respect of entry. It is the term which defines the actual granting of permission to come into a country. I do think you would have to define enter or entered with respect to entry.

Hon. Mr. HARRIS: We can let that stand so that counsel can give us instruction on it.

The CHAIRMAN: (*n*) stands.

(*o*) "master":

Mr. CROLL: Mr. Chairman, there is a difference in the definition there. The old definition says ship or vessel; this one says vehicle.

Hon. Mr. HARRIS: We want to include airship in that and we understand that the word vehicle covers aircraft.

Mr. CROLL: All right.

The CHAIRMAN: Shall (*o*) carry?
Carried.

(*p*) "medical officer":

Mr. CROLL: "Vehicle" covers submarines?

Hon. Mr. HARRIS: Yes, even a jet aircraft.

The CHAIRMAN: Shall (*p*) carry?
Carried.

(*q*) "member of a crew":
Carried.

(*r*) "Minister":
Carried.

(*s*) "non-immigrant":

Mr. FLEMING: Wait a minute now.

Mr. FULTON: Perhaps we had better leave that until we come to deal with the subsection.

Hon. Mr. HARRIS: All right, we will let it stand.

The CHAIRMAN: (*s*) stands.

(*t*) "owner":

Mr. FLEMING: You are not including in (*t*) the person who is in charge of the vehicle. How do you interpret the word "agent"? Instead of putting it this way—why don't you say authorized operator?

Mr. CROLL: Why?

Mr. FLEMING: In (*t*), "owner" includes the agent of the owner of a vehicle or the charterer or consignee of a vehicle.

The CHAIRMAN: Are we discussing (*t*) now?

Mr. FLEMING: Yes.

Hon. Mr. HARRIS: Well, the purpose was to include in (*t*) and (*o*) all the persons who might conceivably have anything to do with a vehicle in the sense of having authority over it.

Mr. FLEMING: If the driver of a vehicle has it with the consent of an owner, he would be regarded as an agent, would he not?

Mr. CROLL: That is what it says, "owner" includes the agent of the owner of a vehicle, and so on.

The CHAIRMAN: Shall (*t*) carry?

Mr. FLEMING: I do not know that it is clear.

Mr. CROLL: The driver of a vehicle should not have it without the consent of the owner.

Mr. FLEMING: Yes, but it would be better to leave that to be determined on the basis of agency. The Highway Traffic Act singles out especially the case of the person in charge of a motor vehicle.

Mr. CROLL: Yes.

Mr. FLEMING: That Act does not take a chance on his being the agent. It makes him liable in any case like that. I wonder if the word "agent" in (*t*) includes the driver who is not the agent in the ordinary sense of the word, but the driver who happened to be in charge of the vehicle—

Hon. Mr. HARRIS: We had better let that stand.

Mr. FLEMING: —who might have it without the consent of the owner.

Hon. Mr. HARRIS: (*t*) stands.

The CHAIRMAN: (*u*) "permit":

Mr. CARROLL: What case has the minister in mind there?

Hon. Mr. HARRIS: Since there seem to be some question about this section perhaps we should let that stand until we come to the section.

The CHAIRMAN: (*u*) stands.

(*v*), "place of domicile":

Mr. FULTON: What Act does that refer to, Mr. Chairman?

Hon. Mr. HARRIS: The present Act.

Mr. FULTON: In this Act, looking at domicile and the definition in (*e*)—I suppose we might also refer to (*d*) and the reference to domicile there. And now, the word domicile in (*e*)—isn't there something wrong there?

Hon. Mr. HARRIS: Yes, it should be as in 2 (*d*). In 2 (*a*) there has been a misprint.

The CHAIRMAN: (*v*): "place of domicile".

Mr. FLEMING: I have a question on (*v*), as to the meaning of the word "place" in relation to domicile. In the general usage of the law one usually associates "domicile" with a state and not a place. What interpretation does the word "place" bear here? Is it intended to define the locale any more closely than in terms of a state?

Hon. Mr. HARRIS: It could, in the peculiar conditions existing at the present time in connection with persons who perhaps could not really claim a status as such; but we had better let that stand.

The CHAIRMAN: (*v*) stands.

Mr. RILEY: Is it intended that that will define port of entry as the place, a fixed place or is it sufficiently broad to enable the minister to set up a port of entry anywhere in the country, even for the examination of one person?

Hon. Mr. HARRIS: The minister now has the right to establish port of entry anywhere the minister so desires.

The CHAIRMAN: (*w*), "port of entry":

Mr. FLEMING: You do not think it is desirable then to have the words I referred to included in (*w*)?

Hon. Mr. HARRIS: I do not think so.

Mr. FLEMING: You can set it up again?

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: Shall (*w*) carry?
Carried.

(*x*) "prohibited class":

Mr. FULTON: I think you have all the prohibited classes covered in the old Act, I think it is covered in section 3.

Hon. Mr. HARRIS: It is all covered in section 3.

The CHAIRMAN: Shall (*x*) carry?
Carried.

(*y*), "ship":

Mr. RILEY: What is the reason for including a separate definition here if vehicle covers everything?

Hon. Mr. HARRIS: What is that?

Mr. RILEY: Why have a separate definition for the word "ship" if the word "vehicle" covers everything?

Hon. Mr. HARRIS: Because there are particular references to ships in the Act.

The CHAIRMAN: Shall (*y*) carry?
Carried.

(*z*) "Special inquiry officer". Shall (*z*) carry?
Carried.

(*aa*) "transportation company":
Carried.

(*bb*) "vehicle":
Carried.

Shall the section carry?

Mr. FULTON: No, certain subsections were allowed to stand. Before you leave that general section I would like to ask whether it is a fact that in no case do you use the word "alien"; does that cover the normal conception of the definition of alien? Am I correct in that?

Hon. Mr. HARRIS: No, that is no definition—

Mr. FULTON: Generally speaking what word are you substituting for it?

Hon. Mr. HARRIS: We have used the word "person" throughout; and then we have distinguished persons as between immigrants and non-immigrants.

Mr. FLEMING: Is a word used to replace the term "alien"?

Hon. Mr. HARRIS: No, I think the use of the word "alien" in the old Act in some cases created confusion and there is the distaste in the minds of immigrants who have been here for some time being regarded or addressed as aliens. This refers to persons without domicile.

The CHAIRMAN: Would you speak a little louder, please, Mr. Minister?

Clause 3 (1) "Canadian citizens":
Shall 3 (1) carry?
Carried.

The CHAIRMAN: Subsection 2 "Persons with Canadian domicile"?
Carried.

Subsection 3: "Persons who assist Canada's ennemies".

Mr. FLEMING: Just one moment, Mr. Chairman. Would the effect of subsection 3 be, for instance, in the case of Germans, that a special permit would be required from the minister? Or, when you speak about authorization by the minister, does it mean that there is going to be some order in council applied to the nationals of a particular state which has been at war with Canada?

Hon. Mr. HARRIS: No. There may be, but this is a section which of course has remained for some time; and it was thought there would be circumstances in which, after a person had committed an offence referred to in (*a*) or (*b*), and after the conclusion of the form of hostilities which might be going on, there might conceivably be an arrangement. But what you have to do when the war is over, you have a peace treaty which restores the rights existing to persons who have been at war with each other; and conceivably that condition would obtain, and there might be a case made for then admitting a person, even if, prior to that time, he had not been admissible under (*a*) or (*b*).

Mr. FLEMING: Take the case of the Germans; they will be the largest group within the scope of this particular section. We have not a treaty of peace with Germany, but we have terminated a state of hostilities.

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: But in the case of a German intending to emigrate to Canada, is there going to be any general order applied to all German nationals, or does it mean that, in the light of this subsection, there would have to be a special authority or permit issued by the minister, in the case of every German national?

Hon. Mr. HARRIS: I think you are misunderstanding this section. At the moment, a German national who fought against us in the war is admissible to Canada if he is otherwise acceptable. There was an order in council passed, if I recollect correctly in September of 1950, which provided that in effect the absence of a peace treaty under the circumstances would not be a bar to a German being admitted to Canada; and we have, since that time, been admitting Germans subject to tests of health and character and the usual tests applicable to all people. Therefore this section was not devised to cover that particular problem. This was intended to cover a person who has already come

to Canada and has been in Canada for a while, and has even, perhaps, acquired domicile, but who, nevertheless, then commits some of the acts referred to, and who, despite the fact that he has that domicile, shall for that reason not be admissible.

Mr. FLEMING: If that is the meaning, then it is not put particularly clear in subsection 3.

> (3) Any person, other than a Canadian citizen, who
> (*a*) within or without Canada, performed any military service for or otherwise aided or abetted a country then at war with Canada;
> (*b*) within or without Canada, performed for or rendered to a country other than Canada any military service or other aid or assistance that is prejudicial to any action taken by Canada under the United Nations Charter, the North Atlantic Treaty or other similar instrument for collective defence that may be entered into by Canada; or
> (*c*) left Canada for any of the purposes described in paragraphs (*a*) and (*b*);
>
> shall not be allowed to come into Canada unless authorized by the Minister to do so.

It is clearly broad enough to cover the case of a person who has never been in Canada. What is going to become of the orders or provisions you have made by order in council now in regard to the status for immigration purposes of a German in the light of provisions like this, which sound like a categorical prohibition?

That is surely broad enough to cover the case of every German unless there is some efficacy in the present order in council with reference to German nationals, which will be carried over into this Act, notwithstanding the express prohibitory words of subsection (3).

Mr. CARROLL: It must be read subject to subsection (2) and (1).

Hon. Mr. HARRIS: I think Mr. Fleming's point was that the interpretation of the words of subsection (3) was not sufficient in itself to relieve everybody in subsection (3) to subsection (2); and if this is what he has in mind, we can let the legal department wrestle with it. Therefore, let it stand, Mr. Chairman.

Mr. FLEMING: It if were put that way, if subsection (3) were made subject to some of those other provisions; subsection (3) is the governing section in the case of difficulty of ambiguity.

Hon. Mr. HARRIS: We will let it stand.

Mr. FULTON: Before you go beyond section 3, I would like the minister to consider a point with respect to this question of landed immigrants and immigrants which we discussed under paragraph (*i*) in the definition section. I refer to subsection (2) of section 3: Persons with Canadian domicile.

If you look at section 6: "General Presumption" it reads as follows:

> 6. Every person seeking to come into Canada shall be presumed to be an immigrant until he satisfies the immigration officer examining him that he he is not an immigrant.

I raised the point that we call them immigrants, and refer as immigrants to people who, although if they had been lawfully admitted had not yet acquired the full status of Canadian citizenships. Now you say he is a landed immigrant, but nevertheless, whether he be a landed immigrant or not, I think it becomes important when you are trying to relate subsection (2) of section 3 to section 6. So I wonder if you should not put in another category in your definitions, a category of those who are landed immigrants, so that a landed immigrant may not be liable to have to go through all the process when he tries to come back to Canada. Suppose he comes in to Canada and takes a job for

a company in Canada. And suppose he is a highly qualified man and they send him to the United States to do something for them, and after that he seeks to come back to Canada.

Hon. Mr. HARRIS: Is there any reason why he should not qualify at that point to come back into Canada again as an immigrant?

Mr. FULTON: I would say so; he has been landed once before, and it seems to me he should now be regarded as a landed immigrant. But it says he should be regarded as an immigrant until he satisfies the examining officer that he is not an immigrant. You have not created a category of landed immigrants.

Hon. Mr. HARRIS: That is right, and you feel that a landed immigrant should be able to enter Canada without further examination after he has left here.

Mr. FULTON: Not without further examination, no; but you have placed him where he must satisfy the examining officer that he is not an immigrant.

Hon. Mr. HARRIS: That is right. Everybody who comes to a border point is presumed to be an immigrant, and he must defend his position; he must prove that he is a visitor or that he has no intention of becoming a landed immigrant, and for that purpose he must satisfy the immigration officer that he conforms to all the immigration requirements.

Mr. FULTON: Then he would have to go through the same process twice; although he has been landed once, he has to go through the same process again simply because he left the country temporarily.

Hon. Mr. HARRIS: Yes, without first obtaining before he left something which would admit him again, if he is able to prove, before he goes, that he is going for temporary business purposes, or something like that.

Mr. CROLL: I was thinking of the case of a landed immigrant who has been here for many years but has not taken out his citizenship; he goes over to the United States for two or three months; let us say that he becomes insane; then if he wishes to return to Canada, we could refuse him admission.

Hon. Mr. HARRIS: If he has acquired domicile he gets back in. Let us take a case which comes under the five year period.

Mr. CROLL: That is what I am thinking of.

The CHAIRMAN: Let us take a recess and come back here as soon as the vote is taken.

(The committee adjourned for a division in the House).

The CHAIRMAN: We are dealing with section 3 subsection (3) and that stands. Now, section 4.

Mr. FULTON: I have raised a question of subsection (3). Perhaps you would prefer to leave it until we come to section 6, Mr. Chairman?

The CHAIRMAN: Very well. Section 4 subsection (1): "Acquisition". Carried?

Mr. CROLL: Wait a minute.

Mr. FLEMING: There is that word "landed" again. I think we need a definition of it.

Hon. Mr. HARRIS: I think your semantics are—but we won't go into that now.

Mr. CROLL: If you were not landed, you would soon know it, Mr. Fleming.

Mr. FLEMING: We have a definition in the present Act.

The CHAIRMAN: Subsection (1)?
Carried.

Subsection (2): "Certain periods do not count".
Carried.

Mr. FULTON: What is the traditional reason for the five year period? Has that always been in the Act?

The CHAIRMAN: Are you speaking of subsection (1) now?

Mr. FULTON: Yes, I am speaking of subsection (1). I see that it is in the old Act. How long has it been in there?

Hon. Mr. HARRIS: The present Act is 1910. Do you know how long it has been in there, Mr. Cory?

Mr. W. M. CORY (*Legal Adviser, Department of Citizenship and Immigration*): It has been in since 1910.

Mr. FULTON: Is that about the same period that is required by other countries for immigration purposes?

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: Subsection (1)?
Carried.

Subsection (2) (*a*)?
Carried.

Subsection (2) (*b*)?
Carried.

Subsection (2) (*c*)?

Mr. CHURCHILL: I have a question, Mr. Chairman. I was wondering why a resident in Canada under a permit could not be counted to have a five year period that is subsequently required, because surely, from time to time, there must be instances where a person who has entered on a permit, and has had that permit renewed on two or three occasions, may decide to become an immigrant and subsequently a Canadian citizen. So is there any reason why the time should not count under the permit?

Hon. Mr. HARRIS: Yes. Anybody who entered under a permit has been a person not admissible under the Act and is only allowed in because of particular conditions which usually, on the main grounds, are considered by the minister as sufficient; but briefly such a person cannot qualify, and therefore can never acquire domicile or citizenship.

Mr. CHURCHILL: You say "admitted"?

Hon. Mr. HARRIS: I say "admitted" to indicate his physical coming in.

Mr. CHURCHILL: But you say he does not qualify?

Hon. Mr. HARRIS: That is right.

Mr. CHURCHILL: Not by reason of the Act, but by reason of the regulations, such as a quota for his particular country which may be filled?

Hon. Mr. HARRIS: There are no quotas for any particular country, so that is not a factor. But most of the entry cases are persons who, as you say, have not complied with the regulations; but in most cases they are persons who are prohibited entry under section 3 of the present Act.

Mr. CHURCHILL: I know of a specific instance, a person who entered Canada from Lebanon and became a student and subsequently a lecturer at the University of Manitoba under a permit. He has proved to be more than a satisfactory type, and his permit has been renewed, I think, on two occasions. Now he is qualified for entry as an immigrant, but he still has to put in his five years.

Hon. Mr. HARRIS: Yes.

Mr. CHURCHILL: Would you say that a lot of people enter under permits?

Hon. Mr. HARRIS: Not very many, not a lot; there are very very few.

Mr. CHURCHILL: But did I not understand you to say that people generally entering under permits would not normally qualify otherwise?

Hon. Mr. HARRIS: That is right, and that is why they have to be given permits. They are not admissible at the time for the reason that they are either prohibited under section 3 or by the regulations?

Mr. CHURCHILL: But you say the number is not large?

Hon. Mr. HARRIS: Oh no; I think it is much less than 100 a year.

The CHAIRMAN: Subsection (2) (c)?
Carried.

Subsection (3)?

Mr. FLEMING: These words "established in Canada" I think must present some difficulty. We are talking here about the exceptions to the loss of domicile through residence outside of Canada in section 4, subsection (3). I know it is in the present Act, but in looking for improvements in the Act, I wonder if this expression "established in Canada" does not present some difficulty? Apply it to religious organizations, for instance, established in Canada. There are missionaries who go out from this country to be with missions which are established abroad which have not any existence in Canada. Some of the missionaries go out, for instance, to some of the churches abroad that are now indigenous churches in foreign lands.

Hon. Mr. HARRIS: You mean that a Canadian, or rather a person who has acquired Canadian domicile but has not become a citizen might go to a foreign country to serve a religious order which was not in any way represented in this country?

Mr. FLEMING: Yes.

Mr. CROLL: What about that "otherwise"?

Mr. FLEMING: No. It is the words "established in Canada". They apply. For instance, in India, there is an indigenous church there now, where many of the denominations united to form a church in India, and missionaries went out from Canada to that church, and they would be going to a church that was not "established in Canada". Some of the great missions, while they might have offices in Canada through which they seek funds to sustain their work abroad, do not carry on any work in Canada except the raising of money to sustain the missions in the lands abroad.

Hon. Mr. HARRIS: The opening words of subsection (3) refer to a person who voluntarily leaves with the intention of making his permanent home outside Canada, and not for a mere special or temporary purpose. That is the proper group, then, the (*a*), (*b*), and (c) are exceptions to that which would bring a person outside of section 3, subsection (1). In other words, your person would have to show that he had not left Canada with the intention of making his permanent home outside of Canada. He would still be free to do that, although his position under (*a*) was not established in Canada. Wherever a person left here to serve a corporation, or to serve a religious order, let us say, in India, which had no connection with Canada, there would be a presumption that he wanted to go there not for the purpose of losing his domicile, but under circumstances which would indicate that he wanted to make a permanent home there and it would still be open to him to show that that was not so.

Mr. FLEMING: I wonder if those words "established in Canada" are the best words you can find for this purpose? In the administration of the present Act, you must have had serious difficulty with them too.

Hon. Mr. HARRIS: Let us put it this way: that a person who leaves here to go to the United States to work for a United States corporation should not be an exception. Surely he should be put in a position of having to prove to the satisfaction of the department that it was not his intention of making his permanent home outside. The mere fact that a man goes abroad to seek employment in itself would not be such an intention.

Mr. FLEMING: It is one of the circumstances under which he would have to justify his claim and justify his retention of domicile.

Hon. Mr. HARRIS: The purpose of putting in (*a*), b), and (c) is to indicate the groups of those who go abroad and who by the very nature of their employment should not lose their rights, because even if that group shall be created which goes abroad to serve an organization which is Canadian in its origin—

Mr. FLEMING: I do not think the minister and I are arguing at cross purposes, but I still think there is difficulty over the meaning of the words "established in Canada', and I do not think the point is yet fully disposed of.

Hon. Mr. HARRIS: We could let (*a*) stand.

The CHAIRMAN: Yes, (*a*) stands. Now, (*b*)?

Mr. BYRNE: Is anyone likely to be in the public service of Canada outside of Canada who is not a Canadian citizen already admitted under this?

Hon. Mr. HARRIS: It is unlikely, yet it does happen. There have been occasions, but they were fairly few in number.

The CHAIRMAN: (*b*)?
Carried.

(c)?
Carried.

Subsection 4?

Hon. Mr. HARRIS: I think we ought to leave for the time being all sections dealing with subversive activities, both in this section and in the others. So let section 4 stand.

The CHAIRMAN: Yes, subsection 4 stands.
Now, subsection 5.

Mr. FULTON: And that would include section 19?

The CHAIRMAN: Section 5.

Mr. FLEMING: I have a question about the difference in language between 4 and 7, on the one hand, and 5 and 6 on the other. In the case of 4 and 7 there is this rider at the end "unless an appeal against such order is allowed"; and in section 7 "unless the appeal against the said order is allowed, against this deportation order"; but in sections 5 and 6 there is no such qualification. Can the minister explain that?

Hon. Mr. HARRIS: The point is that under section 5 there is no appeal from the order of deportation, and neither is there in section 6.

Mr. FLEMING: There you are depending on a conviction in court as establishing the fact?

Hon. Mr. HARRIS: That is right.

Mr. FLEMING: Now, in the case of section 4 you do not depend on a conviction only, and that is one circumstance which could give rise to the application of the section?

Hon. Mr. HARRIS: That is right.

Mr. CROLL: Did subsections 4, 5, 6, and 7 carry?

Hon. Mr. HARRIS: No. Section 4 I hope is carried.

Mr. CROLL: Did we not have a section similar to section 4?

Hon. Mr. HARRIS: As I explained in moving this bill, there was this provision in the Narcotics and Drugs Act, and we are taking it out of that Act and putting it in the Immigration Act.

Mr. CROLL: So that a man who, for instance, is naturalized and may have lived here all his life, could be convicted under the Narcotics Act and deported?

Hon. Mr. HARRIS: That is right.

The CHAIRMAN: Could he have lived here all his life?

Mr. CROLL: Let us say he came here as a youngster and lived here for 30, 40, or 50 years, almost all his life, and was then convicted at the age of 60 for a narcotics offence. He would come under that section at the present time?

Hon. Mr. HARRIS: Yes, he could lose his domicile and thereby be subject to deportation.

Mr. CROLL: Under subsection 5?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: Does that apply in the case of a man who has acquired a 5-year domicile?

Hon. Mr. HARRIS: Yes.

Mr. CROLL: Then a man could come here as an immigrant, raise a family, have them all born in this country, and even have grandchildren born in this country, and then it may be he commits an offence at the age of 60 or 65 and he becomes subject to deportation?

Hon. Mr. HARRIS: That is right.

Mr. CROLL: And you say that the same section was in the Narcotics and Drugs Act?

Hon. Mr. HARRIS: Yes.

Mr. CROLL: Do you ever have occasion to use it?

Mr. FORTIER (*Deputy Minister, Department of Citizenship and Immigration*): Yes.

Hon. Mr. HARRIS: We had better give you the information on that specifically. Therefore it might stand.

Mr. CROLL: You have given consideration to this matter under the circumstances?

Hon. Mr. HARRIS: Yes, but as I said at the beginning, I want the committee to be satisfied that anything we are doing is correct, and I think you ought to have the story.

Mr. CROLL: Very well.

Mr. FLEMING: This note is misleading in claiming it is new, then? It should be mentioned in the explanatory note?

Hon. Mr. HARRIS: That is right.

The CHAIRMAN: Subsection 5 stands. Now, subsection 6?
Carried.

Mr. FULTON: With respect to the Citizenship Act, would the minister tell us briefly what are the provisions of the Citizenship Act referred to. What sort of offence is referred to there with respect to sections 15, 17, or 19 of the Citizenship Act?

Hon. Mr. HARRIS: 15 is the giving up of nationality or citizenship by a formal Act other than marriage; 17 is dual citizenship, who served in the armed forces, but not under disability.

Mr. FULTON: You mean the armed forces of the other country?

Hon. Mr. HARRIS: Yes (*a*) is a person who has engaged during the war and in treating with the enemy, and the other one is the person living abroad for 2 years in the country of which he was a citizen before he became a Canadian citizen.

The CHAIRMAN: Subsection 6?
Carried.

Subsection 7?
Carried.

Mr. CARROLL: Subsection (5) stands?

Hon. Mr. HARRIS: No. Subsection 5 is carried.

The CHAIRMAN: Subsection 6 carries and subsection 7 carries. Now, section 5 (*a*) "Mentally defective persons, etc."

Mr. FULTON: Would the minister give us a word with respect to this situation? I think it is implicit in what I referred to, that a person who is a landed immigrant, did not suffer from any of these disabilities when he landed. Then he goes away for a visit, perhaps with the permission of the department, and while he is away he develops some of these symptoms. What happens then? It looks to me as if 5 (*a*) precludes him from coming back to Canada, although he was lawfully or regularly landed at one time. Is that the intention?

Hon. Mr. HARRIS: I think that is the result. But perhaps Mr. Fortier would say something about the practice.

Mr. FORTIER: That is the practice. If a person is landed in Canada, and he has a Canadian domicile, which takes five years to acquire, and during those five years which are required for Canadian domicile, if he goes abroad from Canada, then when he comes back he is dealt with exactly as an immigrant. We may administratively dispose of the medical examination and the X-rays, and so on; if it is just, let us say, a visit to the United States, we have no adverse reports; but otherwise, he would be dealt with as an immigrant.

Mr. CROLL: Has that been the practice of the department over the years?

Mr. FORTIER: Yes, sir.

Mr. FULTON: Have you found that it makes difficulty with other countries? I suppose the number of cases would be small of persons who had been here for four years with the intention of acquiring Canadian domicile, and who then go to the United States on some mission, and who while they are working there develop something under section 5 which would bar them from re-entering Canada. What is the position with respect to the country of their origin?

Mr. FORTIER: They return home.

Mr. FULTON: Yes?

Mr. FORTIER: Generally speaking, we have no difficulty in returning a gentleman to his country of birth, and I think I can say that very few cases have arisen, and they were mostly criminal cases, where the individual committed a crime when he was abroad.

Mr. CROLL: Let us take this case. Suppose we have a man who has lived in this country 4 years. And let us suppose he goes to seek employment in the United States, and while he is over in the United States, within 3 months he suffers an accident as a result of which he becomes insane. At that moment the United States decides to get rid of him, and they have only to say to him: "Go back to Canada." What is your position?

Mr. FORTIER: We take him back to Canada.

Mr. CROLL: You say you take him back?

Mr. FORTIER: Yes, but he would be rejected at the border and we would deport him to the country he came from.

Hon. Mr. HARRIS: Remember, you were speaking of the past, Mr. Croll, but there are other provisions in this bill which relate to that situation. You are speaking of the past up to the moment.

Mr. CROLL: Yes.

Hon. Mr. HARRIS: Therefore, do not take it for granted that that is the condition under this bill.

Mr. CROLL: When looking through this bill I must have missed some portion of it.

Mr. FULTON: Is 5 (*a*) subject to some other section of the Act?

Hon. Mr. HARRIS: No, it is not.

Mr. CROLL: I am being unfair to the department if I put that proposition before you and the answer is as Colonel Fortier has given it at the moment. I do not want to be unfair to the department, so perhaps you would be good enough to correct me and say if there is any provision under which you have the right to assist a situation of this kind? Has the department or the minister the right to deal with it?

Mr. RILEY: Does the same condition apply to a person who is in Canada and has landed as an immigrant and who becomes insane before acquiring citizenship?

Hon. Mr. HARRIS: No. Under section 19 we have altered the law with respect to the disabilities which arise during the period up to domicile, but that is another question which we shall come to under section 19.

Mr. FULTON: Under 5 (*a*), let us take the case to which Mr. Croll referred, that of a person who was landed in Canada and worked here for five years and entered into employment, following which he was sent to the United States by his firm to perform a mission there; and while there he received an injury. Let us say he was struck by an automobile, and the injury deprived him of his mentality, and he becomes, let us say, an idiot, an imbecile, or a moron, or something which is covered by the words of section 5 (*a*). Would he be admitted to Canada again?

Hon. Mr. HARRIS: I was thinking of section 19 when I answered Mr. Croll.

Mr. FULTON: Under 5 (*a*) would the circumstances referred to by Mr. Croll mean that a man or a person who would not be re-admitted? What is your practice? Has the department any authority to re-admit him, or must he be deported?

Mr. FORTIER: There is a statutory provision which prohibits him from coming back to Canada.

Mr. FULTON: Have you had such cases before?

Mr. FORTIER: No, and the only case I can recall is that of a person who committed a crime in the United States. I do not recall any mental cases such as described by Mr. Croll.

The CHAIRMAN: Does 5 (*a*) carry?

Mr. BYRNE: It seems to me that it is hardly fair; there are a number of organizations in Canada who have operations in the United States. They may have someone employed with them for perhaps 4 years, here in Canada, who is sent over to work in an organization, in another department, and who may become injured there; and he would be subject to compensation. It may be a small subsidiary, such as a small mine, and they would be operating in both countries, but the result would be that there would be no liability on the part of the organization or company to compensate the injured person if he is not

allowed to come back here. If he should become insane, for example, he will be deported to his country of origin, and then no liability will occur on the part of anyone to provide him compensation.

Hon. Mr. HARRIS: No. This Act, even if we carried it to the extreme of deportation under those conditions, would not take away from any company any liability it might have to pay by way of contract or statute. It merely relates to what would happen to the body.

Mr. BYRNE: Suppose he was sent to the country of his origin, would he have any right to collect then?

Hon. Mr. HARRIS: By all means.

The CHAIRMAN: Does section 5 (*a*) carry?

Mr. FLEMING: On section 5 (*a*), if an immigrant is an epileptic, under the present Act he comes within a prohibited class. But I am wondering about the case of people who may occasionally be subject to epileptic seizures which might come on infrequently. Does this Act not introduce new language? I think that the word "epilepsy" as used in the present Act obviously means a person who is a chronic sufferer from epilepsy.

Hon. Mr. HARRIS: I do not think that is a factor. "Epilepsy" in the present Act has been interpreted to mean persons who have suffered from epilepsy either once, twice, or twenty times, and the effect of the wording of this section is to deny admission to any immigrant who suffers from epilepsy.

The CHAIRMAN: Shall subsection 5 (*a*) carry?
Carried?

Mr. FLEMING: The disability of epilepsy applies here to immigrants only?

Hon. Mr. HARRIS: That is right.

Mr. FLEMING: Are we going to interpret that as applying in the case of a person who has had one epileptic seizure, or are you going to confine it to those who have had a number of them?

Hon. Mr. HARRIS: I don't know of any civilized country which admits epileptics as immigrants. There are strict laws against them.

Mr. FLEMING: I can quite understand that in the case of persons who are chronic sufferers; on the other hand, I believe there are cases of persons who as a result of some injury in childhood, for instance a blow on the head, may have suffered an epileptic seizure but they may not have had more than one, or let us say one in a couple of years, or it might be even less frequent than that.

Hon. Mr. HARRIS: Well, that is one fairly rigidly enforced prohibition and any epileptic is barred.

Mr. FLEMING: What about the case of a person who has been subject to epilepsy in childhood and has grown out of it? Is epilepsy in childhood a complete bar in cases like that?

Hon. Mr. HARRIS: Yes, if it is known to have occurred it is a bar.

Mr. CROLL: As long as he is subject to epileptic seizures it is a bar, even though the condition may be very temporary? That strikes me as being rather severe.

Hon. Mr. HARRIS: Epileptic means anyone suffering from epilepsy and they are barred from entry.

Mr. CROLL: That is it.

Hon. Mr. HARRIS: There is certainly no intention to indicate there will be two classes of epileptics, those who have had the one attack and those who may be said to be chronic. If at the time of application they have had only one seizure that is sufficient to bar them. This is the wording which has been

devised by the inter-departmental committee who have been considering this. If you would like to have it stand I shall be glad to do so; but I hope there is no misunderstanding, it does not indicate that there will be varying degrees of epilepsy under the present regulations.

Mr. FLEMING: Will you stand it over, Mr. Minister, to give consideration to the case of a person who may have suffered epilepsy in childhood, perhaps not often, but has grown out of it? I am told that there are lots of those cases. There are many cases of children whose epilepsy is not congenital but is as a result of some injury in childhood and they do grow out of it. They may suffer these seizures for two years in childhood and then they get rid of it. In cases like that, as long as there is a clean bill of health given by a competent physician I should think the fact that a person in childhood has suffered from epilepsy as a result of injury should not be barred from entry.

Hon. Mr. HARRIS: It always has been the case.

Mr. FLEMING: It strikes me in that case as being injustifiably severe.

Mr. RILEY: Mr. Chairman, if under the existing order of things now an epileptic could be pronounced as completely cured, and, if it were determined that a real hardship was being worked by the prohibition, could not that particular person be permitted landing by order in council?

Hon. Mr. HARRIS: He could be permitted entry under a minister's permit. I do not think I have ever issued one. There may have been others in the past; but it is a very live medical topic on which there is very strong feeling.

Mr. CROLL: Is it easily recognizable?

Hon. Mr. HARRIS: No, it is not. The medical history often shows it, and the latest case I had on it was of a girl who showed symptoms of it after she had got off the boat in Halifax and then—on cross-examination it was found that she had had it on several occasions.

Mr. CROLL: Any of these cases that reached Canada would not be permitted to land?

Hon. Mr. HARRIS: No, if the case is chronic or if it is apparent at all—very often these persons may be in apparent good health.

Mr. HENRY: Mr. Chairman, could you relieve a situation of that kind under (c) (ii) having them provide a bond where the family gives satisfactory security against such immigrants becoming public charges. Could not a bond be put up?

The CHAIRMAN: We are dealing with section 5 (*a*) and reference has been made to 5 (c) (ii).

Mr. RILEY: I understand that as a matter of administration they could be admitted under bond.

Hon. Mr. HARRIS: No, I don't think there is any opportunity under that section.

Mr. RILEY: That is the way it might work.

The CHAIRMAN: Shall (*a*) carry?

Mr. FLEMING: No, Mr. Chairman, I thought the minister was going to let this stand over.

Hon. Mr. HARRIS: Yes, 5 (*a*) (iv) will stand.

The CHAIRMAN: We will stand that too.

Hon. Mr. HARRIS: Yes, we will stand (iv) of 5 (*a*).

The CHAIRMAN: Subsection (*b*), "diseased persons".

Mr. STEWART: I wonder if the minister could give us some information about those suffering from trachoma. I have had cases where a number of immigrants have come to this country and because they have trachoma

were not allowed to come in. It has been put up to me that cases of trachoma are being cured in continental Europe and that there is no danger of bringing the disease in. Is it the intention to let this subsection stand?

Hon. Mr. HARRIS: We had better let that stand and we will have someone here from the Department of Health and Welfare.

The CHAIRMAN: Stand. I think it would facilitate the work of the chair a great deal, and the work of the minister if members would address the chair before they proceed to ask questions.

Mr. STEWART: I am sorry if I was at fault, Mr. Chairman.

The CHAIRMAN: I am not referring to you, Mr. Stewart. Are there any other questions on (b)?

Mr. FULTON: There is one, Mr. Chairman. Is it not possible that considerable hardship would be done—perhaps you can tell me what kind of experience you have had—in cases where an immigrant has been in Canada say for four years, and then goes down to work in the United States or in Mexico and while there develops tuberculosis, let us say within six weeks, I would imagine that might be possible; but supposing they did contract tuberculosis would they not be precluded from re-entry into Canada and subject to deportation? Would it effect their right of re-entry into Canada? Would they not be permitted to come in just as though they had not contracted tuberculosis at all? Isn't that a case of particular hardship?

Hon. Mr. HARRIS: It has not been in the past.

Mr. FULTON: You mean by that that there have been no cases in the past, or it has not been regarded as a hardship?

Hon. Mr. HARRIS: Well, I do not know that there have been any cases of record; and if there have been I have not heard anything about them.

Mr. FULTON: Take the case of any other infectious disease contracted while outside of Canada, any case of infectious disease?

Hon. Mr. HARRIS: That is the very point. We don't want to have infectious diseases brought into Canada.

Mr. FULTON: No, but, Mr. Chairman, surely the position there would be that these people would be to all intents and purposes the same as though they were Canadians; they went down to work in the States, or Mexico as the case may be, temporarily, and while residing there contracted some infectious disease; that should not bar them from coming back home.

Hon. Mr. HARRIS: No.

Mr. FULTON: This immigrant in the first place was landed and permitted to reside in Canada and showed all the prospects of becoming a good and valuable citizen; and he is working for a Canadian company—it would seem to me to be unfair to him if while working for a Canadian company outside of the country he contracted a disease to say that he could not come back here, that he would be deported.

Hon. Mr. HARRIS: It is a matter of opinion, I suppose, as to how many rights a landed immigrant acquires on the first day, or the second day or the third day after landing; generally the Act says that he does not acquire many of these rights until he is here five years. That may be wrong in principle, but that is the principle on which the Act is based, and it is the basis on which most immigration Acts are written.

Mr. ASHBOURNE: Would you care to say anything in connection with the principle of X-raying—

The CHAIRMAN: Louder, please.

Mr. ASHBOURNE: When are these landed immigrants X-rayed?

Hon. Mr. HARRIS: Well, they must have their X-rays taken in the city in which we have our immigration offices.

Mr. ASHBOURNE: You examine them there?

Hon. Mr. HARRIS: Yes.

Mr. STEWART: We have a situation in the city of Winnipeg just now where some immigrants are afflicted with tuberculosis; I don't know whether it is at a serious stage or not; they are subject to deportation. Now, would they be entitled to stay here subject to such regulations as might be made, which would permit them to take treatment, let us say, in a sanatorium in Manitoba, or would they be automatically deported?

Hon. Mr. HARRIS: No. Under this bill they are not necessarily subject to deportation.

Mr. FULTON: What steps are taken to bring the provisions of subsection (*b*) to the attention of the immigrant, because as Mr. Fleming remarked to me, certainly it would seem that a landed immigrant would be very ill-advised to leave Canada whatsoever for any period within five years. So what steps would be taken to bring them to his attention?

Mr. FORTIER: No particular steps are taken, but generally the immigrant calls at our office to see what would prevent him from going out and coming in, and the officer would tell him.

Mr. RILEY: When most of those immigrants leave this country within five years and go to the United States, the American authorities are very leary about letting them in, and very few filter across the border?

Mr. FLEMING: You mean "filter" in legally?

Mr. RILEY: That is right.

The CHAIRMAN: (*b*) is to stand. Now, (c): "Physically defective persons".

Mr. RILEY: What is the definition of "blind"?

Hon. Mr. HARRIS: I think we had better let that stand, if there is any doubt about it.

The CHAIRMAN: Subsection (c) stands. Are there any other questions on it?

Mr. HENRY: Suppose a father comes with an epileptic child and offers to put up a bond. The child has physical imperfections within the meaning of subsection (c); can he not, in the circumstances, be allowed to bring in that child?

Hon. Mr. HARRIS: The answer is "no", and that it is covered by the preceding prohibition; but as I said, there may have been cases in which epileptics came in by permit. I do not know of any, but the permit was designed to take care of extreme cases of hardship of that kind.

Mr. STEWART: With respect to subsection (c) (ii) what is considered as satisfactory security?

Hon. Mr. HARRIS: I beg your pardon?

Mr. STEWART: What is considered as satisfactory security? What amount of money or bonds is required? I have had an experience with the department in the past, one very happy experience, I might say, when a poor devil came here from some camp in Europe, and I was able to get a reasonable amount of security provided. But take the case of an immigrant working in Winnipeg who is earning about $3,000 a year, and he desires to bring in his parents. Apparently the department does not consider he has sufficient security to ensure that those parents will not become public charges. What is the concept of satisfactory security?

Hon. Mr. HARRIS: It is pretty difficult to define. With a parent who presumably would be of an age which would indicate that he would not be contributing to the family income we would require to have a certain basis of income in the bread-winner to see that they were properly looked after. Then there is a further thing which I think Mr. Cruickshank raised in the House, but as to which I have not yet answered. He cited a case where a son had applied

for the entry of a parent, and had entered into an engagement to maintain him, but now apparently he had gone on relief, that is the parent. I have not been able to find out precisely what the engagement was, whether it was sufficient or satisfactory under those conditions. I think it would depend entirely on the probability that the person would not be able to earn anything, and on the standard of income and security of the bread-winner.

Mr. STEWART: It would more or less be an *ad hoc* decision in each case.

Hon. Mr. HARRIS: In each case, yes.

Mr. FLEMING: You have not laid down any fixed standards for measuring this test?

Hon. Mr. HARRIS: I do not think we can; we have not anyway. You could say, if you like, $500; but the $500 would disappear if the bread-winner was in a kind of employment in which it would disappear quickly, and it did disappear.

Mr. CROLL: Do you not ask for a written bond rather than for money? I cannot recall many instances where you have asked for money, but rather for some undertaking by the man or his friends?

Hon. Mr. HARRIS: I was referring to the amount of money that a man had available. If he only had $500 available in the bank, as his only security, you would not be disposed towards that man as compared with a man who had, let us say, $10,000 in the bank; or, on the other hand, the man who had $500 might have a good paying position and might be a particularly eligible person.

Mr. CROLL: I do not think this would be a difficult situation to clear up.

The CHAIRMAN: Section 5 (*d*), "Criminals".

Mr. STEWART: What is the definition of "moral turpitude"? I have never been quite clear in my mind about that.

Mr. CROLL: What is the American definition of it?

Hon. Mr. HARRIS: There is no definition of it. It does not mean an offence against the speeding laws. It refers to an offence against the criminal code, or to some more serious form of offence against public morality.

Mr. FLEMING: It does not apply to all offences under the criminal code.

Mr. CROLL: The Americans make a distinction between crimes and misdemeanours.

Mr. FLEMING: I thought the minister was giving a definition which was broad enough to apply this term to every offence under the criminal code, but that was not my understanding of it. It was rather that crimes involving moral turpitude were of a particular class, which would not by any means include all indictable offences under the criminal code.

The CHAIRMAN: Perhaps these had to do with morals.

Hon. Mr. HARRIS: No. In the first place, this was not an offence against the Canadian criminal code, but an offence against the criminal code of the country from which the person was coming; and usually it applies to all the offences which are set out in our criminal code.

Mr. FULTON: There is no definition of moral turpitude.

Hon. Mr. HARRIS: No, but the definition is not what most people think it is.

Mr. RILEY: Would you say that an offence coming under the criminal code would take in the case of the control of an automobile while intoxicated? That would not be called moral turpitude?

Hon. Mr. HARRIS: A person convicted abroad of an offence which was roughly equivalent to our drunken driving which ends in a conviction and sentence approximately equivalent to our seven days in jail would come under this clause.

Mr. RILEY: The Americans are not that strict.

Hon. Mr. HARRIS: They may not be, but we are.

Mr. FLEMING: Has the Department of Justice ever given an interpretation of the words as they appear in 3 (1) (*d*) of the present Act?

Hon. Mr. HARRIS: No.

Mr. FLEMING: I think this matter is not so simple that we ought to leave it just where it stands now. As I understand the interpretation the minister put on it, this really involves anything in the way of a crime according to the Canadian definition of crime. It did exclude a breach of penal laws which are not criminal in their nature; but anything which under our Canadian definition is apparently a crime would be embraced within the definition of a crime of moral turpitude.

Hon. Mr. HARRIS: I think that is a fair statement.

Mr. FLEMING: We can hardly hope to interpret the mind of parliament when these words were first enacted; "any crime involving moral turpitude"; but I would think that the expression was deemed to be a little restrictive, and that it was not deemed to involve every crime. It if was, then the words are meaningless. You have still got the words in line 29 "any crime involving moral turpitude...", and if this expression is the equivalent of a crime according to the Canadian definition of crime, then we do not need the words "involved in moral turpitude"; they would be of no effect and would apply to a class of crime.

Mr. FULTON: May I suggest that it would advance our work if we considered these mere restrictions of these words? When we came to subsections 1 and 2, I was inclined to take the view particularly after the minister answered with regard to drunken driving, that they were perhaps too harsh; but since we have come to subsections 1 and 2 of D, I am inclined to think it was not so harsh as it appeared at first sight, because the cure is roughly 5 years in one case, or 2 years in the other.

The CHAIRMAN: Can we not consider this matter at the next session?

Mr. FLEMING: Would you not consider asking Justice for an interpretation of those words?

Hon. Mr. HARRIS: I do not think it would help at all. Perhaps it is not as much of a hardship as it would appear to be at first blush, he can clear his record in five years in one case or two years in the other by a year of clean living.

The CHAIRMAN: Shall we say that we will consider this matter at the next session?

Mr. STEWART: Yes.

Mr. FLEMING: Mr. Chairman, would you consider—

The CHAIRMAN: It is now 10 o'clock.

Mr. FLEMING: —asking Justice for an interpretation of these words?

Hon. Mr. HARRIS: I do not think it would help at all. I suggest that if this committee had that in mind that on reflection they would probably decide that they had better give a free hand in the minister in carrying out his view of the will of parliament. May I conclude by saying that. What we have put in that section is the only reasonable way that we have been able to devise, to leave it in the hands of the minister who will be responsible to parliament. To leave it to him to bar any person whose criminal record is such that he would expect parliament would want him to be barred, but nevertheless give him the opportunity under this section to admit someone who probably has made just one mistake and has seen the error of his ways.

Mr. FLEMING: You said in here I think, Mr. Chairman, that these exceptions that are now made are not altogether desirable. I must say that I am a bit troubled though by what the minister has said. If it means, any crime involving moral turpitude, if that is interpreted as meaning the same thing as any crime.

Hon. Mr. HARRIS: Well, one could conceive, I suppose, of a conviction under the criminal code or its equivalent in which the minister might feel that the person concerned didn't have the intention of committing that particular crime. Then, that might take away from the word moral turpitude the lack of moral standard that you would expect a person to have; but I do not think you should place the minister in that position, the minister should not act as a court of appeal from a court of competent jurisdiction; and if you then take the other view that you have to go through the codes of criminal law of all the countries involved and index them according to crimes that you think involve a lack of moral perception as opposed to those crimes which might be committed by absence of thoughts, I suggest that you are putting an almost impossible task on the department.

Mr. FLEMING: I am not suggesting that the offence should be one under the law of any other state, but I thought I understood the minister to say that the interpretation they are putting on it there is any crime involving moral turpitude; that it means the same thing as any crime according to the Canadian definition of crime.

Hon. Mr. HARRIS: No. I said that in a general way you can take it for granted that a crime under the criminal code is assumed to be a crime involving moral turpitude. I did not want to say that it did not apply to Canadian laws as such, and purely administrative acts are exceptions.

Mr. FLEMING: Take common assault.

Hon. Mr. HARRIS: That is moral turpitude.

Mr. CROLL: That is what is known as a misdemeanour in the States.

Mr. RILEY: Take assault, would that involve moral turpitude?

Mr. CROLL: No, but a real assault I think we should interpret that as a crime involving moral turpitude.

Hon. Mr. HARRIS: And I think I will continue to do so.

Mr. FLEMING: Suppose you put this interpretation on it. For the sake of argument let us take the case of two men living in the north of Ireland and they come to exchange a couple of good hefty haymakers, and as a result of that unfortunately one of them accuses the other fellow and the other fellow is convicted of a common assault; it is a simple case of common assault and he gets 10 days for it. Surely, that is not a crime involving moral turpitude; I should say not, from the Irish standpoint at any rate.

Mr. RILEY: That is the point; that would hardly be a crime of the kind referred to.

Mr. FLEMING: It strikes me that if you are going to interpret this as based on the equivalent cases coming under Canadian standards that it must conform to these very words, be a crime involving moral turpitude.

Mr. FULTON: Is there any reason to think he would not do it in Canada?

Mr. RILEY: I take it that the minister indicates that the department accepts this as a general principle to follow, but that there may be extenuating circumstances in particular cases. Is that right?

Mr. CROLL: He is trying to set them out in the next subsection.

Hon. Mr. HARRIS: I have set out what I think would be exceptions. I can well imagine there could be a minister who would feel that there were crimes in the sense of charges and convictions which did not involve moral turpitude. I can give you an example at the moment, something perhaps more important than an assault case.

In the United States especially and in continental countries they have a procedure which they call technical confession of guilt. After a charge is laid there will be a proceeding which is equivalent to our effort to settle a civil lawsuit, as a result of which you will have a confession of guilt by the accused ending in a suspended sentence with no penalty of any kind. The person concerned will be angry afterwards if you say that he was convicted of a crime involving moral turpitude. And that has arisen particularly in cases having to do with infraction of the Securities Exchange Act and similar kinds of acts.

Now, that is an instance of where, if a conviction were registered here after trial, you would say it probably was a conviction involving moral turpitude, and yet there is no record in the United States of the evidence which led up to the conviction, and you merely have a record of the charge and the conviction, so that that case is one which would bother the minister more than an assault case, let us say, in Ireland.

Mr. FLEMING: With respect to the law as it stands today, may I ask the minister if an immigrant were to say to him that he was guilty of a common assault, then the minister would have no power to admit him to Canada?

Hon. Mr. HARRIS: No. But the minister may decide that it was not a case of moral turpitude.

Mr. FLEMING: That involves, again, the exercise of ministerial judgment.

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: And is there any jurisprudence worked out in the department on the subject to bring us a little closer to the definition of a crime involving moral turpitude?

Hon. Mr. HARRIS: No, the view of the department is that each case should be judged on its merits. There have been relatively few cases in which there has been any conviction; unless it is a case in which the minister and the department decide an exception should be made. There have been exceptions. Take the case of a dispute over a boundary—not between the north and south of Ireland but as to whether a plum tree was on one side or another—possibly that would not have come to light, it might better be forgotten.

Mr. FLEMING: What other cases have there been?

Hon. Mr. HARRIS: There is a case comes to mind, a case in the United States. In that particular case I ruled that there had been a conviction of crime involving moral turpitude. In that case it was a matter of defrauding the public in a security issue and when there is no evidence to go on, merely the charge, with a conviction and suspended sentence.

Mr. FLEMING: Particularly, can the minister tell us in what cases—I presume there are not many—the minister, either the present minister or the previous minister, has ruled that it would have to be a crime technically under our criminal code which if committed in Canada is not a crime involving moral turpitude as that provision of the present Act has been interpreted?

Hon. Mr. HARRIS: I think we would have to look at our records. Off hand I do not recall any cases in which I decided it was a crime involving moral turpitude when there has been a conviction; but there may be cases. I will get the record.

The CHAIRMAN: Shall 5 (*d*) carry?

Mr. FLEMING: I thought you were going to hold that one, Mr. Chairman; I think we had better hold that one open.

Hon. Mr. HARRIS: Let us go on until half past ten. Before we go on, if we can allow 5 (*d*) to stand, could we carry (i) and (ii)? Is there any doubt about it?

Mr. CROLL: We have already carried (i) and (ii).

The CHAIRMAN: Yes, (i) and (ii) have carried.
Shall (*e*) carry?
Carried.

(*f*) "procurers".
Carried.

(*g*) "beggars and vagrants":

Mr. CROLL: If beggars are professional, would that apply also in the case of doctors, dentists, physicians and so on?

The CHAIRMAN: There is an association of hoboes.

Mr. CROLL: That of course is the section of the old Act which was subject to very great abuse in interpretation. Would not the word "habitual" be better? That has been in there for some time, has it not?

Hon. Mr. HARRIS: Yes.

Mr. CROLL: All right, carried.

The CHAIRMAN: Carried.

(*h*) "public charges".

Mr. FLEMING: I don't suppose the question has ever arisen; the word "professional" applies to beggars only, does it not?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: A man may be a beggar one year, and a respectable citizen the next, and vice versa. How do you test this? Is it a question of what he is at the moment of application for admission?

Hon. Mr. HARRIS: Right, that is all you can do.

The CHAIRMAN: Carried.

(*i*) "alcoholics".

Mr. FULTON: In (*h*) in the former Act, is that former provision changed? The old section 3 (*h*) carries the inverse interpretation. Do you know of any such cases that ever arose?

Hon. Mr. HARRIS: No, it is not happening now but it did; there were organizations affected by this part of the Act.

Mr. FULTON: Would it be covered now by subsection (*h*)?

Hon. Mr. HARRIS: No, it is covered by regulation.

Mr. CROLL: Might I ask for the indulgence of the committee, Mr. Chairman? I have another place to attend. I wanted to ask about our next meeting. Tomorrow we have veterans affairs—I expect that will only be sitting for a short time—and public accounts, probably for their last meeting. Could we have our next sitting arranged so it would not interfere with those meetings?

Hon. Mr. HARRIS: Could we meet at 8 o'clock tomorrow night? Could we carry on discussion tomorrow on the outline of the bill?

Mr. FULTON: I could be here.

Hon. Mr. HARRIS: We could meet at 8 o'clock.

The CHAIRMAN: Could we not meet in the afternoon?

Hon. Mr. HARRIS: No, but we might meet at 8 and sit until half past 10 or so.

Mr. CROLL: Yes.

The CHAIRMAN: Shall the subsection carry?

Mr. FULTON: I would like to know whether there were any cases under section 8 in the old Act, and if it ever arose again, would it be taken care of by subsection (*h*) of the present Act?

Hon. Mr. HARRIS: No. It would be covered by regulations which would permit the re-entry of persons who had been bonused by charitable organizations.

The CHAIRMAN: (i) "alcoholics".
Carried.

(*j*) "drug addicts".
Carried.

(*k*) "drug pedlars".

Mr. FLEMING: I presume that (*j*) means addicted at the time of application; it would not apply to a person who has been a drug addict and has been cured. I suppose you would take a case like that and look it over medically very carefully, and if you were satisfied that the man had broken the habit you would not regard his as excludable?

Hon. Mr. HARRIS: It would depend on what the medical officer certified, and if he certified that he was an addict, that would settle it; and if he did not, it would not be necessarily prohibited.

Mr. FLEMING: Where the medical officer is told by the man that he was a drug addict for a couple of years, but that the habit has been broken, that he has had a cure, and he says: "I am no longer an addict."

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: In a case of that kind, if you were satisfied after medical examination that the man was no longer a drug addict, he would not be in the prohibited class?

Hon. Mr. HARRIS: If the medical officer certified that he was no longer an addict.

The CHAIRMAN: Subsection (*j*)?
Carried.

Subsection (*k*)?
Carried.

Subsection (*l*)?

Hon. Mr. HARRIS: Let it stand.

The CHAIRMAN: Subsection (*l*) stands; also subsections (*m*) and (*n*). Now, subsection (*o*)?

Mr. FLEMING: May we have some explanation of (*o*); what is the yardstick by which you measure the hardship in a case of that kind?

Hon. Mr. HARRIS: The yardstick is roughly the question of whether the family has been living together and whether the person concerned is of an age when he would be expected to live with the family. You would not consider a married son as part of the father's family.

The CHAIRMAN: Subsection (*o*). Carried. Subsection (*p*)?
Carried.

Subsection (*q*)?
Carried.

Subsection (*r*)?
Carried.

Subsection (*s*)?

Mr. STEWART: In connection with subsection (*s*), am I right in assuming that this tied in with 5 (c) (2)? And can effective security be given to those people who would be allowed to stay in?

Hon. Mr. HARRIS: No. The persons under 5 (*b*) stand by themselves; this is a separate group who are prohibited by reason of examination by the medical officer, but other than that they are so mentally or physically abnormal that it is not possible to admit them.

The CHAIRMAN: Subsection (*s*)?
Carried.

Subsection (*t*)?
Carried.

Section 6: "General presumption".

Hon. Mr. HARRIS: Let it stand.

The CHAIRMAN: Section 6 stands. Section 7: "Persons who may enter Canada as non-immigrants".

Subsection (*a*)?
Carried.

Subsection (*b*)?
Carried.

Subsection (*c*)?
Carried.

Subsection (*d*)?
Carried.

Subsection (*e*)?
Carried.

Subsection (*f*)?
Carried.

Subsection (*g*)?
Carried.

Subsection (*h*)?

Mr. FULTON: Excuse me, but with respect to subsection (*d*), can you tell me from your experience whether there is any conflict between that 7 (1) (*d*) and 5 (*b*)? That provision in 5 (*b*) that allows them to come into Canada for treatment; how does that work in practice? What is your authority for saying "you cannot come in because you have some disease?"

Hon. Mr. HARRIS: Well, perhaps I do not quite understand the question, but someone may present himself and say: "I am a visitor and I want to come into Canada under section 7 (*c*);" he is prohibited under subsection 5 if he has any of the various disabilities there. If he wants to come in for treatment he is covered by another clause and has to make a special application.

Mr. FLEMING: If he is coming in for the purpose of treatment of a disease there is provision for his being admitted—he would not be excluded?

Hon. Mr. HARRIS: No.

The CHAIRMAN: And now, we are down to (*h*).

Mr. FLEMING: This section is new, evidently; what types of professional persons are contemplated there as having entered or being in Canada for the temporary exercise of their respective callings?

Hon. Mr. HARRIS: This is a class which operates in so many cases, people constantly coming and going, people in business or in the professions; particularly across the American border.

Mr. FLEMING: Would the minister elaborate a little on that?

Hon. Mr. HARRIS: Well, let us take an extreme case, let us suppose that the New York agent of your legal firm should come and spend two weeks or a month preparing a case in Toronto for submission to the courts of Ontario; he could remain as a non-immigrant during that period of time—and the same would apply to any other similar professional or trade or occupation.

Mr. MCLEAN: Is there any time limit on this?

Hon. Mr. HARRIS: The permit entry is for a three month period and can be renewed if the case required.

The CHAIRMAN: Shall (*h*) carry?
Carried.

(*i*) "seasonal workers".
Carried.

(*j*) "members of crews".
Carried.

Subsection 2, "other classes of non-immigrants".
(*a*) "persons entering Canada for treatment."

Hon. Mr. HARRIS: This is the one that Mr. Fulton had in mind.

Mr. FULTON: Yes.

The CHAIRMAN: (*a*) Carried. (*b*), "under guard".
Carried.

(*c*) "permit holders".
Carried.

Subsection 3, "where persons cease to be a non-immigrant".

Mr. FULTON: On subsection 3, could we have a word on that?

The CHAIRMAN: Subsection 3, carried. Subsection 4, "declaration by minister".

Mr. FLEMING: I have a question on 4, Mr. Chairman.

Hon. Mr. HARRIS: Perhaps we could let 4 and 5 stand.

Mr. FLEMING: I was going to ask under what circumstances you would apply the powers indicated there.

Hon. Mr. HARRIS: Just let that stand, if you don't mind.

Mr. FLEMING: All right.

The CHAIRMAN: Section 8, (1) "issue of permits".
Carried.

(2) "for limited period and effect".

Mr. FLEMING: I wonder, Mr. Chairman, if the minister is satisfied with that. Is that presenting any difficulty at all?

Mr. FULTON: Are you satisfied with the period? Is there any difficulty over that?

Hon. Mr. HARRIS: Well, at the moment, we have granted permits for a year where they are needed.

Mr. FULTON: But they are only issued for a short period of time.

Hon. Mr. HARRIS: Yes, some of them for 15 days.

Mr. FLEMING: As I understand it, at the present time a year has always been the maximum?

Hon. Mr. HARRIS: That is right.

Mr. FLEMING: And that has never been exceeded in any case? Well, here there is no maximum which might be imposed by law. It will still be a matter of the ministerial decision as to what should be a proper maximum limit of the period?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: Would it not be just as well to specify that in the Act if it is so firmly established by usage?

Hon. Mr. HARRIS: I suppose the sanction is in the fact that the minister must make a report to parliament yearly, and that is the way they express it throughout. We can let 8 (2) stand.

Mr. FULTON: Could you give us a statement as to the extent to which section 8 permits or is intended to permit the minister to admit temporarily, over the bars imposed by the other section? Is it not intended for that purpose?

Hon. Mr. HARRIS: No, it was intended to permit the minister to issue a permit if he thought it desirable.

Mr. FULTON: Is it the case that you have not found it necessary to use it widely; or is it used to cover what you consider to be a desirable case; or is it a power that is not much in use, that is used only rarely?

Hon. Mr. HARRIS: Our figures show that up to 1942 there were 19 cases, and since 1942 there have been 54 cases.

Mr. FULTON: On what type of case is it mostly used, is it used for political refugees?

Hon. Mr. HARRIS: No, they are largely medical cases of hardship and involving elderly people who can be better looked after, or perhaps only looked after by the family in Canada. I recall one case in which I issued a permit for a young boy who had been convicted of a minor theft in the United States. His family came to Montreal, and then when the boy, who was only 16, came out of a short period in jail he had no place to go except to go and live with his father and mother.

The CHAIRMAN: Subsection 2?
Carried.

Subsection 3?
Carried.

Subsection 4?
Carried.

Subsection 5?
Carried.

Mr. FULTON: Does that 5 (4) include renewals?

Hon. Mr. HARRIS: No, they were new permits.

The CHAIRMAN: Section 8?
Carried.

Section 9, subsection (*a*)?
Carried.

Subsection (*b*)?
Carried.

Subsection (*c*)?
Carried.

Hon. Mr. HARRIS: This is a new section which permits the minister at the end of 10 years to issue a landing.

The CHAIRMAN: Section 9 will carry, and we shall resume tomorrow evening at 8.00 o'clock in this room.

The committee adjourned.

EVIDENCE

June 17, 1952.
8.00 p.m.

The CHAIRMAN: Gentlemen, would you please come to order. This evening's session we hope will accomplish considerable. We would like to go through until a little later than the 10 o'clock hour if it is agreeable to the members here. We are in session in any event in the House until 11 o'clock and probably you would not mind going until close to 11 this evening and then at the closing of the meeting we would like to discuss with you the program for tomorrow and the day following, that is, depending on the progress we have this evening.

Mr. FLEMING: Could we defer a decision until later as to how long we are going to sit? I think probably at about 10.30 we will have had enough of this particular diet. You never know; we may be through with the bill by that time. I trust if we finish with the bill by 10 o'clock you won't make us sit until 10.30?

The CHAIRMAN: We will certainly find something for you to do.
We had read and passed section No. 9 of the bill.
Clause 10 subsection (1) (*a*), immigration officers.
Carried.

(*b*)?

Mr. FLEMING: A question on (*b*), Mr. Chairman. In how many cases is it likely that resort will have to be had to this clause: "where no immigration officer is available for duty at a port of entry, the chief customs officer at that port or any subordinate customs officer designated by him?"

Mr. FORTIER (*Deputy Minister of Immigration*): I would not be able to say offhand the number of ports. Offhand I would not know.

The CHAIRMAN: Have we got an answer here?

Hon. Mr. HARRIS: Colonel Fortier made the answer that it would not be possible for him to say but there are ports where a customs officer would have charge.

Mr. FLEMING: These would be small ports?

Hon. Mr. HARRIS: Yes, where we do not want to keep a staff.

Mr. FLEMING: I have never come through a port yet where there are not both customs and immigration officers.

Mr. FORTIER: You have always come through large ports but there are small ports in every province where we have customs, principally in western Canada.

The CHAIRMAN: (*b*) carried?
Carried.

(*c*)?

Mr. FLEMING: What are the circumstances under which (*c*) would be applied?

Hon. Mr. HARRIS: You might want to appoint a person quickly at a given place to provide immigration facilities. It is rather an unusual possibility but you can conceive of the necessity for having an immigration officer at a place where for some reason or another persons are expected to come in and you would like to have someone on the staff as an immigration officer.

Mr. FLEMING: Has the present power under the Act been used?

Hon. Mr. HARRIS: No, I do not think so.

Mr. FORTIER: There were larger groups of immigration officers in the definition of an immigration officer. At present it includes medical officers and so on.

Mr. FLEMING: In other words, you are narrowing down the definition of immigration officers so you think you should have this right to name a person specially where circumstances makes it necessary?

Mr. FORTIER: Yes.

The CHAIRMAN: (c)?
Carried.

Subsection (2)? Authority of special constable.

Mr. CARROLL: In that connection, Mr. Chairman, isn't that giving a good deal of additional authority to an immigration officer to order the deportation of anybody?

Hon. Mr. HARRIS: No, he has the power of a police officer to enforce any provision of the Act or regulation. It does not give him any authority beyond that contained in the Act and that power must be vested in an immigration officer.

Mr. CARROLL: "Arrest, detention"—I am not concerned about that but the deportation?

Hon. Mr. HARRIS: Well, if an order is made for the deportation of a person then we want the immigration officer to have the authority to effect the deportation.

Mr. CARROLL: I know, but doesn't this in effect give him the right to issue the order for deportation?

Hon. Mr. HARRIS: No, that gives him the authority to enforce the provisions of the Act and any regulations with respect to it.

Mr. CRESTOHL: As I understand it under this section he has no right to make a decision for deportation but merely to execute a decision that was made under the Act?

Hon. Mr. HARRIS: Right.

The CHAIRMAN: Subsection (3), temporary assistants.

Mr. FLEMING: There is a possibility of ambiguity there under the drafting of that clause. I thought that was the way Mr. Carroll was reading it, that the word "enforce" referred to deportation. It is a strange reading.

Mr. CROLL: It is sometimes a strange Act.

Hon. Mr. HARRIS: "To enforce it"—I take that to mean that he use the necessary force to carry it out. It does not, go beyond that.

The CHAIRMAN: Subsection (2).
Carried.

Subsection (3), temporary assistants.
Carried.

Subsection (4), Oaths and evidence.
Carried.

Mr. CROLL: Subsection (4)—does the passing of that give them the authority that ordinarily they would obtain from a province to take those oaths? Does this automatically give it to them or is it necessary for them to obtain any further authority?

Hon. Mr. HARRIS: No, this is sufficient.

The CHAIRMAN: This only applies under this Act, doesn't it?

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: Section 11 (1), special inquiry officers.

Mr. FLEMING: Mr. Chairman, I think it would be a good place for the minister to speak about special inquiries in general.

Hon. Mr. HARRIS: The change made here is in effect that in the place of the present existing procedure at the board of inquiry consisting of three officers we have substituted a board of inquiry consisting of one person, a special inquiry officer and he will be in almost every case the senior immigration officer in the port of entry so that you will have two possibilities for the applicant in seeking to be admitted into Canada—he will be examined by the immigration officer and passed by that immigration officer to a special inquiry officer who will be the senior and then, if for any reason the special inquiry officer feels that the person is admissible, he has the authority to admit him. If he feels that an inquiry is in order he has the authority to proceed with an inquiry which is the equivalent of the present day board of inquiry.

Then, if there is an appeal from that decision the appeal will be dealt with by the appeal board or by the minister as we shall see in a moment.

Mr. CRESTOHL: Can you tell us, Mr. Harris, whether in your experience in the past these inquiry boards consisting of three, have you had many experiences where there was a minority report brought in where there was not unanimity in these reports or were they invariably unanimous?

Hon. Mr. HARRIS: I do not know that they were invariably unanimous but the most of those that I have seen have been unanimous.

Mr. CRESTOHL: The reason I asked that question was that your present procedure would save you two officers who could otherwise be occupied with other duties.

Hon. Mr. HARRIS: That is the point; we are trying to avoid tying up two officers when we allow an applicant an opportunity for his case to be properly considered.

The CHAIRMAN: Subsection (2)?

Mr. FLEMING: Mr. Harris, you use the special inquiry officer in the case of illegal entry, and persons who have been admitted illegally as has happened in the past year some of these Italian immigrants?

Hon. Mr. HARRIS: The special inquiry officer takes the place of the present board of inquiry also with respect to persons getting into the country about whom there should be an inquiry.

Mr. HENRY: There is an appeal as a last resort?

Hon. Mr. HARRIS: Oh yes.

The CHAIRMAN: Subsection (2)?
Carried.

(3) (*a*), power to examine witnesses, etc.
Carried.

Mr. FLEMING: Do you prescribe the form of the summons?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: You do it by regulation?

Hon. Mr. HARRIS: We do it by regulation.

The CHAIRMAN: Subsection (*b*)?
Carried.

(*c*)?

Mr. FLEMING: The power to issue commissions is a pretty important one. Presumably the special inquiry officer holding the power and authority of a commissioner under the Inquiry Act can issue a commission. Now, that is a broad power. I wonder in all the circumstances you propose that he should have the right to issue a commission to take evidence. Presumably that is at some distance, isn't it?

Hon. Mr. HARRIS: It is and it may be a power and authority that might appear unusual for a person applying in Halifax to be admitted but we do not want to be in the position of inconveniencing people and we hope, as a matter of fact, to have these things become somewhat more formal and more exact. Today when we require the evidence of a person at some distance either in Canada or out and it would be desirable to have the power to obtain that evidence rather than merely make a slipshod approach to the problem we thought it better to have someone take evidence on commission.

Mr. FLEMING: You have not that power under the present Act. There is no power at present to issue a commission. Having regard to the fact that in the courts you do not get a commission issued unless you make out a pretty good case for it I wonder if this is not handing over to an inquiry officer a pretty broad power. What check are you going to have on some inquiry officer who may issue these commissions pretty freely and feel careless as to the safeguards which should be attached?

Hon. Mr. HARRIS: Well we can still make regulations to cover any procedure before him. There will be counsel, I suppose, and I suppose counsel would be seeking a commission if it suited their purposes to have them and if there was a case for it I think the officer should have the authority to grant a commission.

Mr. FLEMING: Have there been any cases brought to the attention of the department where the absence of any power to issue a commission resulted in an injustice or delay to either side?

Hon. Mr. HARRIS: I do not think that question arose in that form because not having any power nobody ever wondered whether there was a witness at a great distance whose evidence would be desirable.

Mr. FLEMING: You have your own inquiry officers in different parts of the country. Unless it were someone in a quite remote area you could always obtain your evidence through another inquiry officer without issuing a commission. I wonder if that is the sort of thing we should not weigh more carefully?

Hon. Mr. HARRIS: We can let (*c*) stand, then.

Mr. FLEMING: The lawyers on the committee may have opinions.

Mr. CROLL: I was going to support you on your stand.

The CHAIRMAN: Subsection (*d*)?
Carried.

Subsection (*e*)?
Carried.

Section 12. Nomination.

Mr. STEWART: On 12, Mr. Chairman, could the minister tell us what persons ordinarily he would nominate to serve at these ports? Would they be departmental officials?

Hon. Mr. HARRIS: Yes.

Mr. STEWART: Nobody from outside the department?

Hon. Mr. HARRIS: No.

Mr. CROLL: Is there something beyond section 12? I am concerned with the final authority resting with anyone but the minister. Is that the intention of 12?

Hon. Mr. HARRIS: The intention of 12 is to set up an appeal board which will function in some cases instead of the minister as at present.

Mr. CROLL: But once the appeal board is set up, is the man deprived of an appeal to the minister? I think there is something in 30 or something—

Hon. Mr. HARRIS: 31.

Mr. CROLL: Does 31 give the minister the right—

> ...shall be reviewed and decided upon by an immigration appeal board with the exception of any appeal that (*a*) the Minister directs the Immigration Appeal Board to refer to him...

And then:

> (3) And Immigration Appeal Board or the minister...

Mr. STEWART: In 31 (4), Mr. Chairman, does that mean if the appeal board makes a decision the minister can do nothing about it or does the minister have an overriding jurisdiction?

Hon. Mr. HARRIS: No, the minister will not have an overriding jurisdiction. He will have an appeal in the case which he chooses to have referred or any case which the board send to him.

Mr. CROLL: But you are losing sight of a very busy minister who has not time to look into a case that automatically goes to the appeal board and they are dealt with by the appeal board. The minister finds a decision of the appeal board and he is then precluded from ministerial discretion. I think that is a mistake to take that ministerial discretion away. I think you can leave it with the appeal board but I think it is a mistake to exclude the minister in all the circumstances. He is the man in charge. There might easily arise cases which might not come to the attention of the minister until after they have dealt with them and they may see nothing in the case at all where the minister might find some day when he wants to deal with an appeal that it is already dealt with?

The CHAIRMAN: Are we dealing with 31 or 12?

Mr. CROLL: We have to discuss 12 together with 31.

Hon. Mr. HARRIS: Suppose we let that stand until we get to 31?

The CHAIRMAN: 13?
Carried.

14?
Carried.

15 (1), warrant for arrest.

Mr. FLEMING: Just a moment. That is a new provision 15 empowering the minister to issue a warrant for the arrest of any person respecting whom an inquiry or examination is to be held or a deportation order has been made under this Act. I suppose there is no problem about arrest after a deportation order has been made. Are there any other cases where a minister has the right to issue a warrant for the arrest of a person?

Hon. Mr. HARRIS: Yes, if you refer to section 42(1) of the present Act—it is rather involved but it reads this way:

> . . . upon receiving a complaint from any officer (and so on) . . . against any person alleged to belong to any prohibited or undesirable class the Minister, the Deputy Minister, the Director or the Commissioner of Immigration may order such person to be taken into custody and detained at an immigration station for examination . . .

Now, this authority is the same authority as in 42(1) except that it is true that in 42 the authority to order the arrest and detention relates to a complaint which has been made under what is 19 in the new bill but that is one of the essential authorities which a minister should have because if a person is in Canada under conditions which on the face of it at least require a board of inquiry and under conditions which on the face of it would indicate that he had entered the country illegally and would elude the board of inquiry if he had the opportunity to do so, it is necessary that we do arrest him in order that we bring him in front of a special inquiry officer for the purposes of the inquiry.

Mr. FLEMING: How often have you had to use the power under the present 42(1) to make an order?

Mr. FORTIER: Very often.

Hon. Mr. HARRIS: They have to. Somebody who is here illegally naturally will refuse to co-operate in something that may end in his deportation and it is necessary to arrest him to conduct the examination.

Mr. FLEMING: In how many of those cases do you make the arrest, the detention? In most cases don't you make an arrest for the purpose of bringing the man before your inquiry board and do you in many cases have to keep them in arrest?

Mr. FORTIER: Before the inquiry they are always held in detention, custody.

Mr. CRESTOHL: I believe that without exception in every case you invite the man in writing to voluntarily appear. It is only upon his refusal to appear that you have to enforce detention?

Mr. FORTIER: That is right.

Hon. Mr. HARRIS: The detention then is continuous until the inquiry is held which may be a matter of a day. In some cases it has been longer than that because of the difficulty of getting three officers.

Mr. CROLL: A man named Harris does not agree with you.

Hon. Mr. HARRIS: He is not under this section as I will explain in a moment. Then, having had the inquiry especially if there is an appeal to the minister after an order of deportation bail and all those other consequences follow.

Mr. FLEMING: I have a general question which might as well come out now. Is there anything in the new bill which deprives anybody of the right he has under the present Act by law to resort to the courts?

Hon. Mr. HARRIS: No.

Mr. FLEMING: In other words, there is nothing in this bill that takes away one jot or tittle of any man's right to resort to the courts the same as formerly?

Hon. Mr. HARRIS: No.

Mr. FLEMING: Habeas corpus or anything else?

Hon. Mr. HARRIS: No.

Mr. CRESTOHL: I think there is some other means in that Act that will be discussed at a later date.

Hon. Mr. HARRIS: That is right, subject to the opinion of the committee.

The CHAIRMAN: Section 14?

Carried.

Section 15(1)?

Carried.

Section 15(2)?

Carried.

Section 15(4)?

Carried.

Section 16?

Carried.

Mr. FLEMING: Let us have another look at those cases referred to in the subparagraphs to subsection 1 of section 19.

The CHAIRMAN: Section 16?

Carried.

Section 17?

Carried.

Section 18(1)?

Carried.

Section 18(2)?

Mr. FLEMING: Before you leave 17 you are reserving power to hold a man at an immigration station or other place satisfactory to the minister?

Hon. Mr. HARRIS: If he should be in a hospital we might not have an immigration station. There might be another building, customs office or something of the kind that we will use to take its place and it is the kind of authority which could only be used where we will say a person presumably would escape if he was not detained.

The CHAIRMAN: 17?

Carried.

Section 18(1)?

Carried.

Section 18(2)?

Carried.

Mr. FLEMING: As to this payment of the security deposit under subsection (1) what kind of payment have you in mind?

Hon. Mr. HARRIS: Well, we have given bail in certain cases in the amount of $100. I think that is the average—generally $50 to $100 is the average.

The CHAIRMAN: Subsection 2?

Carried.

Section 19, subsection (1) (*a*): Persons who are members of subversive organizations, etc.

Mr. CROLL: Let that stand.

The CHAIRMAN: Section 19, subsection (1)(*a*) will stand.

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: Subsection (*b*): Persons convicted to offences involving disloyalty?

Carried.

Subsection (*c*): Spies, saboteurs, etc?

Carried.

Subsection (*d*): Persons convicted of narcotics offences?

Subsection (*e*): Other cases?

Carried.

Subsection (*e*) (i)?
Carried.

Subsection (*e*) (ii)?
Carried.

Subsection (*e*) (iii)?
Carried.

Mr. FLEMING: With respect to paragraph (ii), Mr. Chairman, and an offence under the Criminal Code, that could be really anything; as a matter of fact, an offence would have regard to the less serious crimes; would it include indictable offences?

Hon. Mr. HARRIS: Everything under the code.

Mr. CROLL: Everything? That is almost the same as moral turpitude?

Mr. FLEMING: Yes.

Mr. CROLL: I do not know what else you can do with it, really.

Hon. Mr. HARRIS: This is a report to the minister by various officials.

Mr. FLEMING: This could apply only to the commission of an offence in Canada.

Hon. Mr. HARRIS: That is right.

Mr. CROLL: But the Criminal Code makes a lot of new offences.

Mr. CRESTOHL: Does that mean that a person who has been legally landed in Canada and has resided here for a number of years and who commits an offence and is convicted, thereby becomes subject to deportation?

Hon. Mr. HARRIS: Subsection (*e*) says: "any person, other than a Canadian citizen or a person with Canadian domicile, ..." on the whole five years.

Mr. FLEMING: It could apply to a person who had been here for 4 years 11 months and 29 days?

Mr. CROLL: Mr. Fleming raises a point which I think is worth considering for just a moment. Do you think, Mr. Fleming, that a man who came here and was legally landed in Canada and is not a citizen, has not acquired domicile?

Mr. FLEMING: Under section 4 we read as follows:

> 4. (1) Canadian domicile is acquired for the purposes of this Act by a person having his place of domicile for at least five years in Canada after having been landed in Canada.

That is section 4 subsection (1), and that is Canadian domicile.

Mr. CRESTOHL: I think you are calling in a provision that once a person is legally landed he does not acquire domicile until he has been here for five years; and at the end of 4 years and six months, if he commits an offence, you take him back 4½ years and you are now in the same position today that you were 4½ years ago.

Mr. FLEMING: It does not have to be a very serious offence. Take a case of common assault which is an offence under the Criminal Code; suppose this man gets into a fracas the night before he completes his five years' domicile in Canada?

The CHAIRMAN: Is that not the case in the United States?

Mr. CRESTOHL: If it is, it does not necessarily make it right.

Hon. Mr. HARRIS: Are you not jumping to conclusions unnecessarily?

Mr. STEWART: I have known of cases and I think other members of the committee may have, where immigrants have come to this country and within

three years time have got into a fight with other immigrants who came to this country but who were not of the same political persuasion, and most of them were persons who had not achieved Canadian domicile. Would they be deported under this section after they were taken to the police court and charged?

Hon. Mr. HARRIS: Oh yes, they would be reported, and you will note the difference between reported and deported; the purpose of section 19 is to have a report on any person who, within the five year period, has done something which may disqualify him from continuing in Canada; there is an obligation imposed on certain peace officers and municipal clerks and the like, to inform the minister and the director of the circumstances.

Mr. STEWART: Do the municipal clerks know their responsibility?

Hon. Mr. HARRIS: Oh, yes.

Mr. FLEMING: Perhaps our fear would not be directed so much towards this section as towards a later one, when we come to draft our report.

The CHAIRMAN: Does the section carry?

Mr. HENRY: Is there any duty on the part of the clerks to inform? Section 19 subsection 1 says: "Where he has knowledge thereof, the clerk or secretary of a municipality in Canada in which a person hereinafter described resides or may be, an immigration . . . ." I think you would have to put in some element of duty to inform.

Hon. Mr. HARRIS: They all know their duty; but this is perhaps an unnecessary use of words to indicate that the clerk who does not know about it is not under any disability as far as we are concerned. Obviously, if a person who has been convicted under the Criminal Code moves into a municipality where he was not known, the clerk would not know that he had committed that offence.

Mr. HENRY: Take a city as large as Toronto; does the city clerk there have to report?

Hon. Mr. HARRIS: Yes.

Mr. HENRY: How do you compel him to do that?

Hon. Mr. HARRIS: The clerk of the peace of the county of York would have a record of these things, and the jail to which the person goes would have a record.

Mr. HENRY: This section imposes a duty on him?

Hon. Mr. HARRIS: Yes, on the clerk of the municipality and on the other persons.

Mr. CROLL: It is not a duty, it is an obligation.

Hon. Mr. HARRIS: Well, have it as you will.

Mr. CARROLL: Would it not be better to say: "convicted of a criminal offence"? There are offences created by the provinces which really, while they are not under the code, are still criminal offences; and there are some criminal offences brought over by the common law which have not been designated as such by the Criminal Code.

Mr. CROLL: Would that be enlarging it?

Mr. CARROLL: I think it has already. Suppose a man gets out on the street and is drunk for five or six days and raises hell. There is nothing under the Criminal Code to hurt him, but I think such a thing as that should be reported by the clerk.

Mr. CROLL: The clerk is going to be a very busy man then.

Mr. CARROLL: That is part of his duty.

Hon. Mr. HARRIS: We take the view which Mr. Croll appears to hold, that this is more of a restrictive provision, that is, to report a criminal offence.

Mr. CARROLL: I think it is.

The CHAIRMAN: Subsection 2?

Carried.

Mr. CRESTOHL: I do not think we should pass this by so rapidly because subsection (2) speaks of the fact that a person in this category is subject to deportation. I think that is the point which Mr. Fleming raised a few moments ago.

Hon. Mr. HARRIS: Let us go on to the deportation clause and if you feel there are some categories which should not be deported, we can come back to them.

Mr. CRESTOHL: Let us hold it over.

Hon. Mr. HARRIS: No, let us go through with them.

Mr. CROLL: There are some we agree with.

Mr. FLEMING: I do not see any objection to making a report on these cases, but it is the latter stages I think we should watch.

Mr. CRESTOHL: (*a*), (*b*), and (c); we would be in favour of them; or if a report is made on any of these sections, he should be subject to deportation, but not so report on the subsequent subsections.

The CHAIRMAN: Does subsection (2) carry?

Carried.

Does subsection (3) carry?
Carried.

Does subsection (4) carry?
Carried.

Does subsection (5) carry?

Hon. Mr. HARRIS: There is an amendment in subsection (5) in the last line, which should read "(*a*), (*b*), (c), and (*s*)".

Mr. CROLL: Wait a minute until I take a look at subsection (5). Very well.

The CHAIRMAN: Subsection (6)?

Carried.

Subsection (7)?
Carried.

Mr. FLEMING: Why are you dropping (*q*)?

Hon. Mr. HARRIS: We have covered that elsewhere.

Mr. FLEMING: Whereabouts?

Hon. Mr. HARRIS: In (*b*).

The CHAIRMAN: Subsection (7)?

Carried.

Subsection (8)?
Carried.

Subsection (9)?
Carried.

Subsection (10)?

Mr. CROLL: Why do you need (10) specifically when you have (7), or an omnibus section? Why do you specify particularly the mariner group? Is that a special problem?

Hon. Mr. HARRIS: Yes, we often have the mariner who, for one reason or another, does not get back on the ship on which he came, because of illness or something of that nature, and we would like to have a report on it, if he is in the hospital.

Mr. CROLL: I see. You are leading up to another question. Is there anything in the section which covers vehicles? How do you cover a plane?

Hon. Mr. HARRIS: What is that?

Mr. CROLL: The crew of an airplane; he may be the member of a crew?

Hon. Mr. HARRIS: I think you asked that question before.

Mr. CROLL: You said "vehicle"; you considered a vehicle?

Hon. Mr. HARRIS: Yes, (q).

Mr. CROLL: In 4.

Hon. Mr. HARRIS: No, in 2.

Mr. CROLL: All right.

Subsection (2)?

Carried.

Hon. Mr. HARRIS: It is merely a statement of fact but we come to the operation of it later.

Mr. FLEMING: If we were not prepared to accept the view that such a person may fall within the scope of subsection (1) he should be subject to deportation, and I think we ought to hold No. (2).

Hon. Mr. HARRIS: All right, hold it until we get to 26.

Mr. FLEMING: Because it makes every person under subsection (1) subject to deportation.

Hon. Mr. HARRIS: Let us leave it until we come to section 26.

The CHAIRMAN: Part III, section 20, subsection (1): "All persons coming into Canada to be examined".

Carried.

Mr. FLEMING: Is this not going a little farther than the present Act in requiring a Canadian citizen and persons with Canadian domicile to submit to examination on entering Canada?

Hon. Mr. HARRIS: No. Everybody seeking to enter Canada appears before an immigration officer.

Mr. FLEMING: Section 33 subsection (1) of the present Act says any passenger or other person seeking to land in Canada shall first appear, and so on.

The CHAIRMAN: It means that he cannot swim the river.

Mr. CROLL: Is that what you mean, that he must enter by a port of entry?

Hon. Mr. HARRIS: Everybody seeking to enter should appear before an immigration officer: that is what this is intended to say. The fact that he is a Canadian citizen gives him the right to entry under 3.

Mr. CRESTOHL: But he may have to prove his citizenship.

Hon. Mr. HARRIS: Yes, but it does not give him the right to come in by eluding his examination.

Mr. CROLL: You are going to deal with a great number of very angry people when you start to enforce 1 and 2. I can see that happening, in the case of people born in this country. They will say: "I was in this country before you were born".

The CHAIRMAN: They can still tell that to the immigration officer.

Mr. CROLL: Yes, and how they will tell him!

Hon. Mr. HARRIS: This is a re-write of this section.

Mr. CROLL: No.

Hon. Mr. HARRIS: Yes, it is.

Mr. CROLL: It speaks of every passenger.

Hon. Mr. HARRIS: It was always considered to be all inclusive; it was assumed that citizens who were Canadian born were in that position.

Mr. FLEMING: It talks about a person seeking to enter or land in Canada. We are getting into these technical terms of landing and entry.

Mr. CROLL: I have always passed the immigration officer and I would say "hello" and he would say "hello"!

Hon. Mr. HARRIS: Because he knew you.

Mr. CROLL: Yes; and there are a great number of people that he also knows. Comparative newcomers expect to be examined and expect to answer; but when you have these older citizens being put through the grill, you are getting into trouble.

Hon. Mr. HARRIS: Why do you assume that under the new bill the practice will be any different than it is at the present time?

Mr. CROLL: I hope the practice will be the same despite what you write in the bill, but I do feel you are creeping up on us in this bill when you start taking away a little more of the rights which Canadians assume they have.

Hon. Mr. HARRIS: We are taking away nothing at the present time; the Canadian citizen calls upon the immigration officer and he may prove his right to enter by proving that he is a Canadian citizen; and in practice, at border points, most people are known and that will continue to be the practice; but we are not prepared to admit that a Canadian citizen has the right to brush by an immigration officer and defy him.

Mr. CROLL: I do not admit that either, as a matter of fact.

Mr. CHURCHILL: Why were the words put in "including Canadian citizens"? Has there been some trouble?

Hon. Mr. HARRIS: Oh no.

Mr. CHURCHILL: That does not occur in the old section.

Hon. Mr. HARRIS: Well, that is the language here.

Mr. CHURCHILL: Why do you specifically mention "Canadian citizens"?

Hon. Mr. HARRIS: Well, the purpose of it is perhaps to make it clear that the words "person and passenger" in the old section mean all persons.

Mr. CHURCHILL: Has it not been clear in the past?

Hon. Mr. HARRIS: It has been, but you know how Justice is; when they write a bill they like to make it clearer than it was when the man wrote it 45 years ago.

Mr. FLEMING: I suppose there is some relenting of the rigour of the wording to be found in the last two lines, and the only examination to which a Canadian citizen or a person with Canadian domicile can be subjected is as to whether he is or is not admissible to Canada, or is a person who may come into Canada as of right.

Hon. Mr. HARRIS: I assume so. There is no further examination when the fact that he is a Canadian citizen is proven; section 3 states that.

Mr. CRESTOHL: Does not this also mean that people who consider themselves Canadian citizens and who have been absent from the country for more than five or six years may have lost the rights of Canadian citizens to enter Canada? You have that situation where someone is absent from the country for a certain length of time and who may have lost his right as a Canadian citizen. Would that be the intention of this wording?

Hon. Mr. HARRIS: No, this is merely a re-assertion of the fact that any person entering Canada must appear before an immigration officer to indicate his right to enter, or to be examined.

Mr. CRESTOHL: I suggest we delete the words "any Canadian citizen" and leave the words "every person". Why use the extra language if there is no reason for it? I think your section would be just as effective if not more so if you simply deleted the words "including Canadian citizens and persons of Canadian domicile", and wrote the section without those words.

Reading the section without those words it would not be as effective.

Hon. Mr. HARRIS: Perhaps we could let it stand. I do not think I agree with you.

The CHAIRMAN: Section 20, subsection (1) stands.

Subsection (2)?

Mr. FLEMING: Mr. Chairman, the word "truly" might be a little difficult. I know that is in the present Act, "shall answer truly all questions put to him". I wonder if that should not be "truthfully". "Truly" would mean that the answer must be correct. "Truthfully" would mean that the answer must be believed by the person making it to be true.

Hon. Mr. HARRIS: I think probably you are right. We will have to let that stand.

The CHAIRMAN: Stand as to "truly".

Mr. FLEMING: Yes. (2), to stop with that, you show the concluding words: the failure to answer truly all questions shall be in itself sufficient cause for deportation whenever so ordered. Again it is a difference between "truly" and "truthfully". If a man fails to make a correct answer, even if he believed it to be the truth it may be open to question under this bill where he would render himself liable to deportation?

Hon. Mr. HARRIS: Yes, it seems to me it is a well recognized word in legal phraseology.

The CHAIRMAN: Subsection (3)?

Carried.

Section 21? Medical examination.

Mr. CRESTOHL: Mr. Chairman, these medical examinations have been the source of some difficulty in the past. The medical officers referred to in section 21 will be all medical officers defined in your section of definitions?

Hon. Mr. HARRIS: Yes, that is any person authorized or recommended by the minister as a medical officer for the purposes of this Act.

Mr. CRESTOHL: That does not necessarily mean that the medical officer is an officer of the Immigration Department or the Department of National Health and Welfare?

Hon. Mr. HARRIS: No.

Mr. CRESTOHL: It could be any officer whom the Immigration Department would assign to a particular case?

Hon. Mr. HARRIS: Right.

Mr. FLEMING: May I ask the minister if he needs anything more than the words of section 21 to provide for the case of medical examinations abroad?

Hon. Mr. HARRIS: No. The regulations set out what medical examinations are required in given circumstances and the fact we have power to make the regulations would give us authority for them.

Mr. FLEMING: Well, we are at one, I think, in the end objective here. I was wondering if the language was broad enough. You do not normally

attribute to an enactment by parliament extraterritorial effect unless it is so provided. This does not say anything about medical examinations outside of Canada. I wonder if it should be left to the matter of regulations. I think we are all agreed that these medical examinations should be held abroad; there is no question about that. The more medical examinations we hold abroad the better and you do now examine a great majority of intending immigrants abroad—the great majority. Even that proportion, I think, is increasing. So I would think you ought to have words in there to say that the examination may be held abroad.

Mr. GAUTHIER (*Portneuf*): If he is seeking admission to Canada he must be abroad?

Mr. FLEMING: Not necessarily.

Mr. GAUTHIER (*Portneuf*): Unless he comes as a stowaway.

Mr. FLEMING: The intending immigrants are not in every case examined abroad; that is the point. This deals with those. It is a question of draftsmanship. We are all agreed, I think, that there should be full power to conduct the examinations abroad. The point I am raising is the legal question whether this section is as broad as it ought to be and it would be very simple by adding three or four words in here to make that clear, that the section has full extraterritorial effect.

Hon. Mr. HARRIS: I think perhaps you are overlooking the practical proposition that the regulations are intended to apply to any person seeking admission and if he does not meet the regulations he does not come. Whether or not we would have with respect to him an authority to impose the regulations does not enter into the question. Under the provisions of 61 we have provision for literacy, medical or other examinations and tests and the prohibiting or limiting of admission of persons who are unable to pass them.

Mr. FLEMING: It does not say anything about the others, though.

Hon. Mr. HARRIS: Do you seriously contend that if by regulation we say that a person from Denmark shall have an examination taken in Denmark before he gets a visa that that is not effective?

Mr. FLEMING: I think if you or I were drafting that section, Mr. Minister, we would put it in there if for no other reason than out of an abundance of caution.

Hon. Mr. HARRIS: Well, there is no right in any non-Canadian to come to Canada. He cannot sue for a declaration that he is entitled to come and that being the case he would not be in a position in Denmark to sue for the right to have a declaration that he is entitled to a visa without a medical test.

Mr. FLEMING: It is a matter of the clarity of the law.

Hon. Mr. HARRIS: We will let it stand.

The CHAIRMAN: Section 21 stands.

Section 22(1)?

Carried.

Section 22(2)?
Carried.

Section 22(3)? No appeal.

Mr. CROLL: Subsection (3) is a deviation from our customary practice, Mr. Minister.

Hon. Mr. HARRIS: I am going to suggest an amendment in 22, if you will follow it in subsection (1):

> Where in the opinion of the examining immigration officer, a person appearing before him for examination cannot be properly examined due

to the effects of alcohol, drugs, illness or other cause, the immigration officer may cause an examination of such person to be deferred until such time . . . etc.

I do not think it desirable that the immigration officer should have the power to detain. An argument can be made for it. It is entirely an act of kindness.

Mr. CRESTOHL: That is until he sobers up.

Mr. FLEMING: He may be ill.

Hon. Mr. HARRIS: Well, the intention is that he should be sent elsewhere for the purpose of recovery from the illness and it was even suggested that under those circumstances it would still be an act of kindness on the part of the immigration officer to look after him and I thought if those cases ever arose he could obtain medical attention without detention.

The CHAIRMAN: Section 22 (1) as amended?

Carried.

Subsection (2)? Service of rejection order.

Mr. FLEMING: What is the purpose in (2) of serving the rejection order upon the owner or master of the vehicle by which such person was brought to Canada? That is not the case of the transportation agency, is it?

Mr. FORTIER: Yes, it is to give authority for the transportation companies to return him without cost to the place he came from.

The CHAIRMAN: Subsection (2)?

Carried.

Subsection (3), no appeal.

Mr. CROLL: Now (3), as I said, is a deviation from practice and principle.

Hon. Mr. HARRIS: No, this is in effect an assistance to the applicant which is not now in existence. At the moment in those conditions the immigration officer has no authority except to reject the person concerned. He has not the authority to re-examine him and the purpose here is set out in (4) so that when he has recovered from his illness or indisposition he may then be examined without his previous rejection being held against him as it is at the present moment.

Mr. CROLL: Yes, I think you are right.

Mr. FLEMING: Well, why do you need (3)?

Hon. Mr. HARRIS: Because the man is not prejudiced by not having an appeal. He may reappear then under other conditions and be re-examined and perhaps then admitted whereas if you were to have an appeal to the minister you would merely waste the time it takes for the thing to come up here and in those conditions the minister would have to decide whether the chap was ill to the point where he could not have been examined and might even reject him instead of giving another examination to the applicant.

Mr. FLEMING: I do not think we need to spend any time arguing about (4). The case is clear there but take the case of any man who feels there is a blot on his honour by reason of a rejection order having been made and he feels that he should have the right to remove that stain. Suppose he says "this immigration officer thought I was drunk and treated me as such; I was not drunk at all" and feels that the rejection order is something of a blot on his record. Is he not to have the right of appeal to remove that?

Hon. Mr. HARRIS: What possible chance would the minister have of making a decision under those conditions which would remove the blot on his honour?

Mr. FLEMING: Well, perhaps the drunkenness was a bad example, but take some of these other cases. Suppose it is a question of the immigration officer having made his rejection order based upon a finding that is capable of review in the light of medical evidence that might be something which was not considered by the immigration officer.

Hon. Mr. HARRIS: You have stated the circumstances under which anybody might feel offended under this section by the rejection order. What cases other than alcoholism would be a reflection in any way that anyone would think it would reflect upon his honour? Alcoholism would be the only one where a chap would feel like arguing the case and I am sure the minister cannot make a decision in those circumstances a month or two later as to the condition they were in at that time.

Mr. FLEMING: Well, take your case of alcoholism—what appears to the immigration officer to be a case of intoxication, when the man brings forward to the minister evidence such, let us say, as the immigration officer did not have before him or would not have paid any attention to, that the man merely had some injection for a diabetic condition and there is medical evidence of that available. Suppose a doctor on the train gave him too strong an injection of insulin or something of that kind or he had one of those sugar conditions, would it provide for that type of investigation? I just wonder if there is anything to be gained by writing that section into this Act that says there is no appeal from a rejection order?

Hon. Mr. HARRIS: Well, I would think so because this person is a person seeking admission to Canada. There has to be some discretion in the immigration officer to permit an examination in conditions most favourable to the applicant and if a person wants to come into Canada I should think the least he could do would be to put up with the decision of an immigration officer on the spot as to whether that examination could be held under conditions favourable to him without feeling that the immigration officer was in some manner reflecting on his conduct. After all, he is the suppliant and while suppliants are entitled to full consideration, I do not frankly see that we can do anything more for him than to say to him that he come back two days later, with the medical people you mentioned and say: "Well now, I did not appeal to the minister; let us have this examination now and if you think I am fit let me in." In lieu of that, we would have a board of inquiry or an inquiry with a special officer, we would have stenographers perhaps interpreters, transcribe the evidence and about a month later it would come before the minister for decision.

Mr. CARROLL: Would you mind, Mr. Chairman, reading what was put in a few moments ago as to an amendment to this particular thing?

The CHAIRMAN: That is in subsection (1); we are dealing with subsection (3).

Mr. CARROLL: Well, you see there are two things here: ". . . or may make an order for his rejection." Well, if there is no appeal, the order for his rejection is final then even before examination.

Hon. Mr. HARRIS: That is the very point. The rejection is not held against him if he presents himself under conditions favourable to holding an examination.

Mr. CROLL: But I approach this from an entirely different aspect having in mind both what Mr. Fleming and Judge Carroll have said. This is the first time I have come across this sort of legislation in a bill. It smacks too much of American Immigration legislation to suit me.

Now, I think in every conceivable circumstance a man must have the right to appeal under the Immigration Act. It might not be worth anything to him, might be of no value at all and I agree with what you say when you say that he can represent himself under more favourable circumstances. Perhaps that

may be all right; I have no complaint about that at all but to say to him: "No appeal will be taken and you have no right of appeal" is far too harsh and not the tenor of this whole Act.

Hon. Mr. HARRIS: Isn't it cured by subsection (4)?

Mr. CROLL: It is cured by subsection (4). Subsection (4) gives him further rights, I will agree, for all purposes you say under subsection (3), but it does not purge the rejection. Well, take (3) out completely and leave (4) there.

Hon. Mr. HARRIS: We are discussing, I think two wholly different things. I think Mr. Croll has in mind perhaps merely the fairness of the right to appeal. Mr. Fleming has in mind the injured feelings of the applicant under some conditions. The department has in mind providing an easy means of disposing of a person who now under the present Act spends some days in detention awaiting decision and I suggest that the procedure we have here is far more advantageous than the existing legislation. If you are going to say that there shall be an appeal from a rejection order under these conditions, you will then impose upon the immigration officer the necessity of admitting a person who appeals or detaining him in a place of detention at public cost up to the period of time it takes the minister to determine the appeal. The minister will make that decision probably one month later. It might be longer depending on how far away the port is and it would probably not be less than three weeks. It will probably not be less than 3 weeks until the minister's decision; that is, merely a decision if he allows the appeal that the immigration officer was wrong, and that the man was not so ill or incapacitated as to be unable to answer an examination; and the result of that appeal would be that the immigration officer would then be directed to proceed with an examination which I suppose in 99 per cent of the cases he would, under this section, have held within 24 hours.

Mr. CROLL: But he can, in any event, say to the man: "You know your rights; you have the right of appeal; or, if you would like to wait until tomorrow morning, we will examine you then." I object to these words "no appeal". I think they are the most unliberal words I can think of and I do not think they become us. It is hard for me to swallow that language; it does not previously appear in the Act, I have not come across it and I do not recall it in any other similar legislation. No one denies the Minister the right to do what he wishes to do under that section. I agree with you entirely, but you must have, perhaps, some other words to carry out your intention than to say "no appeal"; for then it would be said outside the country that the new Act provides for no appeal; and no one will hear your explanation except the members who are in this room.

Mr. FLEMING: Not only does it not provide for it, but it prohibits it.

Mr. CROLL: At the last session in a hurried fashion we passed an Act dealing with dairy products; legally it was right.

Hon. Mr. HARRIS: I think you are out of order.

(At this point discussion continued off the record).

Mr. CRESTOHL: May I raise another point. Someone referred a few minutes ago to the fact that this would leave a stigma. I think Mr. Fleming raised that question. But let us consider the case of a native born Canadian who comes across the border for 3 or 4 hours and gets himself drunk and then comes back. He stops at the border and the immigration officer has to clear him; he has to say whether or not he is admissible into Canada; but the man is in such condition that he cannot examine him because the man is just too drunk; so he records a rejection order, and that stays on his record for the rest of his life. The following day, when he is sober, he comes along and is examined and

is admitted to Canada. It is the stigma of having a rejection order against a person who never should have had one against him that I see as being the objectionable thing under this section.

Mr. CROLL: The chairman of the committee will recall a matter of some instance when some prominent people came back from Detroit to Windsor and got themselves into that position.

The CHAIRMAN: I do not recall any.

Mr. CROLL: Well, I do; and they became obstreperous and they were nicely thrown back; but when they sobered up, everything was fine.

Hon. Mr. HARRIS: May I ask Mr. Cresthol this question: What do you expect the immigration officer to do?

Mr. CRESTOHL: Reject him; he was perfectly right; but the man should be permitted to have an appeal. It is true that he can come back under section 4 the following day and be admitted. The first rejection order does not operate against his being admitted to Canada on the following day, but it is a rejection order which is registered against him, and if he could have an appeal, the rejection order would be erased.

Hon. Mr. HARRIS: No; the minister may still maintain the rejection order.

Mr. CRESTOHL: With a native born Canadian, there is no question about it at all; but the minister may not erase that stigma against him, even though he says: "You are perfectly right, and you should not have been detained". That man will live through the rest of his life with that rejection order registered against his name.

Mr. GAUTHIER: But the stigma is not erased?

Hon. Mr. HARRIS: Let it stand.

The CHAIRMAN: Section 3 will stand.

Section (4)?

Carried.

Section 23: Report to special inquiry officer?

Carried.

Section 24 subsection (1): Persons who come from U.S.A., etc.

Carried.

Subsection (2): Other persons?

Mr. FLEMING: Wait a minute, section 24, subsection (1).

Hon. Mr. HARRIS: I have an amendment, which reads as follows:

(1) In line 37, insert after the word "necessary" the words—"and subject to any regulations made in that behalf".

Mr. CRESTOHL: What is that?

Hon. Mr. HARRIS: "And subject to any regulations made in that behalf."

The CHAIRMAN: Has everybody got the amendment?

Mr. FLEMING: What is the purpose of the amendment?

Hon. Mr. HARRIS: The purpose of the amendment is to make it clear that the minister may make regulations which would permit an appeal under these conditions.

The CHAIRMAN: Does subsection (1) of section 24 carry?

Mr. FLEMING: Wait a minute. Suppose an individual in this case comes into Canada from a land adjacent to Canada.

Hon. Mr. HARRIS: The purpose of the section as originally drafted was to permit them to return to the United States, or Alaska, or St. Pierre and

Miquelon, as the case may be, and any person who applies and is rejected or is refused admission, pending his appeal to the minister—now, as the law is at the moment, if a person crosses the bridge, let us say, at Fort Erie, the only provision we have for disposing of the person is to detain him pending his appeal.

The CHAIRMAN: Section 24 subsection (1)?

Carried.

Subsection (2): Other persons?

Carried.

Hon. Mr. HARRIS: There is an amendment to that too. Let section 24 subsection (2) stand.

The CHAIRMAN: It stands. Now, section 25: Immediate inquiry in certain cases.

Hon. Mr. HARRIS: There is an amendment to section 25 which reads as follows:

> 25. Where a person is, pursuant to section 15 or 16, arrested with or without a warrant, a special inquiry officer shall forthwith cause an inquiry to be held concerning such person.

That is our practice, but I wanted it made clear in the Act that no one shall be arrested or detained without the Act stating that there shall be an immediate inquiry.

The CHAIRMAN: Section 25? Does it carry as amended?

Carried.

Section 26: Persons reported under section 19?

Carried.

Hon. Mr. HARRIS: May I say that the purpose of the division of 19 and 26 would be this: municipal clerks and various other officers mentioned in 19 are under obligation to report to the director a person who comes under those various subsections; the director then, under 26, shall, after receiving a report, cause an inquiry to be made which would lead to deportation, perhaps, under subsection (2) of section 19, if the circumstances were as set out. That procedure is qualified by two things: (*a*) the fact that the director under 26 may consider an inquiry is not warranted, and further, that the minister may, under 26, in the opening words, lay down in particular cases a direction to the director.

However, if the committee is of the opinion that certain groups in 19 should not be reported, or should not be subject to deportation, then I suggest that we could dispose of this now. But if there is to be a lengthy discussion, we could let it stand.

Mr. CRESTOHL: I prefer to let it stand.

Mr. FLEMING: Personally, I would say that while there is this power of deportation in the case we have spoken of, namely, a man being here 4 years, 11 months and 29 days who gets into a row one evening and hits somebody and is arrested and convicted of common assault, there does not have to be a sentence imposed. It could be regarded as so trivial that conviction is entered and he is let off under suspended sentence or with a nominal fine; but nevertheless it is a conviction and if he makes himself subject to deportation, I think the Act goes too far. It may be that in the case of a responsible minister now or in the future that would never be made the occasion of an order for deportation. Nevertheless, I think we must take account of the fact that it would be possible for an irresponsible minister in such a case, because he

happened to dislike the individual or his family, to make a deportation order in which case there would be no appeal that the man would have anywhere, and I think that is not justifiable legislation.

Mr. WEAVER: Where would you draw the line, if you think that is going too far?

Hon. Mr. HARRIS: The difficulty is that if you made it 4 years, you would have the same difficulty in the case of 3 years, 11 months and 29 days.

Mr. FLEMING: Mr. Weaver had regard to the type of offence, did he not?

Mr. WEAVER: Were you not putting an extreme case?

Mr. FLEMING: Suppose it was an indictable offence which the man committed, such as manslaughter?

Mr. CROLL: An indictable offence would not do under these circumstances; it is much broader than that.

Mr. FLEMING: I would not be prepared to say off hand where you could draw the line, or with what type of offence; but in a case of that kind I think it should be a perfectly admissible case under 19; and with a mere trivial assault, you do not have to hit a man to be guilty of assaulting him and that is an offence under the Criminal Code.

Mr. CROLL: I think we would cure a great number of these if we feel satisfied that there is ministerial discretion. Even if we have to go along with you on some of these under section 19, so long as I, despite the fact that I do not like parts of sections 19—nevertheless I see the difficulty; but I would feel much happier personally if there was ministerial discretion. We are fortunate in having a minister who understands what this Act is all about and what is intended, and I feel that we will have some in the future, and as long as there is that escalator right of appeal, I am not so much worried about it now, but I think it is dangerous to allow the matter to stand, not because it is a reflection on the civil servants, but to take it out of the hands of the minister and leave it in the hands of appointed officials to deal with, who may deal with it in an enlightened fashion but they may have a different concept of it.

Mr. CRESTOHL: Later on there are some provisions which indicate that the minister has felt the acuteness of the law in the past on this very point where he had to seek some remedy; his hands were tied for example in the case of a person convicted of a crime involving moral turpitude; he had no choice but to deport that person under the Act; but the Act now gives the minister some leeway to deal with it; that is Mr. Croll's point, that even on this point the minister should have a similar latitude because cases may arise when we would not want to see them fall into a category where the minister or the immigration department would say: "we cannot help it; that is the law; we have no latitude at all."

Hon. Mr. HARRIS: You have to do one of two things; you have to have a cut-off date of some kind, be it the acquisition of domicile or some other. You may therefore, have an extreme case, as Mr. Fleming mentioned, of someone running afoul of the law on the day before that period runs to his advantage. You also have to have certain groups or classes of persons who ought to be subject to review in that time limit. And then the only alternative you have after having stated those two points, is to stipulate in the law a rigid group of offences, if we may use that phrase, although it would not cover every section in 19, and to apply them rigidly. Or alternatively you would have to find a class that description vested in, and someone to apply that class according to the merits of each case.

Now, if parliament under the defining clause should say that everyone would be satisfied, that all the groups had been covered that ought to be covered, and that there would be no exceptions within the groups, I would say

that both the minister and the department would be happy. But, on the other hand, no parliament has been able to come to that conclusion before; and while Mr. Fleming has stated a case which would probably meet with the sympathy of everyone in the room, it is only one case out of several hundred which would come under the Criminal Code. If this committee should sit from now until Christmas, they could probably dig out of the Criminal Code a number of offences on which they would agree there should not be deportation; but no parliament has attempted to do that, and I do not think this committee would want to do it. I think this committee would be content—perhaps I am wrong—to retain the discretion in some form, and make the minister responsible to parliament for the exercise of that discretion.

Mr. FLEMING: There is a converse approach to this that I would like to put before the committee. Mr. Croll and Mr. Crestohl argued for the reservation of ministerial discretion, presumably with a view to relieving the individual in that case against what might be the rigour of the law; but it seems to me that what you want to do is to mitigate the rigour of the law to begin with. I am not suggesting you should eliminate ministerial discretion, I am suggesting that it should be confined so that it could not be exercised against the individual in a case where the application of the law would result in a pretty rigorous kind of decision. If we look back at this section 19 (1) (*e*), and subsection (ii), it says "has been convicted of an offence under the Criminal Code".

He is not required to have been convicted and sentenced to serve a term, but the mere fact of conviction, even though the magistrate or the judge who entered the conviction may regard it as little more than the technical commission of an offence would suffice. Would it not be possible to come at this problem by providing some classification under subsection (2), or at least to introduce in 26 some mitigating words which would run to the effect that he would not be subject to deportation under 19 (1) (*e*) (ii), merely for conviction of an offence unless he has been sentenced to serve a term, let us say, of 3 months? That would leave a discretion in the magistrate or the judge who heard the case, and who would know all the facts, and would know what effect it is going to have on the man's chances of surviving his five year period of domicile in Canada.

Here you have got this blanket provision, the mere conviction on an offence which means nothing under the Code. It does not have to be an indictable offence; it is just a simple offence—that case again of common assault and on conviction perhaps the man is meted out a suspended sentence, he is not required to serve five minutes detention.

Mr. CRESTOHL: A husband failing to support his wife under 242 would be a conviction if he was late in paying her allowance of $10 a week.

Mr. STEWART: Mr. Chairman, I do not see how we can spell out everything and I think there are cases where we have to leave matters to the discretion of the minister. This is one case where I think we have to do so. Now, I will admit that there is no guarantee that the minister in the future will be less human than the present one but that is a chance we have to take, I think?

Mr. FLEMING: I do not think we have to take that chance, not in its present form, but you do not give the minister power in all cases. You have under section 19 certain definitions. Why don't we raise the floor in the definitions to narrow the cases within which the discretion of the minister is retained?

Mr. STEWART: Would it be possible to spell them all out?

Mr. CROLL: I have two alternatives. We can either raise the floor, as you suggest, or leave the discretion in the minister. What happens here now is that we are leaving the floor as is and taking the discretion away from the

minister. That is my objection. It is much more difficult to raise the floor, as you put it, whether it is a month or two months or three months I do not know what it should be or what the offence should be and if we examine the Criminal Code we will not agree on what should be left out and what should be left in but I do feel that if we leave that as is and make sure that the minister retains his discretion, then at least we have not lost ground. We are where we were before.

Mr. WEAVER: He does maintain it under 26.

Mr. CROLL: Not in all cases.

Hon. Mr. HARRIS: Let me make clear something which perhaps is in everybody's mind but has not been mentioned. The persons who may be subject to deportation under 19 are not now as extensive a group as are under the present Act. This is liberalization of the groups at present who may become subject to deportation.

Then, let me say this with respect to Mr. Fleming's argument. It is perfectly sound if one could spell it out but with the known eccentricities of magistrates in penalties you would find a person for precisely the same offence getting a suspended sentence in one case and two months in another and the only safe basis must be the conviction unless you were to make the sentence an extremely long one such as one year and then you undoubtedly would get everybody who had served a year's sentence and you would be satisfied that the chap who got a year was the chap who had to be deported but in taking an extreme case of that kind by law you would be, I say, taking out of the deportable group a large number of those who, in my opinion, should be deported despite the shortness of the sentence they might have.

Mr. CRESTOHL: Mr. Harris, why is the wording from the old Act changed? In the old Act you speak of being convicted of a criminal offence in Canada and here you speak of having been convicted of an offence under the Criminal Code. I do not know that there is really very much difference but there could be.

Hon. Mr. HARRIS: The difference is the one that Judge Carroll and Mr. Croll commented on. They think this is a smaller group than the other.

Mr. CROLL: Yes.

The CHAIRMAN: 26?

Carried.

Mr. FLEMING: Mr. Chairman, I want to enter a dissent on 26. I have not convinced the minister.

Hon. Mr. HARRIS: You have convinced the minister that the man who commits an assault in anticipatory celebration of his freedom should be given a good deal of sympathy but you have not convinced the minister that you could write the law any different than this and have it work any more effectively.

Mr. FLEMING: Well, is the minister prepared to give consideration to that point with a view to making such change in 26 as might help to meet what I have argued is the rigour of 19(1) (*e*) (ii)?

Hon. Mr. HARRIS: We shall look at 19(1) (*e*) (ii) again but I think that 26 is as broad as it is possible to make it. As a matter of fact I might say I objected to the widened discretion passage here when this section was being considered but for the reasons which Mr. Croll has mentioned it seemed wise to retain it.

Mr. FLEMING: I am not objecting to the retention of the discretion of the minister—I want to make that quite clear but I do want to see the floor raised because I do not think the ministerial discretion should apply in a case

like that. May I make this quite clear, Mr. Chairman, since the minister is going to give consideration to this? I do not argue that there should not be a report made in 19 (1) (*e*) (ii) in such a case; I only object to that kind of circumstance giving rise to the right of deportation in 26.

Hon. Mr. HARRIS: We shall look at that. Let us put it this way, that we have carried 19 and 26 subject to a reconsideration of 19 (1) (*e*) (ii) itself as being the subject matter of deportation.

Mr. FLEMING: That means under 26?

The CHAIRMAN: 26 is carried and 19 is carried subject to further explanations.

Mr. FLEMING: Why do we say they are carried?

Hon. Mr. HARRIS: If you wish them to stand we will let them go. We will come back to them under 28.

The CHAIRMAN: All right, 26 stands and 19 (1) (*e*) (ii).

Section 27 (1)?

Carried.

Section 27 (2): Right to counsel.

Mr. FLEMING: Mr. Chairman, under (2) the words "may be"—I wonder if there is an ambiguity there?

The person concerned may be represented by counsel at his hearing. Isn't an up to date way of saying that "has a right to be represented by counsel at his hearing"? The words "may be" are permissive as applied to any other person than the Crown.

Hon. Mr. HARRIS: Let it stand.

Mr. FLEMING: I think we have that in other legislation "has the right to".

The CHAIRMAN: Let that stand.

Subsection (3): Evidence.

Mr. CRESTOHL: I would like to inquire whether the special inquiry officer—I think we saw previously—has the right to subpoena witnesses to be examined and produce documents etc.? Is there any machinery by which the inquiry officer can make that available to the suppliant or to the person that is being investigated if he should want to have subpoenas issued and have someone brought before the board in advance? He may, for example, want to subpoena a certain immigration officer to produce certain documents. Could that be made available to him?

Hon. Mr. HARRIS: The first answer is that his authority is derived under the Inquiries Act and in it I should imagine there is authority for the issuing of subpoenas but I can assure you that regulations will make it clear that upon proper application a person may get a subpoena issued.

Mr. CRESTOHL: I called your attention to that because in this part of the Act you do speak of the department getting that right.

Hon. Mr. HARRIS: There is no reason why someone else should not have it.

The CHAIRMAN: Subsection (3)?

Carried.

Hon. Mr. HARRIS: And (4) and (5) stand.

The CHAIRMAN: Section 28 (1)?

Carried.

Section 28 (2)?

Carried.

Section 28 (2) (*a*)?
Carried.

Section 28 (2) (*b*)?
Carried.

Section 28 (2) (*c*)?
Carried.

Section 28 (3)?
Carried.

Section 28 (4)?
Carried.

Section 29?

Mr. CROLL: Are we on 29?

The CHAIRMAN: Yes.

Mr. CROLL: On 29, Mr. Minister, aren't you opening up something rather new? Mr. Crestohl earlier asked you about the possibility of a minority report. Well, if you have a minority report, it is a departmental matter. The outside individuals know very little about that. "This is the decision".

Now, you are leaving yourself open when you speak of a majority decision of the immigration appeal board. You are now going to have majority and minority.

Hon. Mr. HARRIS: But this is on a decision to re-open a proceedings.

Mr. CROLL: Yes, it is on a decision to open the proceedings and you are stepping out of character, aren't you?

Hon. Mr. HARRIS: No, where there is evidence adduced to show that there is additional evidence available, it should be open for the immigration appeal board to decide to re-open its hearings and to do that you would require a majority vote of that appeal board.

Mr. CROLL: Well, let us now become a little fanciful at the moment. We have three people sitting on the appeal board and at the time the appeal was heard only two of them are present—one of them is in China, one is dead or something like that. We have got two. They decide and split 50-50. Where are you?

Hon. Mr. HARRIS: Well, the minister has power to appoint members to the appeal board to fill vacancies and can substitute.

Mr. CROLL: They have heard the evidence and the decision has to be written and one man cannot write it—and you have got two men writing it.

Hon. Mr. HARRIS: Let it stand.

Mr. CROLL: I am merely pointing out an administrative problem; it does not trouble me at all.

Hon. Mr. HARRIS: It does not trouble me either.

The CHAIRMAN: Section 29: Reopening of inquiry.

Mr. FLEMING: Mr. Chairman, could the minister throw a little more light on subsections (3) and (4) of section 28?

The CHAIRMAN: We revert to section 28 (3) and (4).

Hon. Mr. HARRIS: Well, this goes back to the 19 and the 26 we have been talking about and this states that if a person under the various clauses set out in (c) is not proved to be one of the several persons mentioned in 19 as described in subsection (2) then he may be admitted but should he be found to be a person who fits the descriptions in 19 he shall be deported.

Now, this is the inquiry officer functioning after the director has ordered an inquiry which decision has been made by reason of the inquiries of both the director and the minister. This is the executive section that you have been talking about.

Mr. FLEMING: Could we ask for that to stand?

Hon. Mr. HARRIS: Yes, we can.

The CHAIRMAN: (3) and (4) stand?

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: Section 29?

Carried.

Section 30: Where no appeal allowed.

Mr. CROLL: Should that be (*a*), (*b*) and (*c*) or (*a*), (*b*), and (*q*)?

Hon. Mr. HARRIS: (*a*), (*b*), (*c*) of section five.

The CHAIRMAN: Section 30 carried as amended.

Section 31(1): Where appeal allowed and how it is initiated.

Mr. CROLL: Well now, wait; that is rather difficult. What do you mean by "forthwith serves a notice of appeal"? He says "I want to appeal".

Hon. Mr. HARRIS: When the judgment is given it is read to him and he is asked then "Do you wish to appeal"?

Mr. CROLL: That is the present practice?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: The decision has to be delivered in his presence, I think we saw "if possible" in this earlier section. It is quite possible it might not be delivered in his presence.

Hon. Mr. HARRIS: Yes, they might be in a quarantine hospital or something of that kind.

Mr. CROLL: I am still sticking to the point that I made earlier, Mr. Minister, with respect to that section. It is part of the same thing. This is a very important section and I think you are going to lose some time on it because I have some notes here that require an argument and I think you had better get on with the business and let 31 stand. I am making the same points that are made earlier.

Hon. Mr. HARRIS: Let 31 stand, the whole section.

Mr. CROLL: Yes.

Hon. Mr. HARRIS: Now, we have an amendment to 32. The amended section will read:

> "A deportation order or copy thereof shall be served upon the person against whom it is made and upon such other person and in such manner as may be prescribed by the regulations."

Mr. CRESTOHL: What do you mean by "such other persons"—like the transportation companies?

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: 32 carried as amended?

Carried.

Section 33(1): Time of execution.

Mr. FLEMING: I presume there would be some humanity exercised under that one.

Carried.

The CHAIRMAN: Subsection (2), not affected by lapse of time.

Mr. CHURCHILL: Under subsection (2), Mr. Chairman, it says: "any lapse of time". Is that completely indefinite? You would not hold a deportation order over a man forever?

Hon. Mr. HARRIS: You would hold it over his head. You would try to execute it as soon as you could but if he eludes capture you do not allow it to lapse by the passage of time.

The CHAIRMAN: Subsection (2)?

Carried.

Mr. CROLL: No latches?

The CHAIRMAN: 34 subsection (1)?

Carried.

Section 34(2)?

Carried.

Section 35(1)?

Carried.

Section 35(2): Not to be executed until after sentence completed.

Mr. CRESTOHL: Mr. Chairman, I am wondering whether in view of the fact that we have allowed section 31 to stand, I think all these subsequent section that we are now adopting so rapidly might be affected by any modification to 31.

Hon. Mr. HARRIS: No, these sections deal with deportation and whether or not the deportation order is made by the minister or by the appeal board but whichever it might be it is not affected by 31.

The CHAIRMAN: Section 35(2)?

Carried.

Section 36(1): Deportation.

Mr. FLEMING: Mr. Chairman, under this one there is deportation to either the country from which he came to Canada or the country of which the individual is a national or citizen or the country of his birth. Now, who is going to make the selection? As this stands, I presume the department can send him to any one of those countries. There may be a grave injustice done to a man by sending him back to the place where he was born instead of where he came from.

Mr. CROLL: But in practice they give him a choice. They say: "You have your choice".

Mr. FLEMING: It may be that next year they may have a different idea about it.

Mr. CROLL: It is sometimes difficult to know where to send him.

Mr. FLEMING: Suppose the man was born in the United States, he had drifted off to Australia, or, put the converse case; suppose he came originally from Australia, be goes to the United States and he enters Canada from the United States and is deported. I suppose he is perfectly entitled to live in the States but the department under this section could send him away back to Australia.

Mr. CROLL: Well, of course, what the practice has been—

Mr. FLEMING: I know the practice and I presume it has been reasonable. I am prepared to assume that but I do not think we ought to be legislating in terms as broad as this that could leave a way open to a very unreasonable result.

Hon. Mr. HARRIS: Yes, it is rather difficult. The most practical method of deportation is the one that can be easiest arranged and if an Australian coming here from the United States can be deported to the United States by arrangement with them that is the course adopted. Should they refuse to accept the person, then you would have to resort to the other one. There is no specific right in the person to be deported as to a choice of where the government of Canada may send him. He has lost those rights, and any right of choice of that kind, by reason of the order. Nevertheless, common justice requires that you follow the understanding with other governments, and you should deport him to the country whence he came if you can; and failing that, you have to refer to these other alternatives.

Mr. FLEMING: I would be content if you would say in that section starting off in the order in which you have them here, "before he can be deported to the place whence he came to Canada if possible", that that course is open; or failing that, to the country of which he was a national or a citizen; or failing that, to the country of his birth.

Mr. CROLL: I think it would be a serious mistake to limit that; it is my own experience that 36 is in the interests of the immigrant; in many instances he does not know where he can go, and he has to shop around to see who can accept him; otherwise, he would find himself in the position where he would be travelling between two countries, and would have to pass the rest of his life on the boat, because neither one would accept him. I think it is in his interests to give him the widest possible scope.

Mr. CRESTOHL: Can we inquire into what happens when you have not got a country to which you can send the immigrant?

Mr. CROLL: Do not answer that!

Hon. Mr. HARRIS: I do not think that I will, if you do not mind.

The CHAIRMAN: Section 36 subsection 1: Deportation?

Carried.

Mr. FLEMING: Would the minister comment on the suggestion of revising the word "failing"?

Hon. Mr. HARRIS: You would invite refusal of the country whence he came if you say "if possible", or some such words.

The CHAIRMAN: Subsection (1)?

Carried.

Subsection (2)?

Carried.

Section 37, subsection (1)?

Carried.

Subsection (2)?

Carried.

Section 38?

Carried.

Section 39: Jurisdiction of courts.

Mr. CRESTOHL: I suggest that section 39 merits a little attention. I think that the minister, like human beings, or departmental officials, or boards of inquiry, is human and is prone to misjudge a situation. I do not think they should assume responsibility, and it is a difficult responsibility of rendering a final judgment which is almost equivalent to the highest court in the land. I think we should allow the man who feels aggrieved by the decision which

the minister or the department or the board of inquiry might make, to be permitted to have his day in court; and I think we should work out some machinery to allow a person ordered deported to address himself to the courts.

Mr. GAUTHIER: Judges are human!

Mr. CRESTOHL: That is true, but they are not interested persons; they are not accusers, prosecutors, and judges at the same time. While the department in the very best of faith unfortunately can be in that position, the courts are not.

Hon. Mr. HARRIS: I have only this comment to make: That it has never been part of the immigration law of Canada that there should be an appeal to the courts from a decision made by an immigration officer or by the minister acting by way of appeal from him. It would be contrary to all the concepts up to the present time with successive governments that such should be the case; and if it was thought by this committee that there should be such procedure, then there would have to be elaborate provisions for it in the Act. As I understand Mr. Crestohl, he believes that the evidence taken by an inquiry should form the basis of a court proceeding which would pass through the hands of the minister and go to a judge of some kind in a provincial court. I am free to confess that such a proceeding would probably relieve the department of some work and would relieve the minister of exercising his discretion; but if adopted, it would introduce entirely new procedures into the immigration proceedings.

Mr. CROLL: My own view is that it would be a very dangerous principle to introduce, and I do not think it is warranted. I do not think that this matter should be taken from where it belongs at the present time; the responsibility is that of parliament, through the ministers; and the only thing that will happen, if you permit the courts to deal with this, is that some of those poor fellows will be tortured all through the courts, hoping and hoping, and spending and spending. Not bad for us lawyers, but very bad for those people. So I think it would be a very dangerous new principle to bring into the Act at the present time. I am thinking now of the Compensation Act and similar Acts. I do not think you can divorce immigration from politics and from the House of Commons whether under this government or under any government; and I do not think it is for the courts to make a decision in that respect.

The CHAIRMAN: Does section 39 carry?

Mr. STEWART: In section 39 at the end of the fifth line, you have the word "had"; is that the right verb?

Hon. Mr. HARRIS: Yes, it refers to a proceeding "had"; that is the correct legal use of the word.

Mr. STEWART: I do not know legal terminology, thank God!

The CHAIRMAN: Section 39?

Mr. FLEMING: The effect of the section is the same as section 23 of the present Act; nevertheless, the person whose decision or orders are placed beyond inquiry by the courts is widened under section 23 of the present Act, and it is the minister or the Board of Inquiry or the officer in charge. How serious is this widening of the group?

Hon. Mr. HARRIS: It is serious in the sense that if you are opposed to the proceeding, we are letting it stand at Mr. Croll's request; you would then strike out some of this. If we carry the section, it will be subject to the decision on this other section.

Mr. FLEMING: Let us stand this one too.

Hon. Mr. HARRIS: I would just as soon you carried it.

Mr. CROLL: We can deal with deportation at a later stage.

The CHAIRMAN: Section 39?

Carried.

Hon. Mr. HARRIS: Could we go now to section 61?

The CHAIRMAN: Yes, we shall skip from section 40 to 61.

Section 61: General regulations; subsection (*a*): Persons who require assistance to come to Canada?

Carried.

Subsection (*b*)?

Carried.

Subsection (*c*)?

Carried.

Subsection (*d*)?

Carried.

Subsection (*e*)?

Carried.

Subsection (*f*)?

Carried.

Subsection (*g*): For reasons of occupation, customs, etc.?

Mr. STEWART: In subsection (*g*) I raise the question of the validity of the word "race". From any scientific point of view it applies to Caucasian, Mongolian, or Negroid; but it is used here in a context in which most people use it. But I do not like it. The phrase has been a phobia in Europe and it has got most horrible connotations. Would it not be possible to eradicate this word "race" and use the words "ethnic group"? I maintain that "ethnic group" would be more proper.

Hon. Mr. HARRIS: Well, we will, of course, give consideration to that. I appreciate the argument that the word has some sence of opprobrium perhaps, but of course, as we use it in the department, it is a very convenient form in which to publish statistics and the like; and I wonder if there is a distinction between the words "race" and "ethnic group"? If there is not, perhaps your point is well taken; and if you wish we can leave that particular subsection (*g*) (i).

The CHAIRMAN: Subsection (*g*) (i) stands.

Mr. CRESTOHL: If there were a definition of the word "race" set up in section 2, we might know precisely to what we refer when we use the word in connection with this Act.

Mr. STEWART: I would like to give a definition which I think is the correct definition.

Hon. Mr. HARRIS: Is your point made by using the words "ethnic group"?

Mr. STEWART: No.

Hon. Mr. HARRIS: Is there not just as much objection to that phrase as there is to "race"?

Mr. CROLL: It is not as objectionable. I agree with him, but I do not quite agree with "ethnic group"; I think ethnic group has a connotation of race.

Mr. STEWART: In any event, it would not be nearly as objectionable.

Mr. CROLL: I agree. Let it stand, for a while.

Mr. FLEMING: The word "race" has become kicked around a bit, not because there is something wrong with the word, but because of the crimes which have been committed against certain races. The only difficulty about using it in an Act like this is that there might be some problem as to what

its real meaning is. The minister indicated that the word "race", so far as the department is concerned, and in its statistics, is used more in the colloquial than in the scientific sense.

There are only three great races in the human species, but that is not the sense in which the department uses it at all. It uses it in the more commonly accepted sense.

Mr. STEWART: Yes, that is correct.

Mr. FLEMING: It depends whether you are approaching it scientifically, or in terms of common acceptance.

Mr. STEWART: Take the case of the Jewish race; there is no such thing. You will have Chinese Jews and Hindu Jews.

Mr. FLEMING: Scientifically I believe the three races are Mediterranean, Caucasian, and Negroid; but by common acceptance we talk about all kinds of groups as being races.

Mr. CROLL: Racial groups.

Mr. CRESTOHL: For the purpose of clarification, I suggest we define it in the interpretation section and then we can accept the colloquial use of it by the department.

Mr. CROLL: It is going to be difficult to define, and I think it would be better to let it stand.

The CHAIRMAN: Subsection (*g*) (i) stands.

Subsection (*g*) (ii)?

Carried.

Subsection (*g*) (iii)?

Carried.

Mr. STEWART: What exactly does that mean? This has been used in the past I believe by the department as an argument against the entry into Canada of British subjects from the West Indies. I do not think it is a good argument because those people have been assimilated pretty well into this country. Is that really a valid regulation?

Hon. Mr. HARRIS: That is not a regulation; that is the statutory authority for the regulation, and as we have understood it, we are not going to argue policy here. Whether or not it is properly applied to negroes from the British West Indies is a matter of policy. But I think the committee would recognize that there must be persons who, by reason of their climatic origin, would not be as apt to settle down here and make a success of it. For that reason the provision is here, although we may disagree with the application of it in particular cases.

The CHAIRMAN: Subsection (iii)?

Carried.

Subsection (iv)?

Carried.

Paragraph (*h*)?

Mr. CROLL: Oh no, wait.

Hon. Mr. HARRIS: I move that we eliminate paragraph (*h*).

Mr. CROLL: Thank you, Mr. Minister!

The CHAIRMAN: Paragraph (*h*) is eliminated, it is dropped.

Section 62?

Carried.

Section 63, subsection (*a*)?
Carried.

Subsection (*b*)?
Carried.

Subsection (*c*)?
Carried.

Section 64, subsection (1): Proof of documents?
Carried.

Subsection (2): Forms prescribed by minister.

Mr. FLEMING: This seems a little lopsided, Mr. Chairman; this is a new provision; the documents here referred to stand so that the signature is not open to question unless called in question by the minister or some other person acting for him, or Her Majesty. Why is this questioning open only to the minister or to a representative of Her Majesty?

Hon. Mr. HARRIS: Will you make that explanation, Mr. Cory?

Mr. W. M. CORY: The forms are to be those forms that are made by the minister; and if the forms are not made by the minister, then he may question them.

Mr. FLEMING: No; that is in subsection (2). My question is about subsection (1). We have some documents here which are pretty serious documents, such as the deportation order, the rejection order, a warrant, an order, a summons, a direction, a notice, and so on. They are over the names and writing of the minister and certain officials; and when the document is produced in court the only person who can question the signature and the official character of the person, is the minister or someone appearing for Her Majesty. Why should that right be confined to the minister or to the person appearing for Her Majesty?

Hon. Mr. HARRIS: Are you objecting to the fact that the minister or Her Majesty may object to it, or to the converse of it, that the other person may not? Or to both?

Mr. FLEMING: If there is a case, I can see some point to the section, but I do not like to see it made one-sided like this, knowing what effect it is going to have on the man's chances of surviving his five-year period of domicile in Canada. Why should not it be open to the individual who is fighting the proceedings to question the signature?

Mr. CRESTOHL: But that is language that has been constantly used in government forms in all prosecutions. In the legislation in the Wartime Prices and Trade Board the regulations were almost identical.

Hon. Mr. HARRIS: The present Act means that the person concerned must be in court.

Mr. FLEMING: Certainly that is quite clear but you do not find it in this one-sided language.

Mr. CROLL: The first defence in each case is that the order is improperly signed and then you are away off the track immediately and never get down to the real meat of it. We have come across it in legislation every now and then.

The CHAIRMAN: Section 64 (1): Proof of documents.

Mr. STEWART: There is a strong assumption here, I take it, that the minister will always be a man.

Mr. FLEMING: The Interpretation Act takes care of that.

The CHAIRMAN: Section 64 (1)?

Carried.

Mr. FLEMING: Has the minister anything to say about that, Mr. Chairman?

Hon. Mr. HARRIS: No, I think that this is, shall I say, normal. It permits the department to function when sending officers into court in various parts of Canada to prove their signature. Alternatively, it gives an "out", if I may use that phrase, where there may have been fraud or forgery perpetrated against somebody in a document with the alleged signature of someone in the department. In that case the department would have an interest in protecting itself and the person who has been affected by the order and can intervene.

Mr. FLEMING: I thill think it is lopsided, Mr. Chairman. I do not like one-sided provisions. It offends my conservative sense of justice.

The CHAIRMAN: Section 64(2)?

Carried.

Section 65(1)?

Carried.

Section 65(2)?

Carried.

Section 65(3)?

Carried.

Mr. FLEMING: How much money are the transportation companies supposed to deposit?

Hon. Mr. HARRIS: We will let 65 stand for the moment.

The CHAIRMAN: 65 stands.

66 stands.

67 stands.

68 stands.

69(1)?

Carried.

Section 69(2)?

Mr. FLEMING: In what kind of place is this (1) intended to apply?

Hon. Mr. HARRIS: You mean who will get the benefit of these loans?

Mr. FLEMING: Yes, from the administrative point of view who are the kinds of people you are going to try to help?

Hon. Mr. HARRIS: Well, that will depend from time to time on the persons who are needed in Canada and who have not the means to come here. Last year the regulations covered a great many occupations whose talents were needed in this country. This year there may not be as many of those in the groups. It would depend on regulations and would be made known from time to time.

Mr. CROLL: Isn't this carrying into effect an order in council?

Hon. Mr. HARRIS: It is giving statutory authority to the vote in the estimates for a revolving fund.

Mr. CROLL: Oh yes, that is $9 million.

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: Section 69(3)?

Carried.

Section 69(4)?

Carried.

Section 69(5): Limitation.

Mr. FLEMING: Where did this amount come from?

Hon. Mr. HARRIS: That is $3 million more than we now have authority for.

Mr. FLEMING: But it was ordered for one year only?

Hon. Mr. HARRIS: No, we have a revolving fund which goes on indefinitely. It is $9 million and we have $3 million more here for reasons that I could give if necessary.

Mr. FLEMING: Well, give a short statement.

Hon. Mr. HARRIS: This was the result of a good deal of work between the Department of Finance and our own arriving at the conclusion that $12 million was the outside estimate that might be required for the anticipated number of loans we would make so that every three years they would revolve and the fund would always be carried in that sum.

Mr. FLEMING: Three years is the full term of any loans you have made?

Hon. Mr. HARRIS: We have never made a loan exceeding two years and some of them have been less than that.

Mr. FLEMING: You allow an extra year for recovery in case of default?

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: I was wondering about the extent of the circumstances under which the loans may be made. Under (1) the loans apply on transportation to Canada, then transportation to destination and reasonable living expenses en route. Have you found any case for any enlargement of that? That is narrower than it used to be at one time, isn't it?

Hon. Mr. HARRIS: No.

Mr. FLEMING: Has it never been any broader than this?

Hon. Mr. HARRIS: In fact when it began we did not necessarily loan money for transportation within Canada. We extended it to include that at a later time.

Mr. CROLL: Do you charge interest on your loans?

Hon. Mr. HARRIS: No.

The CHAIRMAN: Subsection (5)?

Carried.

Subsection 69(6)?

Carried.

Section 70(*a*): Assistance in certain cases.

Mr. FLEMING: Again this is new.

Hon. Mr. HARRIS: This was the section I made reference to in the House that where a person is subject to deportation and in fact is going to be deported there may be members of his family who are Canadian born and who are not subject to deportation but in order that the family should not be separated we would under those circumstances advance the cost of the transportation abroad of the Canadian persons who are not subject to deportation. It is a humanitarian effort to keep the family together where the head of the family would have no money to take his family with him.

Mr. FLEMING: The section does not say it is confined to the case of Canadians.

Hon. Mr. HARRIS: Well no, it is true it relates to the persons who have domicile and would not therefore be subject to deportation.

Mr. FLEMING: It does not so limit them.

Mr. WEAVER: What would be the status of a person who, say, was born in Canada and whose parents were deported and he had Canadian domicile after he had grown up in the future?

Hon. Mr. HARRIS: What was the question, Mr. Weaver?

Mr. WEAVER: What would their status be in the future? For instance, a family whose parents had been deported and their children sent out with them who were born in Canada and had been here for more than five years?

Hon. Mr. HARRIS: As Canadian citizens they would be admissible.

The CHAIRMAN: Section 70(*a*)?

Hon. Mr. HARRIS: Well, I have not covered Mr. Fleming's point.

Mr. FLEMING: I do not think this is as restrictive in its terms as the minister has been representing it. It relates to persons now Canadians. It is everybody except (*a*), (*b*) and (*c*).

Mr. CROLL: I think you had better let it stand and give it a little thought.

Mr. FLEMING: It is everybody who comes within (*a*), (*b*), (*c*). It is not limited. (*a*), (*b*), and (*c*) do not limit it to Canadians.

Hon. Mr. HARRIS: All right, let it stand.

The CHAIRMAN: Section 70 stands.

Section 71?

Carried.

Section 72(1)?

Carried.

Section 72(2)?

Carried.

Section 73?

Carried.

Section 74: Coming into force.

Mr. FLEMING: A question on 74. How soon is it the government's intention to bring this bill into effect if it was carried at the present session?

Hon. Mr. HARRIS: It will take some time. It might take about six months.

Mr. FLEMING: So the chances are if this bill passes at the present session it will go into effect about January 1, 1953?

Hon. Mr. HARRIS: It could be that long, yes.

The CHAIRMAN: Section 74?

Carried.

Mr. CROLL: Mr. Chairman, we have had quite a go at this now—

Hon. Mr. HARRIS: Well, we are favoured by the presence here of a gentleman who wants to make representations about the transportation section and I thought maybe we could hear him if it meets with the wishes of the committee and having done that I see at the moment no reason why we should not adjourn.

Mr. CROLL: Aren't there a considerable number of transportation sections?

Hon Mr. HARRIS: There are. We need not press on with them tonight but we can hear the representations and take them up tomorrow.

Mr. CROLL: As a matter of fact, I have had two people call me long distance and ask if they could make representations on the bill. I said I did not think the committee would take representations, it was a government bill and that they should have made representations beforehand, that the

committee were not in the mood and discouraged them from doing it. I would naturally want to hear Mr. Scott because I do not think the committee is complete without hearing him.

The CHAIRMAN: The only communication we have had was one from Mr. Scott received today. If it is your pleasure we will hear from Mr. Scott now.

Mr. CUTHBERT SCOTT, Q.C.: Mr. Chairman and gentlemen, I had an enquiry yesterday from several transportation companies including Trans-Canada Airways, Canadian Pacific Railway Company, Canadian Pacific Air Lines and Cunard White Star Line.

At the chairman's suggestion I wrote him saying that if it pleased the committee representatives from those organizations would like to be afforded an opportunity to express their views in the event that they might be of some assistance to the committee and I enumerated who the gentlemen are who would be appearing if it pleased the committee to hear them and the chairman told me he would take it up with you gentlemen this evening.

I am not personally familiar with the background of the bill in view of what Mr. Croll said as to whether there was opportunity previously for these organizations but, on the other hand, they are large transportation organizations and if they have not had the opportunity to present their views I would solicit from you on their behalf that you hear them.

These representatives are in Montreal and they will come here at any time that will suit the committee to hear them.

Hon. Mr. HARRIS: I thought you were fully clothed with authority to inform us about the issues.

Mr. SCOTT: No.

Mr. FLEMING: May I ask, Mr. Scott what is the nature of the representation? Are their views adverse to the four sections in the bill?

Mr. SCOTT: Unfortunately I do not know that, Mr. Fleming.

The CHAIRMAN: Would you like me to read this letter, Mr. Scott?

Mr. SCOTT: Yes, perhaps the chairman would read the letter.

Mr. CROLL: If they are in favour why should we hear them?

Mr. SCOTT: Well, they might possibly have some alternative suggestions to some sections. My point is, Mr. Croll, I do not know what they are.

The CHAIRMAN: Shall I read the letter. Letter addressed to me dated today:

> During our telephone conversation yesterday I intimated that I anticipated that certain Canadian transportation companies wished to make representations to the special committee in respect of some of the provisions of Bill 305. I am now informed that the following organizations would like to have their views brought to the attention of the committee—
>
> Trans-Canada Airways,
> Canadian Pacific Railway Company, (Canadian Pacific Steamships),
> Canadian Pacific Airlines,
> Cunard White Star Line.
>
> Unfortunately it has not been possible, in view of the shortage of time, for these organizations to prepare written briefs, and as an alternative the representatives of the above companies asked if the committee will permit verbal statements from the representatives at a time and place suitable to the committee, but as soon as conveniently possible.
>
> If the committee is agreeable to this proposal, it is intended that T.C.A. will be represented by Mr. MacPherson of the Law Department,

and Mr. Jones; the Canadian Pacific will be represented by Mr. J. Q. Maunsell, Q.C., and Mr. Harry Creswell, the company's Commissioner for Immigration and Colonization, together with one other official for the steamships. The Cunard Line will have one representative.

It is hoped that it will not be necessary for all of these representatives to address the committee, as it is thought that for the most part their points of view will not vary greatly, and it may be that one or two of the gentlemen above referred to will be the only spokesmen.

I will much appreciate it if you will let me know the committee's reaction to this suggestion as soon as possible so that arrangements can be made for the attendance at Ottawa of the representatives referred to above.

Mr. CRESTOHL: Mr. Chairman, I thought that letter would tell us what is the objective in this. I am at a complete loss to know what is requested.

The CHAIRMAN: Well, as I understand it, Mr. Scott is parliamentary agent for the transport companies.

Mr. CROLL: Mr. Chairman, you must face up to this. This bill has not come out of thin air. It has been mooted in the department for some time and the transportation companies have known about it. The welfare agencies in Ontario would like to be heard on this bill. You will probably have the Civil Liberties Association here and some other groups who will want to be heard and I am quite prepared to hear them all or to hear none of them whatever you like. It seems to me we have not got time to hear them all but the minute they hear that others will be heard you must hear them. I do not know how long you will sit and you might jeopardize the bill. This committee will not feel inclined to close off anyone. This is a government bill and the minister may or may not accept our representations but if we open up the hearing we have got to hear them all and I do not see where there is a limit.

I think if Mr. Scott here and now could present the case, we could take a few minutes and perhaps gloss over the fact that we have not heard the others but if we decide to hear them and have an open discussion which is reported, then there is the fact of facing up to the other people who wish to be heard.

Mr. CRESTOHL: I am not any wiser now than I was five minutes ago. I would like to know what the objective is.

Hon. Mr. HARRIS: I think in fairness to the transportation companies it should be stated that probably this Act is unique in that it imposes upon transportation companies a number of duties and obligations unlike most Acts which impose obligations and duties on the public generally.

Mr. CROLL: New obligations and duties?

Hon. Mr. HARRIS: No, there may be a new one in one case but this is a continuation of obligations which have been in effect for over forty years and it is possible that they would be able to take exception to some of these applications successfully in the opinion of the committee but I must say I do not know what their objections are but I think the committee could hear them having in mind the fact there are ten sections dealing specifically with transportation companies and the mode of handling immigration and particularly the mode of having to deport immigrants.

I would myself prefer that the transportation companies inform me of their complaints so that I might have an opportunity of considering them but at the same time I would not want to suggest that they could not be heard here in the event that I was not able to meet their wishes.

As a matter of fact all we have left in the bill are the transportation sections and the offences and penalty clauses and if we can devote some time tomorrow to it I think we can—I was going to suggest I could hear these people myself.

Mr. CROLL: Yes, that is a different thing entirely. What I object to is that this is a government bill presented by the minister and if there are any recommendations or objections they should have been presented to the minister rather than coming to the committee over the heads of the minister and the government. That is my serious objection to it. That has not been the custom or the practice.

Mr. FLEMING: I think allowance might be made for the fact that this bill has only been printed and available for the last six days.

Mr. CRESTOHL: Mr. Chairman, I would like to know their object.

The CHAIRMAN: If you would address the chair we would all be heard. Otherwise the reporter will have great difficulty in hearing who is speaking and why.

Mr. CRESTOHL: As recently as today I inquired whether or not this committee will hear representations from outside, and I was told "no".

Hon. Mr. HARRIS: My answer to that, Mr. Crestohl, must be to repeat what I said, that I think the members of the committee very adequately represent public opinion as to the wishes of the public generally with respect to immigration; but where there is a particular person or corporation affected by a provision, then perhaps none of us is quite competent to represent them before the committee. But if Mr. Scott would agree with me, I would prefer that I meet him, or the counsel he refers to, early tomorrow and then perhaps they could come to the committee in the afternoon and we could complete our work late in the afternoon.

Mr. SCOTT: I can give you that assurance right now, that they would meet your convenience, Mr. Minister. Although it may not be necessary for them to come.

The CHAIRMAN: Can we meet tomorrow morning at 11.30?

Mr. CRESTOHL: Are there any other committee meetings tomorow morning which might conflict with our session?

The CHAIRMAN: There is nothing at 11.30.

Hon. Mr. HARRIS: Before we fix on 11.30, I take it that it would not be possible for your people to be here at that time?

Mr. SCOTT: I can get in touch with them by telephone now.

Hon. Mr. HARRIS: Then let us meet at 11.30 to clear up these matters which we have allowed to stand; let us clear up these disputed points, and sometime during the lunch hour I can see the other gentlemen, and we can look forward to resuming at 2.00 or something like that.

The committee adjourned.

EVIDENCE

JUNE 18, 1952,
11:30 a.m.

The CHAIRMAN: Come to order, gentlemen, please. We are going to discuss this morning those clauses which had been stood over, starting with clause 1. What was that stood over for, section 1?

Mr. FULTON: No, clause 2.

Mr. FLEMING: You have to come back to adopt clause 1 at the end of the bill.

The CHAIRMAN: That is right. Clause 2 (*e*): "director".

And now, we have with us this morning, Colonel Laval Fortier, deputy minister of Citizenship and Immigration who will give you an explanation and try to satisfy you as to the different objections. The minister will be here shortly. Would you care to hear from Colonel Laval Fortier now as to what these objections are?

Colonel Laval Fortier, Deputy Minister, Department of Citizenship and Immigration, called:

The WITNESS: That 2 (*e*), "director", was stood over to provide a change with respect to the appointment of someone to act in the absence of the director, you will recall.

The CHAIRMAN: Yes.

The WITNESS: This was done purposely because sometimes due to the absence of the director it is necessary to have another officer act for him and we have to provide for someone to act. I would suggest an amendment to subclause (*e*) which we think will clarify what we have in mind, and I read my amendment:

> Clause 2 (*e*) delete the present definition and substitute: "director" means the director of the Immigration Branch of the Department of Citizenship and Immigration and, in his absence, a person authorized by the minister to act for the director;"

So we clarify it to that degree.

Mr. CROLL: Oh, no, that is much worse, Mr. Fortier, because then you put the department on proof that he was absent. It is not customary. I think this director definition is the customary one in a department. I do not see what objection there can be to it. Many, many times it is necessary that an officer be away from the branch due to illness. That has been the practice in the departments as long as I can remember. If you put that clause in as it is it seems to me that it raises a question and you have to prove that the official was absent for good cause. I think we ought to leave it the way it is.

Mr. CRESTOHL: Mr. Chairman, who raised the objection? The word "director" here means the director—or a person authorized by the minister to act for the director. Having regard to the fact that in the present Act there is no cause for any provision I would think that if there is going to be an amendment along the lines proposed by Colonel Fortier it should be more than absence. You use the expression, "his absence", what is the absence caused by? Is it illness or incapacity?

Mr. CROLL: Yes.

Mr. FLEMING: There could be other reasons just as important as absence; illness would be one.

Mr. BROWN: All right, he could be ill and not absent?

Mr. FLEMING: That is the usual expression.

Mr. CROLL: I think we had better leave it as it is. We know what it means. I suggest we leave it as it is.

The CHAIRMAN: Subsection (*e*) carried?

Carried.

Mr. CROLL: That leaves it as it is.

Mr. BROWN: The next was subsection (*k*), Immigration Appeal Board.

The WITNESS: That might stand until we are discussing 31.

The CHAIRMAN: Subsection (*n*): landing.

The WITNESS: On the question of landing we use the substantive there. Before going into "landing" I believe I should make an explanation to the committee. Under the present Act a person coming to Canada can only enter or be landed. If you look at section 18 of the present Act you find that a Canadian citizen returning to Canada may purport to be landed as a matter of right. In the present Act the word "land" has been used variously, sometimes within the term of the definition and sometimes outside the term of the definition. Now, we tried in this Act to clarify the situation and we now use four terms which I believe the committee will find through the bill, and maybe the word will help to understand the purpose; "Canadian citizen"; persons of Canadian domicile come into Canada, which is the expression we use through the bill; they come into Canada, they are not landing or entering, they come into Canada. The non-immigrant like in the past entered Canada, the immigrant was landed in Canada; and we have in the word which is defined in 2 (*a*)—admission to Canada covers the entry of non-immigrants, the landing of immigrants, and the return to Canada of a person who has previously been landed but has not acquired Canadian domicile. I thought that perhaps that explanation would help you to understand the bill. Respecting the word "landing", according to the Interpretation Act as long as you use the substantive it includes everything; otherwise you would have to put in the definition all of it which would be quite cumbersome.

Mr. CRESTOHL: Do you not sometimes issue a special permit?

The WITNESS: No, that may have been used at one time, but in section 4 you have the landing permit.

Mr. CRESTOHL: Would that not clarify the meaning you intended to convey, that an immigrant acquires permanent landing in Canada?

The WITNESS: No, because if he is landed it is a permanent landing in Canada.

Mr. FULTON: Now you have all three words "land", "landed" and "landing"; should you not have all three of those words in the definition section? Has there been any difficulty or confusion?

The WITNESS: That was the former way of expressing the Act, in the interpretation section which covers the bill.

The CHAIRMAN: Shall subsection (*n*) carry?

Carried.

Subsection (*s*): non-immigrant.

The WITNESS: I don't remember exactly why that was stood.

The CHAIRMAN: Why was this stood?

Mr. CROLL: I think the discussion which has just taken place has clarified that subsection too.

The CHAIRMAN: Shall (*s*) carry?

Carried.

(*t*): owner.

The WITNESS: There was a question about the agent of the owner, whether we would look upon the agent as the person who is in charge of the vehicle, the agent of the owner of the vehicle. Here the word is used mostly in the case of transportation, a transportation company, more particularly transportation by ship, and the person who is admittedly in charge of a vehicle is described and is defined in the Act as "master"; because if you read the definition "master" it means the person in immediate charge or control of a vehicle and it would include a driver as well as a master of a ship.

The CHAIRMAN: Shall subsection (*t*) carry?

Carried.

Subsection (*u*)?

The WITNESS: Now we have the word "permit" for the first time in the Act because we include it in 7 (*g*)—a new class of non-immigrant was in Canada under a permit and it was thought necessary by our legal advisers to define the word permit.

The CHAIRMAN: Shall (*u*) carry?

Carried.

(*v*) place of domicile.

The WITNESS: Place of domicile—we try to avoid difficulty by saying place of domicile—place of, in addition to the word domicile—we tried to clarify the situation. The most important domicile described in this Act and for the purposes of this Act is Canadian domicile, which appears in section 2(*b*), and that is five years residence after landing. "Domicile" as it was used in the present Act was very often confused with legal domicile, as I understand it, which may be a domicile, an intention of domicile, an elective domicile and so on. What we intended to define in the present Act was in fact the place of domicile. Now we have to use the words "place of domicile"—in case you want to check that it is in section 4, subsection 1 and section 7.

The CHAIRMAN: Yes, the bottom of page 4.

The WITNESS: Yes, to avoid any legal confusion when we talk about domicile we mention place of domicile. You might call that a legal technicality.

By Mr. Crestohl:

Q. In order for a person to be able to prove his Canadian domicile you facilitate it for him by defining where his place of domicile was over that period?—A. That is right.

Q. Anyone can claim domicile in this country who has been here for a certain time and who wants to return after a temporary absence. The question of domicile is well settled by law, so I do not see the necessity of putting that in the bill.—A. You mean that we do not need to talk about domicile at all?

Q. Well you have, of course, something in the other section, section 4. You state there how long it takes to get domicile here.—A. Yes.

Q. Whether he is here for 10 years or just for the temporary purpose of entering in order to obtain domicile under our present law, so I do not see the necessity of this description in here.—A. May I put it this way? I do not know that I understand your case. He may have gained domicile in Canada and then reside outside of Canada for five years.

Q. Oh yes.—A. Now, I say that he must add there: place of domicile in Canada. We are not restricting the legal sense of domicile.

Q. Yes.—A. But for the purpose of the Immigation Act—

Q. That is five years?—A. Five years of absence, or it may be a temporary absence from the place of your domicile.

By Mr. Fleming:

Q. Mr. Chairman, I think I raised this point. My point related to the use of the word "place", "place of". I think we have a definition of the word "domicile" in the Act; we have it in the present Act, and I think it is most necessary that there be a definition of domicile. But my point is this, we never speak legally of any place of domicile; domicile is always related to a state. It is a status of domicile. You don't acquire domicile in a community, you acquire it in a state. For that purpose it seems to me that it is a new kind of expression altogether to talk about place of domicile.—A. We already defined in the present Act what the word "domicile" means; the place in which; now, what we are doing here is we are defining the place of domicile for the purpose of the Act in this particular section.

Q. But when you talk about a "place" then you must have in mind a state. You would not speak, for instance, of a person having domicile in the city of New York or the city of Paris, you speak about him as having domicile in the one case in the state of New York in the United States of America and in the other case in France. Now, it is for that reason that I think the word "place" is not an apt word to use there.

Mr. CROLL: Mr. Chairman, I notice in the old Act that the word "place" as used means the place in which a person has his home. I think it was inserted in 1946. At that time I think we dealt with citizenship, did we not?

The WITNESS: That is right.

Mr. CROLL: We made that change in the Act at that time and it seems to have worked out without much difficulty. I think if we get into definitions we many entangle ourselves in a way we would not want to.

Mr. FLEMING: I am just putting this forward in the interest of accuracy and an understanding of the situation. Domicile is always related to a state, not to a community or a village or to a township, never anything less than a state.

Mr. CRESTOHL: Or to a house, a residence.

Mr. FLEMING: No.

Mr. CROLL: No, not in the legal sense as it applies here.

Mr. CRESTOHL: I will say a word on that. This definition "place of domicile" means you restrict it to his residence, his home. We are very proud of the definition contained in our ciivl code in the province of Quebec which I think defines domicile as the place where a person has his principle establishment without necessarily restricting it to a place of residence. Now, I would not want to see a definition of domicile go into a federal statute which will come into direct conflict with the civil code in the province of Quebec. I do not know what the definition is in the other nine provinces, but I can see a conflict there; you would have two different degrees of domicile, if my memory is correct, as to the definition of the word domicile in the civil code.

The WITNESS: That is just what we wanted to avoid, confusion in the use of the word domicile. I suppose you know, and I know the way it is used in the civil code in Quebec. We are dealing with the word domicile in a national sense, and in doing so we are not talking about the same sort of domicile as we find in the Immigration Act; so, in order to avoid any confusion, we have used the words "place of domicile" so that whoever deals with the department and

even when we are dealing amongst ourselves we will know what we are talking about; otherwise, we have no legal definition of what constitutes domicile. We all know the difficulty sometimes, even amongst lawyers, in defining this word "domicile". Now, that is what we have tried to do here, we have tried to avoid that sort of confusion.

Mr. CRESTOHL: But actually, under the civil code of Quebec it refers to his place of residence.

The WITNESS: I am not dealing with legal domicile at all, Mr. Crestohl, it is only for our purposes in this Act.

Mr. FLEMING: I think the point appears to be sound; there can be a difference in relation to the definition of domicile and that definition will have to stand on its own feet. What Mr. Crestohl has just said refers to the civil code definition because they are using it in a different field and for a different purpose. I still take exception to that word "place", to the words "place of"; particularly to the word "place". It seems to me that is inviting difficulty, it is inviting misunderstanding. The proper word to use is "state".

The CHAIRMAN: I suggest that we allow this item to stand until the minister is here and maybe we can get a better explanation.

Agreed.

The CHAIRMAN: Section 3 (1).

Mr. CHURCHILL: Mr. Chairman, before you leave that question of interpretation, is there any remote possibility of the department making some other provision; for instance in connection with a non-immigrant? My recollection is that in a letter I had from the department that the word "visa" was used in connection with entry.

The CHAIRMAN: Will you speak up, Mr. Churchill, please?

Mr. CHURCHILL: I said, my recollection is that in a letter which I had from the department the word "visa" was used in connection with entry into Canada, if I remember correctly.

The CHAIRMAN: You are speaking of section 2 now?

Mr. CHURCHILL: Yes, 2 (*u*). That is where it appears here.

The WITNESS: Visa is a procedure, it is not in any way connected with entry, landing, or coming into Canada. It is a plea which is made for coming to Canada. A person states that he wants to come into Canada for a certain purpose, and he gets a visa, what we call a non-immigrant visa.

The CHAIRMAN: Yes.

The WITNESS: And that is quite different from the other one, that is an immigrant visa and is so stated, and then he comes into Canada as an immigrant. If he was coming into Canada as a non-immigrant then he would require to have a non-immigrant visa in order to enter Canada.

Mr. CRESTOHL: I think the point which Mr. Churchill has made is this: That if you define the word "family" in your definitions, and the word "landing", perhaps a definition of the word "visa" would also be in place under this heading.

The WITNESS: We define words which are not used in their common sense, but which are given a special meaning in the Act.

The CHAIRMAN: Is the word "visa" used in the Act?

The WITNESS: No, it is not used in the Act.

Mr. FLEMING: Would it appear in the section in regard to regulations at all, section 61 or section 63?

The CHAIRMAN: If "visa" is not used in the Act, why should it be?

Mr. CRESTOHL: If it is not used in the Act, then there is no purpose in defining it.

The CHAIRMAN: Shall we carry on to subsection (3) of section 3?

Mr. CRESTOHL: Let us be sure that it is not used.

Mr. FLEMING: Yes, it is used in section 61 subsection (c).

The WITNESS: Yes, and it says:

> 61 (c) the terms, conditions and requirements with respect to the possession of means of support or of passports, visas or other documents pertaining to admission.

And that is the same reason we thought we did not need to define visa.

Mr. FULTON: You are using visa in the ordinary sense there?

The WITNESS: Yes.

The CHAIRMAN: Agreed.

Mr. CRESTOHL: Visa is not a commonly used term, and Mr. Churchill expressed some doubt as to whether he understood what that word "visa" meant in a letter which he received; and since visa is not an everyday term, I think it should be defined, so that people may know exactly what they are talking about when they speak of a visa.

Mr. CHURCHILL: The mistake I was making was discussing a student who I thought had entered under a permit, but I discovered later that he entered under a visa.

The CHAIRMAN: A student's visa.

The WITNESS: A non-immigrant visa.

Mr. CRESTOHL: A non-immigrant visa; is that different from a non-immigrant permit?

The WITNESS: We do not have a permit. Permit is defined in section 8.

Mr. FULTON: Even a non-immigrant visa is something which appears on his passport, and that is the ordinary use of the word visa.

The WITNESS: That is right.

The CHAIRMAN: Agreed. Now, section 3 subsection (3): Persons who assist Canada's enemies.

The WITNESS: With respect to section 3 subsection (3), after the discussion which took place here, we suggest that the words "any person other than a Canadian citizen" be deleted, and replaced by "any resident of Canada other than a Canadian citizen". This will bring this section in line with section 3.

The CHAIRMAN: Have we all got that, "any resident of Canada other than a Canadian citizen", will be in place of "any person other than a Canadian citizen"; in other words, the only change is "any person" who is changed to "any resident."

The WITNESS: That is right. I think that makes the situation more difficult. If you just say "any person" you do not have to prove anything about that person; but if you say "resident", you must prove he was a resident. Then, what is a resident? I think any person who helps the enemy should be subject to our laws, and there should be no obligation of proving that he is a resident of Canada. He may just be a person passing through and not a resident, but he commits an act which is inimical to our country. Therefore, I prefer to leave the words "any person" as they are.

The CHAIRMAN: Is that agreed?

Mr. FLEMING: I raised the question with regard to section 3 subsection (3) on a rather broad basis, when asking about the position of Germans in the light of this new provision having regard to the fact that under a declaration

made by the Canadian government last February, the state of hostilities with Germany was terminated. And now there is what we call a peace contract. I was asking about the effect of section 3 subsection (3) in relation to the status of Germans. I do not think the amendment concerns the point particularly that I was raising. However, I wonder if we should not let that one stand until the minister comes. If you mean by "person" every person outside of Canada, well, of course, he may not come into Canada in any event unless he complies with the Act; and there is a form of authority there which the minister could withhold. I wonder if this point should not be considered further?

The CHAIRMAN: What is the wish of the committee? Should we let it stand?

Agreed. It stands. Now, section 4 subsection (3)(*a*): Exceptions.

Mr. CARROLL: I suppose we can make reference to section 4 subsection (1) defining Canadian domicile when we are dealing with place of domicile; we can make reference to it, even though it is passed?

Mr. CROLL: Yes, surely.

The CHAIRMAN: Carried. We are on subsection (3)(*a*) of section 4; in other words, subsection (3)(*a*).

Mr. FLEMING: This is one on which I raised a question whether or not "established in Canada" was too restrictive.

The WITNESS: We attempted here to put this section in line with the Citizenship Act, section 18, which has practically the same wording, and if you read the opening words of section 4 (3), they are: "(3) Canadian domicile is lost by a person . . ." That is the general case. But what we wanted to establish is the home which is voluntarily established outside of Canada, and we have in the last 3 lines stated a case where persons who are in the position of (*a*), (*b*), and (*c*) do not have to establish a voluntary intention of going abroad; we say that if you serve the Canadian government or a province or are connected with a Canadian firm, you do not lose your Canadian domicile. We just put three cases which are very good, and in fact they can be inferred by the first 3 lines of subsection (3).

Mr. FULTON: Mr. Fleming's point was with reference to the last 3 words: "established in Canada".

Mr. FLEMING: You could have a person resident in Canada going abroad in the course of duty on behalf of a firm or a business; or, as I cited particularly, you could have the case of a religious mission abroad which may not actually be established in Canada. I felt that the words: "established in Canada" might present some difficulty in interpretation, and in any event that they were unnecessarily restrictive.

The WITNESS: I know of the case of a religious person landed in Canada who joined a religious organization of which there was no establishment in Canada. He went to South America but he never lost his domicile. He always kept his contact with Canada, but he cannot acquire Canadian citizenship because he did not reside in Canada as required by section 10.

Mr. FLEMING: Of the Citizenship Act?

The WITNESS: Yes.

Mr. FULTON: How do you interpret the words: "established in Canada"? Do they have to have a registered office in Canada?

The WITNESS: Yes.

Mr. CROLL: What they are trying to do is to stop those people who go out on their own, establish their own church. There is some of that; or they

suddenly decide to establish their own organization and make it a lone wolf business rather than have roots of some kind in this country. I can see where this section would be useful to the department in some instances. I do not see how we would hurt anyone by taking away from him any rights which he should have.

Mr. FLEMING: I was thinking of someone who has been here, let us say, for less than 5 years, who felt a call to go out and serve some missionary enterprise which may not be established in Canada, but in some country abroad; and after he has been there for a period of years, the individual concerned wants to return; and this section, if you got a hard interpretation put on it, could under those circumstances prevent that individual from returning.

The CHAIRMAN: Is that not proper?

Mr. FULTON: A person could hardly have had the intention of establishing a Canadian domicile if, before he had been here 5 years, he entered the service of a concern or organization which has no establishment in Canada, and by which act, therefore, he places himself at the beck and call of a concern which is extra or outside of Canada. How can you say he had the intention of establishing domicile in Canada?

Mr. CROLL: Some of these cases must have actually happened; some people who came here as immigrants left with UNRRA or some other organization that is covered by the words "religious or otherwise".

The CHAIRMAN: UNRRA was established in Canada.

Mr. CROLL: No, UNRRA was not established in Canada.

The CHAIRMAN: It is registered here.

Mr. CROLL: No. It was a United Nations organization, along with some of the other groups.

The WITNESS: I do not recall whether or not they had an establishment in Canada.

Mr. CROLL: I think they recruited in Canada, there is no question about that. I met people in Europe who were not Canadian citizens who were working for various American organizations particularly in welfare work of various kinds. They had been in Canada not more than a year but had the qualifications which they wanted. Were those people permitted to come back, even though they were absent for a number of years?

The WITNESS: We would have to look into each case and study it on its own merits. Was his intention to make his home outside of Canada, or was he merely outside of Canada for temporary purposes, such as going to serve UNRRA? I remember people who were being trained in Washington. They were going to serve with UNRRA, although they had been absent from Canada for 3 years. I am sure they would not lose their Canadian domicile if they returned, and the director confirms that statement.

Mr. CROLL: There would be a great number of international organizations such as UNICEF which are not established in Canada, but which has been recruiting people who are not Canadian citizens yet, among all the new groups who come over; are those people not just as likely to be in difficulty in coming back. I have never heard of any, but what is your experience?

The WITNESS: We have never had any difficulty.

Mr. C. E. S. SMITH (*Director of Immigration*): No, because their employment abroad is only of a temporary nature.

The CHAIRMAN: They were with a United Nations organization.

Mr. SMITH: On a temporary contract, even though it were of two or three years duration at the time of their departure, if they have the desire to return, they retain their period of residence required to obtain domicile.

Mr. FULTON: Have you any time limit on that? I realize I am going outside of clause (*a*) of subsection 3, but have you any time limit under the general words of subsection 3, or is it just a question of intention?

The WITNESS: We never have put a time limit on it. We try to find out the intention of the man when he leaves. You may have some who remain abroad five or six years, but they keep in touch with Canada with the intention of returning; or they may establish themselves in another country and it is clear, because they sold everything they had in Canada and are making a clean break; and they say: "I have had enough of Canada and I am going to live in Italy". And we would say to them: "You have lost your domicile".

Mr. CRESTOHL: I would like to follow up Mr. Fulton's point. What is the situation where a man has resided in Canada over five years and acquired domicile and has a very flourishing business here, and then he picks up and goes to live outside of Canada? He does not indicate whether or not he is abandoning his domicile here, but under your definition you won't judge that; and he cannot afterwards plead "I have maintained my business in Canada, and my principal establishment is in Canada". Under your definition a place of domicile must be restricted to his residence; he may have the advantage of maintaining his enterprise or his business in Canada, but nevertheless he may have had the intention of abandoning his domicile in Canada. Although he has residence here for over five years and his place of business is in Canada, yet you would make it restrictive only to his residence. That might be a hardship on the man.

The WITNESS: If you will observe subsection (3), it is not the place of domicile, it is Canadian domicile, and Canadian domicile is defined in clause (*c*) of section 2, which reads:

> (*c*) "Canadian domicile" means Canadian domicile acquired and held in accordance with section four.

That is what we are discussing now. And in section 4 we say that Canadian domicile is lost if you leave the country with the intention of establishing yourself permanently outside. I do not want to confuse you, but we are trying to get away from what you understand as your legal domicile under the Civil Code, or under the common law, while this is something merely for the purpose of this Act only; that has been the difficulty, and that is why this thing has been done.

Mr. CRESTOHL: That is why Mr. Fulton's point is a very valid one; and if you were to establish the term, a man who is out of Canada, who is away for a month, and then decides that he will reside in Florida, may say: "I will make my home here in Florida." But then he finds that the climate there is not good for him; he is simply making up his mind to stay by the intention of residing in Florida, and then a month after his departure he wants to come back, but he will have lost his domicile because he expressed the intention. I think that is a little bit harsh, without fixing some reasonable period.

The WITNESS: What period would you suggest?

Mr. CRESTOHL: I would say five years for a man who has resided out of Canada for five years and established himself elsewhere. I do not think he should lose his Canadian domicile.

Mr. CROLL: I think you are getting on dangerous ground there. There are a great number of things a man does, being absent from the country, which could lose him his citizenship or his right to Canadian domicile. He may go to another country, and in a year's time qualify himself to vote in another country.

Mr. CRESTOHL: That is covered by a subsequent section.

Mr. CROLL: If you allow him to be dealt with on the matter of intention, let us take the example of the Yugoslavs who went back. A great many of them were Canadian citizens and they retained their Canadian citizenship. They had it before they left; but a great many of them were merely residents of Canada, or had domicile, and they left. And at the end of two years they were more than happy to come back here; they would have been tickled pink to get back here, yet they had sold their goods and had indicated once and for all that they were going to remain out of this country. Should we be asked to wait five years before we dealt with them?

Mr. CRESTOHL: That is a little different from a person who goes to another country and joins the army of another country even if he does that within a month after he leaves Canada; but so long as he has not done away with all his things as covered by this section, I do not think he should be deprived of his right of citizenship or domicile simply by the lapse of a month—of his declaration of intention.

Mr. FULTON: It is not simply a lapse of a month, it is the question of the intention with which he left the country.

Mr. CRESTOHL: Perhaps.

Mr. FULTON: The man to whom Mr. Croll referred goes to Yugoslavia. I am not inclined to think that we interpret that as a matter of intention. I do not think that a person who leaves Canada without the intention of returning should retain his rights.

Mr. CRESTOHL: It is difficult to establish intention in many cases. It is the departmental officials who decide that and it depends on the facts; for instance, he sells out all his effects but he leaves his business here although he sells everything else he has. The department take that as intention, and they take that in connection with a certain lapse of time. It is within the judgment of the department and it will be based upon the facts which support it.

The WITNESS: What you are concerned about is the person who has an established business in Canada?

Mr. CRESTOHL: Yes.

The WITNESS: Who goes out and who has retained his connections in Canada?

Mr. CRESTOHL: Yes.

Mr. FLEMING: Did I understand Mr. Crestohl to say that he would like to see inserted in line 10, after the words "residing out of Canada" the words, "may be for a period of years"?

Mr. CRESTOHL: Yes, that is right, and that would give support to the judgment of the department as to intention.

Mr. FLEMING: Again, it would be introducing a floor. You still have the requirement as to his intention of giving up Canadian domicile before he would lose it.

Mr. CRESTOHL: That is right.

Mr. FLEMING: But before you would regard his intention as being, "not for a mere special or temporary purpose" (that is in lines 11 and 12) he would have to be absent for a period of two years?

Mr. CRESTOHL: Yes, for a year or two.

Mr. MURRAY: Do you not think that Canadian citizenship should be put and kept at the very highest level?

Mr. CRESTOHL: But this is domicile.

Mr. MURRAY: Well, let us suppose that within the first year after landing he decides to leave the country and let us say he goes to Florida, and after he gets down there he finds that the people down there are very much the same as his neighbours up here in Canada and he decides to come back here.

Mr. CRESTOHL: There is no place like home.

Mr. MURRAY: This should be made quite severe so the people will not be going out of the country and then when they find things are not what they expected they turn around and rush back in. I think it should be made as severe as possible, as in the case in the United States.

Mr. CROLL: Mr. Murray, I do not think that the United States is very severe. They will allow you to live out of the country for a considerable length of time, the same as we are doing; I understand a man may be out of the country for 10 years and then if he wishes to he may return, under certain conditions, providing he has established domicile. How would it be if we made it two years or three years or five years. In the case of the United States, people have resided out of the country for many many years and in many circumstances they retain their citizenship and right of re-entry. If you are going to put a floor underneath it, you are going to make it possible that they are protected for a couple of years, I am not in favour of that.

Mr. FULTON: That might be all right, I suppose, but at the same time you have the person who does not intend to come back and whose intention is obvious.

Mr. CROLL: No, I think we should leave it as it is at the present time.

The CHAIRMAN: Shall we pass that subsection subject to the suggested amendment?

Agreed.

Shall the section as amended carry?

Carried.

Is there anything more on subsection 4?

Mr. COYLE: Under 4, how many people have lost their citizenship?

The CHAIRMAN: What was the objection there?

Mr. FLEMING: That was stood over, Mr. Chairman, because it related to the other section relating to persons engaged in subversive activities. We stood over both sections but there was no discussion on this one.

Hon. Mr. HARRIS: Let us continue to stand them over for the present.

The CHAIRMAN: Section 4 stands.

Section 5 stands.

Mr. CHURCHILL: I thought those were all right.

The CHAIRMAN: Oh—subsection 4 and subsection 5?

Carried.

Then we go on to section 5, subsection (*a*) (iv).

Mr. FLEMING: This is the case of epilepsy.

The CHAIRMAN: Yes. We have with us now Dr. W. H. Frost of the Immigration Medical Service, Department of National Health and Welfare.

Dr. FROST: What was the question?

Hon. Mr. HARRIS: The question raised yesterday by Mr. Fleming was with respect to epilepsy, that it is a disease which may afflict you in childhood and be cured over a great many years thereafter; that one might be cured of epilepsy, and the disease was one with respect to which there appears to be too much rigidity. Would you like to comment, Mr. Fleming, as to that?

Mr. FLEMING: Might I just enlarge on that because Dr. Frost has not seen the record, it has not been printed yet. The present Act does not speak of the word epilepsy, it speaks of epileptics in describing those who are within the prohibited class. Now, this present new section, section 5 (*a*) (iv) uses the expression, "if immigrants, are afflicted with epilepsy". Now, the first question which was raised was as to whether epilepsy as a word in this sense means chronic epilepsy and whether it would include the case of a person who might have a rare attack of epilepsy rather than a chronic affliction. That was the first point.

Dr. FROST: This is the recurrental type of epilepsy which is referred to here.

Mr. FLEMING: That is the point; and the minister, as I recollect his observations on Monday night, said that this would apply to anyone who suffered an attack of epilepsy regardless of whether it was recurrent or chronic.

Dr. FROST: Well, almost all epileptics would have what is known as the recurrent type. The noun epileptic, the example you give, refers to the recurrent type of epilepsy.

Mr. FLEMING: The second point that arose in the discussion was the case of a child who is not hereditarily, or has no congenital epilepsy but has developed epilepsy we will say as a result of an accident; and I am told that those cases respond not infrequently, particularly in cases involving injuries to the head, the skull or the brain; but that with treatment a cure is effected, possibly through the use of modern drugs, non-habit forming drugs; and that in many cases of children who suffer that kind of injury a cure results. Is that so?

Dr. FROST: If they have an operation, sir.

Mr. FLEMING: Only in that case?

Dr. FROST: Only in the case of an operation. The usual history is that they get worse with age. If they are operated on the scar tissue is removed, then in that case the child would not come under this section because it would not be the recurrent type. This section reads: "if immigrants, are afflicted with epilepsy". That refers, as I said, to the recurrent type, not to cases where operations have been held and have been successful.

Mr. FLEMING: You have thrown some interesting light on this point because I think the interpretation—the minister will pardon me if I am wrong—the interpretation the minister is putting on this was that if a person had suffered epilepsy it would come automatically within the prohibiting clause. We have had some discussions in regard to the language in 5 (*a*) (iv). If immigrants are afflicted with epilepsy, it means epilepsy, which would mean the interpretation placed on the word epilepsy in the interpretation section, but if they had been afflicted with epilepsy in their earlier years and if for some reason or other they had recovered they would no longer be subject to epileptic fits. Is that the interpretation?

Dr. FROST: That is the way the present Act interprets it. If a person recovers from epilepsy he is not barred at the present time, if he has successfully survived a brain operation.

Mr. FLEMING: He would have to be certifiable by a competent medical authority.

The CHAIRMAN: Would you mind speaking up a little louder, please, Dr. Frost?

Dr. FROST: He would not be held up or rejected under the present Act.

Mr. CROLL: But the section here uses the term, "afflicted with epilepsy"; afflicted is the word in this. How is that interpreted from the legal standpoint? How does that apply? Does that reply to what you referred to as the chronic cases.

Dr. FROST: Yes.

Mr. CROLL: I wonder if the doctor would interpret that word "'afflicted" to us. I think you will have to clarify that.

Dr. FROST: I think afflicted means if a person has epilepsy.

Mr. FLEMING: Just for us lawyers would you enlarge on that? Do you mean it is a person who is subject to recurrent attacks of epilepsy?

Dr. FROST: I would think so. An epileptic is one who has epilepsy; that is, he may not be having attacks right at this moment, but he is epileptic just the same and would be barred on account of epilepsy.

Hon. Mr. HARRIS: What about the case of the child, or the person, who has had only one attack of epilepsy?

Dr. FROST: Well, Mr. Chairman, the common history of an epileptic is that he will have recurrent attacks of epilepsy.

Hon. Mr. HARRIS: That is not what I had in mind.

Dr. FROST: I cannot recall of ever having seen a person who had just one isolated attack of epilepsy.

Hon. Mr. HARRIS: No, excuse me; people develop epilepsy by having attacks. That is the first symptom of it and that is the only way in which you judge that they have it. They have one attack. Then if the person has no other attacks before he applies for entry into Canada, he has only had the one attack, is he considered to be a person who has had epilepsy or who is an epileptic?

Dr. FROST: No sir, because he probably is not epileptic in the first place.

Hon. Mr. HARRIS: How many attacks does one need to have before you consider he is epileptic?

Dr. FROST: Well, an epileptic attack is a definite type of the thing which happens. There are other types of attacks that are not epileptic; hysterical fits, for example; and those are not covered in this section; and those are the type of things that are more likely to be hereditary rather than true epilepsy.

Hon. Mr. HARRIS: All right then. Perhaps I am not making myself clear. A person has a number of attacks for a day or two days and the doctor who attends decides that this is epilepsy, and then the attack passes away and the man is quite well for a time. In the interval he applies for admission to Canada and the history in this particular instance is given to you; do you consider that it is within this provision—"are afflicted with epilepsy"?

Dr. FROST: It is a question of diagnosis, sir; it is a question of diagnosis in these cases.

Hon. Mr. HARRIS: All right, but some doctor has at that time given a written diagnosis that this person has had an epileptic fit.

Dr. FROST: I would say that such a person is not an epileptic; that they were "afflicted".

Hon. Mr. HARRIS: Then I take it that the Health and Welfare physicians interpret this as applying only to persons who are known to have had epileptic fits in the past.

Dr. FROST: That is right, sir.

The CHAIRMAN: That is, a person who has been cured of epilepsy?

Dr. FROST: I cannot recall a case of epilepsy ever having been cured.

The CHAIRMAN: I thought you said a moment ago that a person might have suffered an injury to the head and had the scar tissue removed—had an operation and had the scar removed—and then he no longer suffers from these fits and he would be considered as having been cured of epilepsy.

Dr. FROST: I said that was a special type of epilepsy not the recurrent type. It would not apply to that type.

Mr. CROLL: May I ask you this one question? If an immigrant has applied for admission and is asked if he had epilepsy and in reply has said "no", is there any medical way in which you can by examination find out whether or not such a person was an epileptic?

Dr. FROST: No, not through the usual examination, except that sometimes you find scars on the face or body resulting from falls, biting and that sort of thing. We would not be able to detect unless we examined them for scars.

Mr. CROLL: And if they are not present and he happens to deny it then you must accept him?

Dr. FROST: Yes, our officers might not detect it.

Mr. FLEMING: Might I follow up the minister's question? Suppose you are satisfied that the individual in question has had one attack of epilepsy, just one, how would you classify him then?

Dr. FROST: I am afraid that I would have to hedge on that question and state that if a person only had one attack it would not be the recurrent type and I would be inclined to think that he would not be epileptic.

Mr. CROLL: Is it possible to detect a condition of that kind by use of X-rays?

Dr. FROST: There are certain instances in which that can be done.

Mr. CROLL: Then in the case of an epileptic the only way in which you can determine the condition is from the history of his past. What about those cases to which reference was made where there has been an apparent cure as the result of an operation?

Dr. FROST: That is not very often found. That is not common epilepsy. That is the type that is definitely cured by operation, and following the operation if the fits stop then he would not come within the classification in this section.

Mr. FULTON: I take it from what you have said of your interpretation of this section 5(*a*) (iv), that the words there "are afflicted with epilepsy" means persons who are subject to and liable to have attacks or an attack of epilepsy at any time. If in your opinion as a doctor he is not so liable, it does not matter whether or not he had previously had a fit, you would still regard it as epilepsy, but you would not so regard it if he is not subject to epilepsy at the time of his admission?

Dr. FROST: That is quite true.

Mr. FLEMING: I was wondering whether there is any better wording we could use. Would it not be better to clarfy this by saying: possessed of afflicted by epilepsy or subject to recurrent attacks of epilepsy or something of that kind. Perhaps those are not the best words but that, as a matter of fact, is what we are trying to get at.

Mr. FULTON: We could do that by using the word—by saying that he is an epileptic.

Hon. Mr. HARRIS: You would not get much response to that suggestion.

Mr. FULTON: Perhaps not, but in that case he is an epileptic.

Hon. Mr. HARRIS: Well, there may be something to be said for that.

Mr. FLEMING: That is your present wording.

Mr. CROLL: This is better, this defines—

Mr. FLEMING: That is the interpretation Dr. Frost has given us this morning. I think he has clarified the position as to who is an epileptic. He is defined as one who is afflicted, who has repeated attacks of epilepsy. I think that we had probably better leave it there so long as we take out that inference so that the person who is not an epileptic, who does not have recurrent fits of epilepsy, really gets a fair shake in coming to this country; because it is not an isolated instance. He may have more than one attack and still in a doctor's opinion not to be afflicted with it.

Mr. MURRAY: May I ask Dr. Frost if he has any statistics as to the number if epileptics who have been brought into Canada and who have become public charges?

Dr. FROST: No, we have no statistics on the number of epileptics or other diseases which are actually in the country, because they become absorbed into the general population unless they come to the attention of the authorities.

Mr. MURRAY: You have a hospital in Ontario where there are some 1,500 cases of epilepsy.

Dr. FROST: There are epileptics coming in, and I believe a number are being deported.

Mr. MURRAY: Can you not obtain that data from the department?

Dr. FROST: We have no way of checking that.

Mr. MURRAY: The Ontario epileptic hospital certainly would have data regarding the place of birth, and so on?

Dr. FROST: It is very difficult to get information such as that from the province of Ontario. We have been trying to get it on tuberculosis, but it involves a great deal of work on their part, and they object to it.

Mr. MURRAY: I think it would be easy, apart from this Act, for any person suffering with epilepsy to come into this country.

Mr. FLEMING: Was it the intention to introduce a change in the position of persons within this category? The language of the present Act is just "epileptics". Was there a change made because it rather conflicted with "epilepsy"?

Hon. Mr. HARRIS: So far as the minister is concerned, there was no change intended.

Mr. CROLL: I think it puts us back a little bit on the interpretation. I think this is a better interpretation and leads to a more liberal view. I think Dr. Frost's evidence was very good. He has given me considerable help.

The CHAIRMAN: We have had an adequate discussion, and there is no proposed amendment.

Hon. Mr. HARRIS: I moved an amendment, or I proposed to move an amendment to "immigrants or epileptics".

Mr. GAUTHIER (*Portneuf*): I would not change it.

Hon. Mr. HARRIS: You say you would not change the present wording?

Mr. GAUTHIER (*Portneuf*): No.

Mr. CRESTOHL: You mean you would leave it as it is in the present Act?

Mr. GAUTHIER (*Portneuf*): Yes.

Mr. CRESTOHL: Then I would support Dr. Gauthier's view.

The CHAIRMAN: Is the minister willing to withdraw his amendment?

Hon. Mr. HARRIS: No.

Dr. FROST: I prefer this one, personally. Epilepsy is a definite diagnosis, while epileptic is an adjective.

Mr. CROLL: Could the minister be wrong?

Hon. Mr. HARRIS: No. I want to make it perfectly clear that I take no responsibility in letting down the barriers on epileptics, and if this be taken by the committee and by the House as some letting down, then I will not be a party to it and I shall vote against.

Mr. CROLL: I think the minister should understand that there is no desire on the part of anyone to let down the barriers on it. The only thing we have in mind is a human understanding of the problem. I think that the doctor's present interpretation seems to suit us; it seems to have been the proper approach; and I think these words are more expressive of what they have been doing, rather than what the Act says. But that is just my view.

Mr. CRESTOHL: I take it that the wording as submitted in bill 305 is not your wording?

Hon. Mr. HARRIS: I think we ought to retain collective security and collective responsibility for that.

Mr. CRESTOHL: This wording may have been the wording of your medical advisers.

Hon. Mr. HARRIS: Shall we let it stand?

Mr. CROLL: Yes, that is the best idea yet.

The CHAIRMAN: Let it stand.

Hon. Mr. HARRIS: Someone asked about trachoma.

The CHAIRMAN: We are on subsection (*b*).

Hon. Mr. HARRIS: Mr. Stewart who is not here today asked whether or not trachoma was a disease which could be cured in the country of origin, and what would be the effect on a person who came to Canada who had been cured of that disease. Would it break out again and show symptoms which would then subject the person to being put in the prohibited class? In other words, is there some peculiar atmospheric condition or something of the like here so that a person in a European country would be certified as completely cured and yet, in fact, that would not be the case?

Dr. FROST: It might break out; it is a disease in which it is difficult to tell when it is cured, and it often recurs over a period of time. It is highly infectious.

Mr. CROLL: Where do you find it? I saw much of it in the east, but is it common in Europe?

Dr. FROST: It is a common disease which affects the eyes and the inner surface of the eye lids and it causes scar tissue, and the scar tissue contracts and the lymphatic ducts become blocked, and the eyes get large pits under the eyes with scars which often cause horrible disfiguring.

Mr. CROLL: Are we free of it in Canada?

Dr. FROST: We are not completely free of it. Our Indian population, in certain areas has trachoma, but it is being kept under control now.

The CHAIRMAN: Subsection (*b*)?

Carried.

Subsection (*c*): Physically defective persons.

Hon. Mr. HARRIS: Someone asked yesterday what was the true definition of "blind". I am not sure what the purpose was.

Mr. FLEMING: I asked, because it may be a matter of some scientific difficulty to decide at what point fading or failing vision becomes blindness.

Dr. FROST: That applies to a person who can see well, but if his vision is less than 1/100 with glasses, then he is considered blind; if his vision is 1/100 normally with glasses, he is considered blind.

Mr. FLEMING: Is that definitely established by scientific tests, or is it a fixed rule which is laid down in your department?

Dr. FROST: That is the definition I received from the chief of the Blindness Control Division of the Department of National Health and Welfare.

Mr. FLEMING: I am not a scientist, but it strikes me as a layman, if I correctly understood your answer, as indicating a rather severe test.

Dr. FROST: Oh no; that person is blind who cannot see; he could not drive a car; and he would have to feel for objects if his vision were that poor.

Mr. FULTON: Would he have to be assisted across the street?

Dr. FROST: That is a fraction of normal vision; 1/100 is a fraction of normal vision; it is a very small fraction of normal vision.

Mr. FLEMING: I thought you said that if his vision was less than 100?

Dr. FROST: No, 1/100 of normal vision.

Mr. FLEMING: Then, that is perfectly clear.

The CHAIRMAN: Carried.

Subsection (*c*).

Mr. CARROLL: You have regulations in your health department under security, Old Age Security and Blind Security, and if a person has less than 10 per cent of good vision, he does not get a pension for the blind. Is there some rule laid down by your department as to that?

Dr. FROST: I think the fraction I have listed is the fraction used by the Blindness Control Division in deciding who gets the blind pension and who does not.

Mr. CARROLL: I am afraid not.

Dr. FROST: If it is less than 22/100, and that is what it is called in technical language.

The CHAIRMAN: Subsection (*c*) stands.

Mr. CRESTOHL: On subsection (*b*) a person afflicted with tuberculosis in any form, could the doctor state whether scars which might be old scars, which show on an X-ray, whether that would be defined as tuberculosis in some form, or a suspicion of tuberculosis?

Dr. FROST: It might lead to a suspicion of tuberculosis, but it is not defined as tuberculosis until we find more evidence. A scar is just regarded as a suspicion.

Mr. CROLL: Is there a form of tuberculosis which is peculiar in continental Europe and which is not known in this country?

Dr. FROST: There is animal tuberculosis.

Mr. CROLL: No, it is humans that I am talking about; is there any such tuberculosis?

Dr. FROST: It is all the same organism.

Mr. CROLL: You say there is no difference.

Dr. FROST: There is no difference.

The CHAIRMAN: Subsection (*c*)?

Carried.

Subsection (*d*). That has to do with moral turpitude. Does it carry?

Mr. FLEMING: No.

The CHAIRMAN: What was the holdup for?

Mr. FLEMING: I thought the minister would consider this question of moral turpitude and the definition of it with Justice.

Hon. Mr. HARRIS: There is no possible combination of words which would improve the situation, so I think it will have to remain; and the intention of the use of the phrase is to permit exceptions to be made in the mind of any minister who would be dealing with the subject. I think that it is conceivable that there are convictions of one kind or another which do not involve moral turpitude, but when you try to narrow the field to a specific crime you are then applying the rule, and if you attempt to define it otherwise than it is at present—I do not think that you will get an all-inclusive group—you will ultimately have to have a residual clause such as this to cover any crimes about which there can be doubt in the minds of the persons concerned. I should add that this Act, as far as interpretation of the Act goes, has been under consideration for some months and that we have made an effort to avoid the use of the two words referred to. We have not been successful—there might be a better way than this.

Mr. FLEMING: May I take a case again, then? Take the case of a provincial statute, a penal offence under a provincial statute. Is the interpretation which the department intends to apply to these words, "a crime involving moral turpitude", going to include every crime in the criminal code? Would the minister say that every crime under the criminal code would be open, or under the interpretation of these words, a "crime involving moral turpitude"?

Hon. Mr. HARRIS: I do not think I went that far. I said the type of crime that would have been committed prior to entry would have been a kind that we would assume would come under the criminal code of Canada, that that was the consideration upon which we would judge the nature of the crime. I should add that after our last meeting I was informed by one of the officials here that I was in error in citing the case of drunken or impaired driving. We have had cases where a drunken driver was ruled as not having committed a crime which involved moral turpitude.

Mr. CRESTOHL: I simply want to say, Mr. Chairman, that in my opinion I am in favour of the amendment to the Act.

The CHAIRMAN: Shall that carry?

Hon. Mr. HARRIS: Before we carry the section may I ask if there is any doubt in the minds of any member of the committee as to the wording of this 5 (1)? Is there any comment on that.

Mr. CRESTOHL: I think it is very good.

The CHAIRMAN: Carried.

5 (*l*) stands.

5 (*m*)—Carried.

Mr. FLEMING: No—that is the same thing.

The CHAIRMAN: Stands, and (*n*) stands.

Section 6.

Mr. FULTON: I raise a question on this one. I do not know that I recall it now, but it related back to the other section. I think the question was that there would be no application of it to a landed immigrant.

The CHAIRMAN: I think we disposed of that.

Hon. Mr. HARRIS: No.

Mr. FULTON: Yes. It is provided in section 6 that every person seeking to come into Canada shall be presumed to be an immigrant until he has satisfied the immigration officer examining him that he is not an immigrant. I can see

the possibility of a person who had been landed legally in Canada for the purpose of acquiring domicile and while he is here he temporarily goes out of the country to work for a company and then when he comes back into Canada he may be required to go through all the formalities which were originally required at the time of his first arrival as an immigrant because he is still an immigrant. I think you should make an exception there in the case where he has landed in Canada.

The WITNESS: An immigrant is a person who is seeking to gain admission to Canada.

Mr. FULTON: Yes.

The WITNESS: Once he has been landed his status as an immigrant ceases, he is a landed person; not a landed immigrant, he is a landed person.

Mr. FULTON: He is a landed person?

The WITNESS: Yes. An immigrant is a person who applies at our borders seeking admission to Canada.

Mr. FULTON: My objection takes quite a different form in that case, Mr. Chairman. It is that you have a person who has been in Canada—once he has landed in Canada you say he is no longer an immigrant, he is a landed person?

The WITNESS: That is right.

Mr. FULTON: I think you should have something in the Act defining what a landed person is, that you should include that category.

The WITNESS: That is already covered in one of the sections. Once a man is landed in Canada, he is no longer an immigrant in this country.

Mr. FULTON: Yes, but you see we no longer have the word "landed" in there. He was landed at the time of his first arrival here; using your words, he is now a landed immigrant.

The WITNESS: As I explained, the word "landing" includes landing or to land, and that is covered by the interpretation section.

Mr. FULTON: I am making the point now because this type of case appears to be an exception. Once he has been permitted entry he becomes a landed person and he becomes a landed person immediately on landing although he does not acquire Canadian domicile right then. Could we not say that he is a landed person? Before he has been here five years,—let us say, he was a landed person, and that he is one of those described in the Act, so that section 6 will be clear on it. He would have to say to the immigration officer: "I am a landed person". And that would be the end of it. But I do not think your immigration officer would find that anywhere under this section.

The WITNESS: He would be under admission, and a person who has been previously landed in Canada may be admitted.

Mr. FULTON: He has been admitted, but you have not created the status of a landed person; so how can you consider this immigrant as a landed person or an admitted person when there is no such thing?

The WITNESS: Administratively we would have his passport which would show that he was a landed person.

The CHAIRMAN: Section 6?

Carried.

Subsection (c)?

Carried.

Section 7 subsection (4): Declaration by minister.

Hon. Mr. HARRIS: I have an amendment.

The CHAIRMAN: There is an amendment to subsection (4) of section 7.

Hon. Mr. HARRIS: The proposed subsection (4) will read as follows:

> (4) Where any person who entered Canada as a non-immigrant is in the opinion of the Minister a person described in paragraph (*a*), (*b*), (*c*), (*d*), *or* (*e*) of subsection one of section 19, the Minister may at any time declare that such person has ceased to be a non-immigrant and such person shall thereupon cease to be a non-immigrant.

Mr. CROLL: I do not think you have improved it any.

The CHAIRMAN: We are dealing with the new subsection (4) and substituting this. If we find that a non-immigrant is in Canada as such and he comes under any of the classes of persons in section 19, the minister may then declare his status as a non-immigrant.

Mr. CROLL: That is what subsection (4) now says.

Hon. Mr. HARRIS: Yes, but it says it more sweepingly; it refers to all non-immigrants, while I have restricted it to those who come within section 19.

The CHAIRMAN: Does subsection (4) as amended, carry?

Carried.

Subsection (5)?

Carried.

Next we have section 8 subsection (2): For limited period and effect.

Hon. Mr. HARRIS: There is an amendment which I would suggest here, which reads as follows:

> (2) Specified period not exceeding twelve months, and during the time that it is in force.

It is merely putting into subsection (2) the 12 month outside period which is now the practice.

The CHAIRMAN: Does the subsection as amended, carry?

Carried.

Mr. CRESTOHL: Can that 12 month period be renewed at any time?

Hon. Mr. HARRIS: Oh yes, under section 3.

The CHAIRMAN: Section 11, subsection (3) (c).

Hon. Mr. HARRIS: We have considered this, and it is a proposal which will be of benefit, we think, though the number of cases we may have prejudiced without it are few, if any. I thought last night after the meeting that I would suggest an amendment to the committee, that we should add the words "in Canada" at the end so that we would do it without including provision for a commission to take evidence overseas and that would restrict it to some extent.

Mr. FLEMING: Well, that would help to clarify this new power. It is a pretty broad provision, even in that amended form. I think it is the sort of thing that should be watched pretty closely.

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: I think the minister would agree with that.

Hon. Mr. HARRIS: I do.

The CHAIRMAN: Therefore, it is agreed that we will add the words "in Canada" at the end. Shall the subsection as amended carry?

Carried.

Mr. CRESTOHL: The minister will appreciate what I say when I suggest that we should make some provision here to provide an immigrant with the right to have subpoenas issued and to have documents produced in his own defence.

Hon. Mr. HARRIS: Yes.

Mr. CRESTOHL: Could we not get that in somewhere; to issue a summons to any person at the request of the person under investigation?

Hon. Mr. HARRIS: I think it goes without saying that if we are creating this kind of court that one of the purposes of it would be to issue summonses. It goes without saying that may be done on behalf of the applicant as well as the department.

Mr. CRESTOHL: I am still of the same opinion, Mr. Minister, and I think this is a special sort of inquiry and it should include provision for the issue of summonses to an accused person just as it does to the department.

Hon. Mr. HARRIS: The Inquiry Act covers that.

Mr. CRESTOHL: Pardon me?

Hon. Mr. HARRIS: The Inquiry Act already covers that.

Mr. CRESTOHL: Oh, it does?

Hon. Mr. HARRIS: Yes, the Inquiry Act says that.

Mr. CRESTOHL: Well, since you put it that way, then perhaps the present Act is quite all right.

The CHAIRMAN: Shall we re-convene at 2 o'clock?

Agreed.

AFTERNOON SESSION

The CHAIRMAN: Come to order, please. We are now dealing with section 12 of the bill.

Hon. Mr. HARRIS: Perhaps we should let this stand along with section 31.

Mr. CROLL: Yes, go on to 13, Mr. Chairman.

The CHAIRMAN: 13 is approved.

Section 19, subsection 1 (*a*).

Mr. CROLL: Yes.

Hon. Mr. HARRIS: Well, that stands, that is controversial.

The CHAIRMAN: Section 19 (2).

Mr. FLEMING: Well, this question is raised as to making a person subject to deportation if he has been convicted of an offence under the criminal code. There is another section 19, which required that the report be made in each case, but I do not think it shows the other offences under the criminal code or that they should be grounds for an order of this kind. I suggest that consideration might be given to creating, raising the floor so to speak, of cases in regard to which the power of deportation did not arise.

Hon. Mr. HARRIS: Well, the answer to this is the same as it was in the use of the words "moral turpitude". I do not think it is feasible or for that matter desirable to take out of the criminal code, special offences and convictions, and try to write them into the Act rather than to leave it as it is. These offences are recorded and then it is up to the discretion of the director and the minister in the proceedings which can be had under this section with respect to deportation to decide whether the offence is a trivial one, or the kind that one might become involved in, shall I say, not of his own will.

Mr. CARROLL: Actually I think you are going too far the other way by including the whole code because there are many criminal offences which are not specified in the criminal code.

Hon. Mr. HARRIS: We discussed that last night, Mr. Carroll, and admitting that there may be something in your contention, it was felt that it should only

be those cases which are defined according to the Code. It may well be that there will be offences committed which are not under the criminal code which will be a matter of concern, but the common law offences are quite unusual, quite rare. In any event, if a person was convicted and was given a suspended sentence it might be a comparatively trivial offence; but, if he is convicted and sentenced to imprisonment we would have a report on it in any event from the jailer.

The CHAIRMAN: Shall 19 carry? Shall subsection 2 of section 19 carry?

Mr. CARROLL: Do you have to include the criminal code to cover it? I suggest there are also a wide range of common law criminal offences.

Hon. Mr. HARRIS: I understand that there are very few offences committed along that line.

Mr. FLEMING: You had better use that division, Mr. Chairman. I think subsection 2 as applied to contain all of 19 (1) (*e*) is too rigorous.

The CHAIRMAN: Carried.

Section 20, subsection 1.

Mr. CROLL: I had a question I wanted to raise there but I believe it has been properly explained.

The CHAIRMAN: Carried.

Subsection 2?

Mr. CROLL: There was a word to be changed there, I think.

Mr. FLEMING: Yes, in subsection 2, the point I raised is that the word "truly" should be changed to "truthfully".

Hon. Mr. HARRIS: We will change it to "truthfully".

Mr. CROLL: You have got that in too easily.

Mr. FLEMING: No, it is in the interest of accuracy.

The CHAIRMAN: Then it will read, "every person shall answer truthfully all questions," and so on.

Mr. CRESTOHL: Mr. Chairman, in subsection 1 relating to new Canadian citizens, is it necessary to use all the words there? I think we discussed that last night. Could you not simply say every person coming to Canada—certainly you would have no reason for using all that extra language.

Hon. Mr. HARRIS: Well, we gave consideration to that last night after the meeting and it was felt that it was desirable to make that clear, that every Canadian citizen and every person having domicile had certain rights conferred by the section there and that it was a right which they could prove before the immigration officers, and that in the interest of making it perfectly clear that is the way in which it was phrased, so that it would be clear that they should be included in that.

The CHAIRMAN: Carried.

Section 21.

Mr. FLEMING: That is a question as to qualification, making it abundantly clear that an examination can be held by any medical officer. Is it the intention that such examination can be held abroad?

Hon. Mr. HARRIS: No. We gave consideration to that, and there did not seem to be any legal difficulty as to holding—

The CHAIRMAN: A little louder, please.

Hon. Mr. HARRIS: —holding an inquiry abroad. We do not feel that it is necessary in this case, but we thought we should at least provide for it by stating that an examination can be held abroad.

The CHAIRMAN: Shall 21 carry?

Carried.

22—subsection 3.

Hon. Mr. HARRIS: I move that that be deleted.

Mr. CROLL: We feel much happier about that.

The CHAIRMAN: Subsection 3 will be deleted and subsection 4 will be amended by being re-numbered subsection 3.

Shall the section as amended carry?

Carried.

Section 24, subsection 2.

Hon. Mr. HARRIS: May I suggest an amendment in the last line; "be detained for immediate inquiry"?

Mr. FLEMING: That is better.

The CHAIRMAN: It will now read: (in line 4) "may cause such person to be detained for an immediate inquiry under this Act." Is the amendment agreed to?

Carried.

Section 26.

Hon. Mr. HARRIS: Well, this is held over for the same reason Mr. Fleming gives for the other one.

The CHAIRMAN: It stands then.

Hon. Mr. HARRIS: No, we have carried it now.

The CHAIRMAN: That is section 19, subsection 2.

Mr. FLEMING: With reservations.

Hon. Mr. HARRIS: He has the exercise of this discretion.

Mr. FLEMING: Yes.

The CHAIRMAN: The next is section 27, subsection 2.

Hon. Mr. HARRIS: I would suggest that this subsection be worded as follows: "(2) the person concerned, if he so desires and at his own expense, shall have the right to obtain and to be represented by counsel at his hearing."

Mr. FLEMING: Very good.

The CHAIRMAN: Shall the subsection as amended carry?

Carried.

Section 27, subsection 4.

Hon. Mr. HARRIS: Yes. I would like to strike out 5 and leave 4 in.

The CHAIRMAN: Mr. Harris moves that subsection 5 be deleted.

Mr. CROLL: That is fine.

Mr. FLEMING: Could we have a word of explanation in that case? We did not discuss this one last night, it was stood over without discussion.

Hon. Mr. HARRIS: It is awkwardly drafted the way it is, and it seems to infer that it might be used by persons—in the second last line there is the suggestion that persons other than immigration officials might be launching prosecutions to have other persons deported, and that is not the intention.

Mr. CRESTOHL: Yes, there are lots of people who would like to assume that responsibility.

Mr. FLEMING: Is there any question as to where the onus of proof lies in such cases?

Hon. Mr. HARRIS: No, the onus of proof remains with the prosecution, with the officer by whom the action is brought.

The CHAIRMAN: Section 28 subsection 3.

Hon. Mr. HARRIS: That was also held on Mr. Fleming's request.

Mr. FLEMING: That was the same point that I raised about the other one.

The CHAIRMAN: Carried.

Mr. FLEMING: With reservations.

The CHAIRMAN: Subsection 4?

Carried.

Section 31, subsection 1.

Mr. CROLL: Are we now going into that whole problem again?

Hon. Mr. HARRIS: No, no, we will let it stand.

The CHAIRMAN: It stands; all the others were stood, from section 40 on. Shall we proceed with those now?

Hon. Mr. HARRIS: No. There is section 39: Jurisdiction of courts.

Mr. CROLL: I thought we left it alone.

Hon. Mr. HARRIS: There was a question asked why the director had been included in section 39?

The CHAIRMAN: We passed that.

Hon. Mr. HARRIS: Did we? Then I beg your pardon.

Mr. FLEMING: The point raised on section 39 was that while there was no objection to the provision extending the jurisdiction of the courts, nevertheless the officials were in favour of this right, and this right had been now created and enlarged in comparison with section 23 of the present Act.

Hon. Mr. HARRIS: The provision in the discretion of the director comes about as a result of the report under section 19, which would be subject to review, and if we did not have his name in, at least I presume it would, and since the complaints would only arise where he had decided to hold an inquiry, it would therefore affect some person. But whether he exercises his discretion properly or not at that point, the proceedings of the special inquiry officer, and the appeal to either the minister or to the Appeal Board would be proceedings which, in themselves, might or might not reach the courts, depending on their terms here, so that it would seem proper that an order made under section 26 should not be open for review in the holding of an inquiry.

Mr. FLEMING: Having heard the answer of the minister last night to another question in which he indicated his view that there was nothing in this Act which restricts the right any person has now to resort to the courts, I take it that the inclusion of the commissioner and some other officers within the scope of the provisions of section 39 as compared with section 23 of the present Act could, under the circumstances just now indicated by the minister, have the effect of depriving someone of resort to the courts?

Hon. Mr. HARRIS: The present section 23 reads:

> 23. No court, and no judge or officer thereof, shall have jurisdiction to review, quash, reverse, restrain or otherwise interfere with any proceeding, decision or order of the minister or of any board of inquiry, or officer in charge, had, made or given under the authority and in accordance with the provisions of this Act relating to the detention or deportation of any rejected immigrant, passenger or other person, upon any ground whatsoever, unless such person is a Canadian citizen or has Canadian domicile.

The appeal board, if it is created, as mentioned in section 31, should have the same protection that the minister has now on its decisions. It should not be subject to review for the same reason that the minister is not now subject to review.

Mr. CROLL: It seems to me that if an immigration officer has that protection, surely it should apply to the higher-ups, who are exercising their discretion and authority; and that is all he is attempting to do.

The CHAIRMAN: Agreed.

Mr. CARROLL: What were the last words in section 23:

> upon any ground whatsoever, unless such person is a Canadian citizen or has Canadian domicile.

Mr. FLEMING: Yes.

Hon. Mr. HARRIS: The words are the same.

Mr. CRESTOHL: Assuming a decision of the department is based on an interpretation of the word "domicile", would the person be prevented from going to the courts over that interpretation?

Hon. Mr. HARRIS: No. He can apply for a writ of habeas corpus, and if he can prove that he has Canadian domicile, the court may decide to review the proceedings.

Mr. CRESTOHL: But does that mean that any judge or officer has jurisdiction to review or to quash or to reverse any decision of the department?

Hon. Mr. HARRIS: No.

Mr. CRESTOHL: And if the court was to find that the definition of the word domicile as applied by the department which resulted in the deportation order was a bad definition, or a wrong definition, let us say, but made in good faith, of course, it seems to me that the person should have recourse to the courts under those circumstances; but to bar that recourse is a very severe section of the Act.

Hon. Mr. HARRIS: It may be, but it is part of the system which vests the decision in these matters in the minister and in the officials mentioned.

Mr. CRESTOHL: Could we not improve this a little by saying that with the leave of the minister, a person can take a matter to the courts? When a person comes to the minister and points out "There is a decision here, but I think I can convince you perhaps that this matter might be heard by a court of competent jurisdiction".

The CHAIRMAN: Is the decision not to continue to be the decision of the minister?

Mr. CRESTOHL: I do not know. The minister may be of a certain opinion, but he may have some doubts about it himself, and the minister may say: "I will give you my consent for you to take this matter to the courts for review. It does not throw the whole proceedings out." But it is the minister himself who gives the permission.

Mr. CROLL: It is not the duty of the minister when resolving any doubt to resolve it in favour of the immigrant or in favour of the man to be deported? I presume that the minister works on that theory, if he has the slightest doubt in his mind.

Mr. CRESTOHL: That might be so today with a generous minister, a kind-hearted minister, but we do not know what the future will hold.

Mr. BALCER: He could not be better.

Mr. CROLL: With any man who will hold that position, it seems to me, no matter who is minister, I think that would be his approach to so serious a problem as that; some will be more generous than others, but I do not think there is any room for an attack on that.

The CHAIRMAN: Could the minister withhold his consent?

Mr. CROLL: Of course he could.

Mr. CRESTOHL: I still think that it does not alter the effect of the section as it is if we simply add "by leave of the minister".

The CHAIRMAN: It does not improve it.

Mr. CRESTOHL: Oh, yes, it is much more generous phrase or clause, and and I think in the interests of justice it is much more democratic, if the minister thinks this is the sort of case where he would prefer to have the courts make a decision; but that is my opinion, and the courts may think otherwise.

Mr. CARROLL: All persons who are Canadian citizens at the present time have the right to go to the courts for everything else, but I do not see why they should have the right to go to the courts with an appeal from a decision which does not concern a Canadian citizen at all, in the matter of deportation.

Mr. CROLL: It has been the practice for a long time, and I think we ought to retain it.

Mr. CARROLL: And it has been shown to be correct practice by the Supreme Court of British Columbia many years ago.

The CHAIRMAN: We have had a rather extensive discussion on section 2; it must be satisfactory to everybody, but there is no amendment before the committee.

Mr. CRESTOHL: I shall move an amendment as follows:

> That such appeals to the court may be had with the express consent of the minister.

Mr. CROLL: Question!

Mr. FLEMING: If we feel any doubt about the protection of the section in general, certainly the amendment is not going to assist in that form because it only speaks of an appeal to the courts. That would not be all of the purpose of Mr. Crestohl's amendment.

Mr. CRESTOHL: Or a review.

Mr. FLEMING: And if you are going to allow access or resort to the courts in any case, then you will have to spell it out in very precise language.

Mr. CRESTOHL: I do not want to press my amendment, but I would like to hear the views of the minister on it.

The CHAIRMAN: We would like to have unanimity in the committee as well.

Mr. CRESTOHL: Well, I would like to hear the views of the minister, and I will be guided by his views; but I make the suggestion as I see it.

Hon. Mr. HARRIS: I repeat what Mr. Croll said, that it has always been part of the immigration law of Canada as well as, I think, of most other countries, that if you attempt to place in the hands of the courts decisions about deportation, you will ultimately obtain a rigidity in your law and precedent. The theory always has been that—and I repeat, "the theory", that the minister, with his discretion, is subject not only to the immediate control of parliament but to public opinion, and that those two factors would probably work out to the advantage of the person concerned more than would a court proceedings. It is true that there ought to be all kinds of safeguards against the liberty of a person being interfered with, and we have attempted to do that throughout this bill. But in the final analysis, the act of mercy, can be done by the minister upon representations, and upon consideration of factors which normally might not enter into the consideration which would be given by a single judge, or even by a court of appeal.

Mr. CRESTOHL: Mr. Chairman, I appreciate the explanation and I withdraw my amendment.

The CHAIRMAN: Thank you.

Carried.

Section 39?

Carried.

Mr. BYRNE: Might we now revert back to 31, the section the minister has referred to?

Hon. Mr. HARRIS: What section was that?

Mr. BYRNE: Section (3) of 31. "Any person other than a Canadian citizen. . ."

Hon. Mr. HARRIS: What was the point, Mr. Byrne?

Mr. CROLL: "Any person" instead of "any resident of Canada."

Mr. BYRNE: Yes.

Mr. CROLL: Wasn't that left as "any person"?

Hon. Mr. HARRIS: I think Mr. Crestohl brought this point up. Last night we worked out an amendment which I thought was presented.

The CHAIRMAN: And I think it was that "any person" would be better than "a resident of Canada".

Mr. BYRNE: I think that this section deals specifically with Canadian citizens or people who have accepted the hospitality of Canada and then have gone abroad.

Now, a person who, having accepted the hospitality of Canada, and then committed some act prejudicial to the best interests of Canada wishes to return. Therefore, this section 3 should read: "Any person with Canadian domicile" as the subtitle would indicate that Canadian citizens are the ones affected or a person with a Canadian domicile.

That is the person who it says here. It would not include Germans or Italians or anyone who had not been previously in Canada but people who had been here, acepted our hospitality, went abroad or even within Canada and committed some crime against the best interests of Canada. So that if we simply put in "any person of Canadian domicile" that would clarify the matter actually. He need not be necessarily a resident but a person with a Canadian domicile. He may be abroad and wishes to enter Canada.

Hon. Mr. HARRIS: I was not here when the discussion carried on this morning so perhaps I am not fitted to speak on it but you would then exclude by inference the person who had not acquired domicile but who might go abroad for this purpose relying on Section (6) that as an immigrant coming back he would have to prove again or assert his right to come into Canada and that you would relate subsection (3) only to those who had been here for a sufficient length of time to acquire domicile?

Mr. CROLL: Why would you exclude a man who came to Canada and had only been here a year and then committed one of these offences? Why should he be excluded any more than the man who has domicile? Wouldn't he be the man that we would want to prohibit.

Mr. BYRNE: The subtitle is obviously intended to allow re-entry of a Canadian or a person who has acquired Canadian domicile. That is the only people we are concerned with in this section.

Hon. Mr. HARRIS: I think you are right because the person who has not acquired domicile would be treated as an immigrant and if he did these acts would be a prohibited person under section (5).

Mr. FLEMING: He committed them before he ever arrived in Canada or only after he was here for a time and then committed them?

Hon. Mr. HARRIS: Well, it does not matter because if we relate that (6) as we do with a person going abroad before he has domicile he has to reassert his right to come in subject to any regulation we may make but whenever the prohibited person seeks to re-enter we can say to him that is the rule even if he had previously been in Canada and we had not known of this particular offence.

Mr. BYRNE: Mr. Chairman, I believe also the matter of the wording would indicate that it was to cover Canadian domicile because the subtitle was there and it infers that it was a person with Canadian domicile.

Hon. Mr. HARRIS: I thought there was a drafting difficulty here and if Mr. Byrne would not mind at the moment we will let it stand.

The CHAIRMAN: Section 3, subsection (3) stands.

Now, we will revert to section 40.

In conformity with our discussion last evening we have representatives of the transportation systems here. If it is your pleasure we will hear them now. There are to be two spokesmen for the two companies in question. We might hear them now and then when they have completed their discussion we will go on with the consideration of the bill. Is that agreed?

Agreed.

Mr. Scott, would you like to introduce the speakers?

Mr. CUTHBERT SCOTT, Q.C.: Yes, Mr. Chairman and members of the committee. The spokesmen are M. J. Q. Maunsell, general solicitor for the Canadian Pacific and Mr. Rosevear who occupies a similar position with Canadian National and T.C.A. They are representing the steamship companies, Trans-Canada Airlines, Canadian Pacific Airlines as well as the railways.

The CHAIRMAN: Would you like to introduce the others?

Mr. SCOTT: Yes, Mr. Randles is the general traffic manager of Cunard White Star, Mr. H. P. Creswell, Commissioner of Colonization Cunard White Star, Mr. E. F. Thompson the assistant steamship and general passenger agent for Canadian Pacific Railways, Mr. Lemay and Mr. MacPherson.

The CHAIRMAN: What is Mr. MacPherson's job?

Mr. SCOTT: Mr. MacPherson, of the law department of the Canadian National Railways; Mr. Jones of the Trans-Canada Air Lines, and Mr. Rosevear. There may be questions that some of the other gentlemen here present may be able to answer, or possibly Mr. Randles may want to say something on behalf of the Cunard White Star.

The CHAIRMAN: If it is your pleasure, shall we hear from Mr. Maunsell?

Agreed.

Mr. J. O. MAUNSELL, Q. C., (*General Solicitor, Canadian Pacific Railway*): Mr. Chairman and gentlemen. I can speak for all the others in saying that we are extremely obliged for your hearing us this afternoon. We know you are under great pressure and we will do our very best to be brief. I can assure you we will not be meticulous in putting forward what we have to put forward. There are some matters in which we are deeply concerned and we are very pleased to have the opportunity of placing them before you for your consideration.

This new Act, of course, takes the place of an Act which has been in force for many years, with amendments. During the many years that have gone by there has been a great change in the immigration policy of Canada and it is quite different to what it was in the early days. In the early days transportation of immigrants to Canada was largely a matter of the transportation

companies going out and getting everybody they could and bringing them in, and they took over the whole responsibility, medical conditions and everything else, and the government of Canada had very little to do with it.

At the present time it is the policy of the government of Canada, as I understand it, to gain suitable immigrants for Canada, many of whom are coming from Europe and are displaced persons. Many, of course, are from other countries, including the British Isles. So far as the Europeans are concerned, the work now of passing upon the suitability of those immigrants for Canada is substantially assumed by the Canadian government. Visas are provided for them and medical service, and they are also screened and selected in every way, and so far as they are concerned the transportation company really only has the responsibility of carrying them to Canada. It has no voice in the matter at all, they are just common carriers and have to take over these people who are handed to them—incidentally, which they are very glad to do. As far as the people of the British Isles are concerned, the Canadian government does not take the same responsibility, but it does require government medical certificates to be issued, and it is in a sense a substantial partnership operation, with the government being the majority holder. So the obligations upon transportation companies now in view of those changed conditions should, we submit, be made less onerous than in times past when we ran the whole show. My thought is, in reading the bill, that the draughtsmen of the bill rather took the contrary view and the conditions imposed on the transportation companies are really more onerous than they have been in the past.

Shall I deal with the sections in order, Mr. Chairman?

The CHAIRMAN: Section 40.

Mr. MAUNSELL: May I refer briefly to section 36?

The CHAIRMAN: Yes.

Mr. MAUNSELL: I have a very privileged suggestion to make regarding that, and that is that in section 36 (2) it is provided that when a person is ordered to leave he may be permitted to leave voluntarily instead of a deportation order being issued against him. My submission is that the words "at his own expense" should be added, so that when the man leaves voluntarily he goes under his own steam. So I would like that amendment made to section 36 (2) by the addition of some such words as "at his own expense" at the end of that subsection.

Now, section 40, subsections (1) and (2) are quite serious from our point of view. Our submission is this in brief: that where a transportation company takes an immigrant from some particular place, that in the event of deportation being ordered in circumstances that make the transportation company liable to transport him back, the company should in no way, place or condition whatever be required to transport him back beyond the point at which they received him for transportation. I am thinking at the moment of the Canadian Pacific Air Lines. We are bringing in people from Japan, and some of those come from China and some from India. Now, if we have the responsibility to bring the man back to Japan, that should be the limit of our responsibility and we should not be required to take him back beyond the country or location where we picked him up. I would, therefore, suggest an amendment to this section 40. It is hard to deal with these things just the way I am doing it, and what I propose to do if it meets with your pleasure after the meeting is to have typewritten out the proposals I would like to submit for your consideration to be incorporated in the bill and to be delivered to your committee tomorrow.

The CHAIRMAN: It may be that we will have this completed today.

Mr. MAUNSELL: We will get them for you, then, as soon as possible, and I will deal with them as simply as I can now.

The CHAIRMAN: Make your suggestions now and we can consider them when you have retired.

Mr. MAUNSELL: Now, with regard to section 40 (1). The amendment that I think should be incorporated in that is this, to rewrite subsection (1) to read as follows:

> (1) Where a deportation order is made against a person who has come to Canada through the United States and that country refuses to allow him to return or be returned to it, the transportation company that brought him to the United States of America shall, where he is deported, pay the costs of deportation from the port of entry from which he will leave Canada and shall at its expense convey him or cause him to be conveyed to the place whence he came to the United States.

I have deleted from that clause all reference to taking him back to the country of his origin.

The CHAIRMAN: In other words, you are deleting lines 2, 3, 4 and 5, everything after the words "United States of America".

Mr. FLEMING: In the second line on page 20.

Mr. MAUNSELL: That is about it, yes.

Then in subsection (2) I have carried the same idea through exactly. That section as I am submitting it is as follows:

> (2) Where a deportation order or rejection order is made against a person other than a person described in subsection (1), the transportation company that brought him to Canada shall, where he is deported, pay the costs of deportation or rejection from the port of entry from which he will leave Canada, and shall at its expense convey him or cause him to be conveyed, to the place whence he came to Canada.

Again I have deleted reference to his place of nationality and also reference to the direction by the government officers.

Now, I would like to submit to the committee a new (3) in place of the present subsection (3), and this is to take care of the situation where we cannot return a man to the place where we got him, although that may happen to be his place of birth or nationality. The subsection which I submit will read as follows:

> (3) In the event that under subsections (1) or (2) it is not possible to convey such person to the place whence he came to Canada or to the country of which he is a national or citizen or to the country of his birth, the transportation company may transport him to any country which is willing to receive him into its territory.

Now, the objection that might be raised to that is that it would put it in the hands of a transportation company to set an immigrant down in some unsuitable place, and it would seem that that should be made with the approval of the minister.

I have no suggestion to make as to (3), which will be (4), and in the present No. (4)—

The CHAIRMAN: Do I understand that you are inserting a clause after (2) which will correspond to the one you have just read, and the one in the bill now numbered (3) will become (4), and No. (4) will become No. (5)?

Mr. MAUNSELL: That is correct. Now, then, No. (5), or No. (4) as it is in the bill, provides that the minister may direct that the transportation costs shall not be paid by the transportation company. The submission that I wish to make is that in cases of this kind where in all events we are not guilty of any

fraud, no transportation costs should be paid by the transportation company; that the whole thing, the obligation to transport the deportee due to the change in the immigration arrangement should not be thrust on the transportation company; and I submit that clause 4 should be become clause 3, except that the following words should be omitted—"the minister may in his absolute direction direct that". I submit that those words could be deleted from that clause. Then, as to clause 6, we suggest this has a new provision—we think it is inequitable that after a man has been admitted and nothing has occurred—that after admission we should be charged for it, or, if it occurs after five years that we should have any responsibility whatever. I also have a suggestion with respect to clause number 6 which contains conditions which the company regards as being unfair; and that is, in view of the changes now being made there should be complete relief in many respects of the transportation company, and my suggestion for a new subsection 6 is this:

> (6)—NEW—Notwithstanding anything contained in this Section the transportation company concerned will not be liable for costs incurred during deportation proceedings, or for the cost of deportation of a person if such person was in possession of valid and unexpired Immigration or non-Immigration documents.

In other words, if he has been admitted as a suitable immigrant to Canada by the Canadian government then that should, in our submission, relieve the transportation companies of any further responsibility. And now, that is all I have to say with regard to section 40. And now I come to section 41. Section 41 requires the transportation company to pay the costs of a person while it is being decided whether or not he should be admitted to Canada up to the time that he has been admitted. Now, my submision is that that really is not an equitable charge against the transportation company, unless in some way it has been responsible for delay which has taken place while that person is being admitted to Canada, particularly because it is not a matter which comes under our control. What I do submit, with respect, with regard to paragraph 41 is that at the end of subsection 1, the words be added—"if the said transportation company subsequently is held liable for his deportation under section 40". Under clause 3 the transportation company that brought to Canada a person seeking admission thereto should bear all the costs. So I feel that that should read—shall not be required to pay the costs of his detention unless liable under—excuse me, forgot to include that— the transportation company who brought to Canada persons seeking admission will pay all their costs of his deportation where held for deportation under section 40. That is what I had in mind.

As to section 42(c), it provides that where deportation is ordered the transportation company is required to pay the deportation costs without in any way making any charge to or taking any remuneration or security from the deported person concerned in respect thereof. Now, we may very well have people who are very well off, and well able to pay all their costs while being held for deportation for their return to their country of origin but under this section, when they are deported, the cost has to be borne by the transportation company, and it seems to us an anomalous position that the transportation company should be required in cases such as that to pay the costs where the man is deported to bring him back from the country which he started. He may be well able to pay for his return passage, and we conceivably would be required to refund the return portion of his steamship or rail transportation which he may have. We think that it is a quite proper thing in the case of where a person is able to pay that we should be able to make an arrangement with the immigrant for him to pay his return transportation,

and we do not think that we should be compelled to assume the cost of returning to the place from whence he came. We suggest that that subsection should be deleted.

Then, with regard to section 47, the matter of the transportation company furnishing the immigration officer certain free transportation as required in connection with their duty. Well, transportation companies now refers to transportation companies all over the world, it includes air lines, steamships and so on, and we think this should be limited to rail companies as, I think, in the former Act. However, I am not sure about that. But we think that the needs of the department would be satisfied if that is limited to transportation in Canada. In other words, if the department desires to send an immigration officer to Cairo or to Hong Kong, for example, or to some place in Europe, we do not think it is reasonable that the transportation company should be expected to bear that cost. I should like to see section 47 limited to transportation in Canada and I would suggest that after the word "transportation" in line 2, the words "in Canada" should be inserted. Now, in regard to all this, I think on these points that I have mentioned you are probably all familiar with the study that has been made by committees of the United States Senate with regard to transportation, and I think that all these suggestions are pretty much in line with what their studies have shown as being considered desirable in particular circumstances. I do know that, undoubtedly there has been a lot of thought behind them and I hope they will be carefully considered by your men. My only other comment is with regard to section 53. Section 53 provides that where there is an offence under the Act any officer of a corporation or any director of a corporation is equally as guilty of the offence as if the offence took place with his knowledge or consent, and that he exercised due diligence and all that. As an officer of the Canadian Pacific Railway, I do not like the thought of travelling along with my head down, feeling that I am in effect a criminal because I have not stepped into a box to prove my innocence. Therefore I think that it is reasonable that section 53 be re-worded so that the ordinary burden of proving him guilty will rest on the prosecution, and that it be re-arranged somewhat in form. The first five lines of section 53 are not being changed at all, and then we say:

> like offence and is liable on conviction to the punishment provided for the offence upon proof that the act or omission constituting the offence took place with his knowledge or consent or that he failed to exercise due diligence to prevent the commission of such offence.

The CHAIRMAN: You will let us have a further presentation.

Mr. MAUNSELL: Thank you very much. That is all I have to say.

The CHAIRMAN: And thank you very much, Mr. Maunsell.

Now before any questions are asked we shall hear from a representative of the Canadian National Railways. Mr. Rosevear, will you please come up to the table.

Mr. A. B. ROSEVEAR (*Representing the TCA*): Mr. Chairman, and gentlemen of the committee.

The CHAIRMAN: What is your first name, Mr. Rosevear?

Mr. ROSEVEAR: My first name is A. B. Rosevear, and I might say that I represent Trans-Canada Air Lines. The airlines are very much interested in this bill because Trans-Canada Air Lines has expanded its flights into many places in the world, and it therefore brings people to Canada from those points.

May I, before going into the bill, join with Mr. Maunsell in thanking you, Mr. Chairman, and the members of the committee for allowing us to come here today and to present some of our problems to you.

I might say to begin with, that I shall not repeat what Mr. Maunsell has said because that would be a waste of your time; but I would like to say that we join with Mr. Maunsell in the amendment which he has suggested, except that we are not in agreement on section 40 subsection (1). Perhaps I should explain that in this way: That we are vitally interested in more countries than the United States with respect to these immigrants, and we have a pressing problem now for instance with respect to immigrants coming from the Caribbean.

As you know, gentlemen, British subjects coming from the Caribbean may come into Canada without a visa. They merely have to have a passport; but also there are many people going to the Caribbean who have External Affairs documents which are completely in order, and who intend to come to Canada. They first go to the Caribbean, or to South America, and then from South America to the Caribbean, and it is there that we run into them.

Among these people there are many Italians and as I have said, these people have papers which are in order; and therefore we, as a common carrier, provided they have the price of the ticket, and provided they have External Affairs papers which are in order to permit them to visit Canada, cannot refuse them as passengers.

We feel in respect to these people that we should not be compelled to carry them back any further than the place where we picked them up, because we were not responsible in the first place for their getting, let us say, to Bermuda. Some other carrier, perhaps, brought them to South America or to Bermuda, and it was there that they came to our ticket office, having their papers in order, and having the price of a ticket to Montreal or Toronto. That is where we picked them up.

Therefore, we contend that section 40 subsection (1) should remain about the same as it is in the present Immigration Act. In the existing Immigration Act it is section 39, and according to it we would only be responsible to take them back to the place where we picked them up. I might say, however, that at the same time, as Mr. Maunsell has said, times have changed and the situation is very different from what it was 30 odd years ago and we now have an airline transporting people; but it is of limited capacity; that is to say, an airplane does not carry as many people as a ship; and therefore it seems very onerous that the airlines should be required to return people to the country from which they came, when the airline is not in any way at fault in respect to bringing those people into that country.

The person coming in has documents which are in order, and the airline has no way of finding out that the documents are not in order; therefore it seems to me that under those circumstances the airline should not be required to transport the person back. That is in line with the thinking in the new bill in the United States. Of course, if the airline is responsible, if the airline officials or traffic officers have been careless in respect to bringing somebody into Canada, then the airline should pay the price of that carelessness; but I submit that the airlines should not be required to pay, when they have no way of determining whether the person is eligible or not, and when the person's documents are in order.

Therefore, with the exception of section 40 subsection (1), I think we are in general agreement with what Mr. Maunsell has said, but I do suggest we should recast our thinking with respect to the onus placed on the transportation companies, and take into account that this bill as it now stands is particularly onerous on the airlines.

Mr. CROLL: How onerous was it last year?

Mr. ROSEVEAR: I was going to remark that Mr. Jones is here, and he looks after our immigration problems.

The CHAIRMAN: Perhaps you would reserve your question until the question period, Mr. Croll.

Mr. ROSEVEAR: I think that is about all I wish to say. I do not wish to labour the subject. Thank you very much, Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Rosevear.

Now, if the members have any questions they would like to submit, they may now ask them.

Mr. CROLL: I neglected to ask Mr. Maunsell as well as this gentleman how onerous it was, and what did it cost them. Do they suggest that there was a heavy expenditure last year on this transportation problem?

The CHAIRMAN: Who is your spokesman?

Mr. MAUNSELL: I am not thinking so much about the actual dollars and cents, but of the legislation. I shall try to find out. I have not got that information.

The CHAIRMAN: Thank you.

Hon. Mr. HARRIS: I think I can give it to you, Mr. Croll.

Mr. CROLL: We will have it then.

Mr. FLEMING: May I ask about Mr. Maunsell's comment and the point offered by Mr. Rosevear about section 40 subsection (1), in which he expressed a preference for retaining the provisions of section 39 of the present Act.

Mr. MAUNSELL: As I read section 39 of the present Act it requires the transportation company which brings immigrants in to the place where the company receives them, it requires that company to return the passengers from Canada to the place where they were originally picked up. But might I say that that probably was not workable, and that might be the idea of the department in introducing a change.

If the transportation company brought a passenger, let us say, from India to Japan, and then the Canadian Pacific Air Lines took that passenger from Japan to Canada, I do not see how a statute of the Canadian government could force the transportation company which brought that passenger from India to Japan to take him back from Canada. Therefore I think that in drafting legislation, there might be some thought given to that point. I thought the situation would be adequately taken care of; but if my points were accepted, that there is no duty on the part of the carrier to bring an importee into Canada, to return that man to the place where he was accepted, that would take care of the situation.

I tried to base my whole case on the premise that there should be no obligation imposed on the carrier bringing the man into Canada to take him further than back to the place where he was picked up by that carrier.

Mr. ROSEVEAR: I think that by retaining section 40 subsection (1) in the way it is now in the Act we might be confining ourselves to taking people from the United States; but Mr. Maunsell's thought is that the carrier should be only required to return the person to where they picked him up. I would agree with Mr. Maunsell on that point.

Mr. MAUNSELL: That is my submission.

Mr. CARROLL: I have one question in regard to section 41, where Mr. Maunsell suggested that something be done about it. I did not get what he wanted the transportation company that brought the man to Canada to do because of his detention.

Mr. CROLL: It is deportation under section 40.

Mr. MAUNSELL: With respect to section 41 subsection (1) I suggested adding words at the end of the paragraph, to the effect that where it has been found liable, it is liable to deport the passenger under section 40.

Mr. CARROLL: Do you admit that you are ever liable for deporting people?

Mr. MAUNSELL: I think that circumstances might arise when we are; we might be careless. I can easily conceive of it. For example, consider the case of a passport which was a forgery; and it was presented to us, and we accepted it. In that case, I think we would be liable.

Mr. CARROLL: When you pick up an immigrant, he is screened by officials of this government, is he not?

Mr. MAUNSELL: Yes.

Mr. CARROLL: And if he is properly screened, you accept that screening as being correct?

Mr. MAUNSELL: We have to.

Mr. CARROLL: Then how can you be liable for the deportation of that person?

Mr. MAUNSELL: We say that if there is a proper screening—but I understand that occasionally it happens that after a screening and a medical examination and all that, a man comes out to Canada and subsequently it is discovered that he was not properly screened and that he has something wrong with him; and in that case the situation would be that he should be deported, and I suggest that we should not have the responsibility.

Mr. CARROLL: Then I agree with you.

Hon. Mr. HARRIS: During the calendar year 1951, 359,284 people arrived in Canada by plane; and of those people, 148 were rejected at Canadian ports of entry, for the purpose of being returned to the United States; and further, 18 were rejected for the purpose of deportation abroad. So that, on the short haul, that is, from American air fields to Canada, the transportation companies were obliged to return 148; and on the long haul, they were obliged to return 18.

Mr. CROLL: Was that the TCA?

Hon. Mr. HARRIS: No, all plane service; 8 of them were TCA, and the balance were others.

Mr. CRESTOHL: Have you got a record of how many of them who were sent back on the long haul had their own return ticket for transportation?

Hon. Mr. HARRIS: No.

Mr. CRESTOHL: But it is possible that they did?

Hon. Mr. HARRIS: Yes.

Mr. CRESTOHL: You were speaking about returning people to the country where they were picked up, and you suggested that they be returned to any country which is willing to accept them.

Mr. MAUNSELL: Yes.

Mr. CRESTOHL: That was the suggestion you made?

Mr. MAUNSELL: Yes.

Mr. CRESTOHL: Would it not be better to add to that: "provided that the immigrant is willing to go to that country"? You could not take an immigrant and place him in another country just because they want him.

Mr. MAUNSELL: I said that it would be quite satisfactory to have some such clause put in, subject to the approval of the minister. I had it in mind that the immigrant needed that protection, and that we should not dump him in some country where he is not wanted.

Mr. HENRY: What about the changes which Mr. Maunsell proposes? Are they in conformity with the American practice?

Mr. MAUNSELL: I understand they are in conformity with the American statute which was passed by the Congress and by the Senate which is now

awaiting signature by the President. It has not yet gone to the President for signature so I cannot say that it is the law; but that law or Act was passed after two and one half years of investigation and examination, and the people were satisfied with every point I have made.

Mr. CROLL: Was that the McCarran Law?

Mr. MAUNSELL: Yes.

Mr. CROLL: The newspapers indicate that the President will veto it. I do not know anything about it except what the newspapers report.

Mr. MAUNSELL: I have read the Act and the reports, as well as the Senate reports and the other reports, and I would be glad, if you like, to read some references to them, to the very things I have been talking about. I can think of particular circumstances in the American law where, after much study, they decided to deal with them along the lines we have suggested here.

The CHAIRMAN: We can get copies, if anybody requires it. Thank you very much.

Mr. ROSEVEAR: I mentioned that we have had an increasing number of cases lately in connection with immigrants and deportation of immigrants, when their papers were in order as far as TCA was concerned; and Mr. Jones can give you more figures on that.

The CHAIRMAN: Will Mr. Jones please step up to the table? Mr. Jones, you represent Trans-Canada Air Lines?

Mr. DONALD JONES: Yes, Mr. Chairman. I have just received some figures which I have here. In 1951 we expended $3,000 in detention and deportation expenditures; and in the year 1950 we had a particular case of deportation at Toronto where our bill was against the deportees, in respect to two aliens in question being held until the decision of the appeal came through. And when it finally came through, we received a detention expenditure account in approximately the amount of $2,000. Now, we looked into the case and we found out that those two persons in question had passports and visitors' visas to Canada and round trip tickets and we felt that we had exercised as much caution as we could in accepting them as bona fide visitors to Canada.

During the last six months we have experienced 43 cases of deportation from the Caribbean, 22 of which have come directly from the Caribbean, and 21 of which have come via New York; and in those 43 cases, in practically all instances, the alien has been ordered deported on the ground that he was not a bona fide visitor and thereby entitled to entry, despite the fact that we checked his documents in advance, and he had a valid passport and a valid visitors' visa; and apparently it was his intention to come to Canada as an immigrant. They were also in possession of sufficient funds, or we thought they were. One alien in question, for example, had $1,500; and they also had round trip tickets, and we thought we did everything we could, as far as we were able, to ensure that they were visitors. We screened these people very carefully in the Caribbean.

Now, that is the sum and substance of what I have to say, of the experience we have had on it. I thought I might add that it seems to me to be of some magnitude and seriousness so far as number of detentions and deportations are concerned. We have brought in quite a number from the Caribbean area, particularly with regard to persons who have entered Canada as visitors and after they had been here a while decided that they would like to remain as immigrants, although in the first instance they were brought in by us, representing themselves to us as being visitors. The question there is as to what their intention was in the first place. That was indicated by the fact that they came to Canada with valid passports and visas. That is the principle distinction, and we have tried to separate them, but it is something that our people find is a little difficult to do. We have to take their word that they are coming to Canada as visitors. I think that is all I have to say, gentlemen.

The CHAIRMAN: Thank you, very much.

Hon. Mr. HARRIS: You are faced with the same thing we are. These people come in as non-immigrants and having arrived here, they announce for the first time that they want to become immigrants.

Mr. CROLL: But they are still outsiders.

Hon. Mr. HARRIS: Yes.

Mr. CROLL: They still have the unused portion of their ticket. Are you ever called upon to refund the unused portion of the ticket? What it amounts to is this, that he comes here under false auspices and under this section you are forced to turn over the unused portion of the ticket and they get a free ride back. Whose fault is it? It is not the fault of the department and it is not the fault of the transportation company. I think we have something there. Under those circumstances isn't that what occurs, they try to get their money back?

Mr. JONES: They usually cash in their return portion.

Mr. CROLL: Yes. Do you force them to cash in the return portion?

The CHAIRMAN: Oh, they usually cash them in of their own free will.

Mr. CROLL: No, no, they can't do that. When they are ordered deported you have to pay the cost of returning them back to the country of origin and you have to do that at your own expense, they cannot cash the unused portion of the ticket.

Mr. FLEMING: He gets a refund on the ticket and he gets a free ride back.

Mr. CROLL: Do they do that?

The CHAIRMAN: Well, not until the full time has elapsed. He either does that or cashes in the ticket.

Mr. CROLL: The company might very well not cash in these tickets for the period for which he is admitted—the 30 days or 60 days or whatever it is.

Mr. JONES: The point is that the immigrant or the non-immigrant in the meantime may be here two weeks, or a month or three months, particularly in the case of non-immigrants and in the meantime he has cashed in his ticket and has the money in his pocket.

The CHAIRMAN: The company doesn't know that he is not going to return.

Hon. Mr. HARRIS: The point is as to whether he is immigrant or non-immigrant. Let us say he is going to be here for three months, he cashes in the unused portion of his ticket in the meantime—say it is two weeks, a month, or three months—whatever time he is authorized to stay here as a non-immigrant; and it is at that point where he cashes in on his ticket and has the money in his pocket.

Mr. CROLL: You are quite right, Mr. Minister. That is the way this bill works out.

Hon. Mr. HARRIS: Yes.

Mr. CROLL: The man is going to be here on a visit let us say for 30, 60, or 90 days; it is quite possible that he may cash in that ticket at any time up until his time has expired. Then it is quite possible that he will be held and ordered for deportation and he gets a free ride back home. It seems that that is very unfair to the transportation companies where this section requires them to carry them back at their own expense.

Mr. ROSEVEAR: We are talking about tickets being cashed in. Under the present provisions of the Act we are forced to cash these tickets because the Act says that we must carry the man back free of charge and we are subject to a fine of $500 if we do not do that. I am informed by Mr. Jones that there is a considerable lapse of time with regard to people coming from foreign countries, particularly from any Caribbean, before he can get his ticket cashed,

because they are in the sterling area—we will refund, but we will not cash them immediately and a lot of them have return tickets in their possession. I think that is entirely inequitable. I think it is also inequitable when a man has sufficient cash to go back on—what it amounts to is that he has come here under false pretences.

Hon. Mr. HARRIS: Let me just conclude in my cross-examination of Mr. Jones by saying this: Do I understand you correctly that in one case it cost you between $2,000 and $3,000 to carry out the provisions of this deportation order?

Mr. JONES: Yes, Mr. Harris, that case involved approximately $2,000 detention expense. That amount was involved at least. When you have to pay at the rate of approximately $50 a day it comes to about $3,000. That was in connection with a deportee last year, returned transportation and keeping him while proceedings were completed.

Hon. Mr. HARRIS: Well then, I would be interested in having full information about this $2,000 item. I have not heard about it before; that is why I am asking for more information.

Mr. JONES: I do not have the file with me, but it involved two aliens who had come to the Caribbean from Latin America—two Czechoslovakians I believe—and I recall from memory, I am quite certain that the persons possessed valid passports and visitors' visas from Canada and were detained on the understanding that they were coming as immigrants. I further understood that the aliens appealed the deportation and were held in detention at our expense pending the decision of the appeal.

Hon. Mr. HARRIS: Why would you run up a bill like that?

Mr. JONES: I beg your pardon, sir?

Hon. Mr. HARRIS: Where would you run up a bill like that? Where would that be, would that be in Toronto?

Mr. JONES: At Toronto, yes.

Hon. Mr. HARRIS: You mean in your detention quarters at Malton airport?

Mr. JONES: No, we were required to hold him under guard in a hotel at approximately $50 a day.

Hon. Mr. HARRIS: Well, if I might see you later about that.

The CHAIRMAN: Mr. Randles.

Mr. ARTHUR RANDLES (*General Passenger Manager, the Cunard Steamship Company Limited, Montreal*): First of all I want to say that I agree with all that Mr. Maunsell has said. Mr. Rosevear and Mr. Jones have pointed out the principal points in which we are interested. However, there is something there which I do not think they covered, and that is the period of time involved in one of these appeal cases. I see that by the proposals of this Act the minister intends to shorten it up by the use of a special board of inquiry, and that may shorten it up quite materially.

Hon. Mr. HARRIS: That is a matter of judgment.

Mr. RANDLES: The next point I would like to make is one which has been referred to already, the matter of detention expenses and the cost of deportation, which is sometimes very substantial. I do not think these very heavy detention expenses should be borne by the transportation companies and in many cases they are really frightening. We do agree fully with Mr. Munsel as to how the clause should be worded.

The CHAIRMAN: Thank you, Mr. Randles.

Mr. Balcer.

Mr. BALCER: A few minutes ago the minister gave us a figure of the immigrants who were sent back by air, I was wondering if he could also give us the number that were deported by ship.

Hon. Mr. HARRIS: Yes, I will give you all of them: The number of persons who came in by highway was 41,200,999, of whom 4,448 were rejected at American ports and 16 were deported abroad. The number of persons who came in by train was 1,642,590, of whom 419 were rejected at Canadian ports through the United States and 54 were deported abroad. The number of persons who came in by ship was 525,500, of whom 98 were rejected to American ports and 335 were deported abroad.

The CHAIRMAN: Does that answer your question, Mr. Balcer?

Mr. BALCER: Yes, thank you.

Hon. Mr. HARRIS: The total number rejected to the United States was 5,111 and the total number deported abroad was 461.

Mr. SHAW: Mr. Chairman, I would like to ask Mr. Jones a question. Have there been any cases where the immigrant who has come in as a visitor rode back to the point from which he came at the expense of the company and then secured a refund? Is there anything behind that?

Mr. JONES: We recently encountered the case of an alien who came to Montreal from Bermuda, purchased a round trip ticket, presumably to visit Montreal, and upon arrival in Montreal the passenger was deported on the ground that the passenger was not in fact a bone fide visitor. We were called upon to transport the returning passenger to Bermuda at our own expense which we did; and following arrival in Bermuda the passenger approached our office there and requested a refund on the return portion of the ticket and under the existing law that is what we instantly did, we had no alternative but to authorize the refund. And I might add that in some cases the passengers even asked us to refund the going portion of the transportation as well on the basis that we were at fault in accepting passage.

The CHAIRMAN: They didn't ask you for interest on their money?

Mr. JONES: No.

The CHAIRMAN: Are there any further questions for these gentlemen? If not, then on behalf of the committee I wish to express our thanks for your attendance on such short notice. We appreciate it very much and we appreciate the help that you have been to us today. Thank you all very much. You may be assured that we will give your representations every consideration. Shall we take a few minutes' recess?

Agreed.

The CHAIRMAN: Shall we now resume our consideration of the sections of the bill?

Agreed.

Hon. Mr. HARRIS: We have just started on 5 (1).

The CHAIRMAN: 4 (iv).

Hon. Mr. HARRIS: That relates to section 19.

The CHAIRMAN: 4 (iv).

Hon. Mr. HARRIS: Yes.

The CHAIRMAN: We will revert to section 4, subsection (iv).

Mr. CROLL: What are the related sections to that? There are two others I think; 19 (*a*)—and what is the other one?

Mr. FORTIER: 5 (*l*) and (*m*) and 2 (*n*) too.

Mr. CROLL: Yes.

Mr. FLEMING: May I ask a question about 4 (iv)? The only question I would raise there is about the person who is found upon inquiry under the Act to have been engaged in these subversive activities but is not convicted. In the case of a man convicted by court, I think the case is crystal clear, I think I need not spend the time on that. What is the position though where on inquiry under the Act, presumably by a Board of Inquiry, a man is found to have been engaged in subversive activities but there has been no conviction in a court? What is the legal recourse if he considers that the finding made by a court of inquiry is not reasonable or just?

Hon. Mr. HARRIS: He has no recourse except by way of appeal to the minister, at the moment, or to the appeal board.

Mr. FLEMING: Of course, I mean if it is in Canada this year; subversive activity carried on within Canada—that is under 19 (*b*)—if it is carried on within Canada.

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: And in 19 (*c*) it is outside of Canada.

Hon. Mr. HARRIS: Yes.

Mr. FLEMING: I was just wondering about the breadth of the terms under which a finding can be made which has never been before a court. As I say, in the case of a man convicted in court the position is crystal clear.

Hon. Mr. HARRIS: Well, there is no difference in that respect with a person who by inquiry is found to have engaged in these activities than a person who is found, for example, to have practised prostitution, if you like, under (*e*) of 19. It may well be that no minister would want to deport a person for this practice until he had a conviction in the court, but there is no requirement of it under 19 (1) (*e*).

Mr. CROLL: What exactly is the difference between the new and the old Acts?

Hon. Mr. HARRIS: The difference is that we provided that he loses his domicile now under section 4.

Mr. CROLL: Yes?

Hon. Mr. HARRIS: The net effect being that which was raised by Mr. Fleming in the discusison on the citizenship bill a year ago, that he does not have two bites at the cherry. Under the existing system, as one step, he gets his conviction; and that conviction may result in the loss of domicile; but he then has to commit another offence before he becomes subject to deportation, in the case of certain activities. And it is probably clear, that without conviction he does not get two bites at it; one is that he loses his domicile, and the next is to cause his deportation.

Mr. FLEMING: I think we would all be in favour of applying full rigour in a case like that. But the question which troubles me is that of a man who was found by the Board of Inquiry to have engaged in subversive activities, but who may steadily maintain his innocence and say: "I have not been before a court of law and been convicted of anything, and it is only your board which says I was engaged in subversive activities, and they are wrong." Where does he go? He might have been here for four years, 11 months and 29 days, and I was wondering why we cannot provide some judicial process in a situation like that.

Mr. CRESTOHL: A little earlier, Mr. Fleming, you took the position that he should not be able to have recourse to the courts, and that was exactly the point which I raised.

Mr. FLEMING: I think that Mr. Crestohl misunderstood what I said about it. Mr. Crestohl introduced an amendment and talked about an appeal. I pointed out that the amendment giving an appeal was not what he was after there at all.

Mr. CRESTOHL: Assume that the board hears it.

Mr. FLEMING: It is not an appeal, but the question of his fighting it in a court in the first instance, before you set up machinery and deport him for having engaged in subversive activity.

Mr. CRESTOHL: I feel that under this section the Board of Inquiry that has been set up will reach a conclusion from the evidence which is brought before it, that the man has been engaged in subversive activity. But the man may say: "That is not true, and I have not been convicted; I am perfectly innocent." But the decision of the board is to be final and he has no redress, and that is where I consider that injustice might be done.

Mr. FLEMING: That is what I am concerned about precisely. We had a case up in Toronto not long ago where an individual was discharged on the allegation of being engaged in subversive activities. He contended that he was innocent, and while it was not an immigration case, nevertheless it was found that there was not any machinery to enable him to carry his case to some higher tribunal. Now, with respect to this Board of Inquiry, I am sure the minister will try to select people who are competent and fair; but on the other hand there is going to be someone—and with all the respect we have for our courts, there are very few cases where we do not allow an appeal to a higher court from a judge of first instance, and sometimes those appeals go a long way. I wonder if we are justified in a situation like this, where it is not a case of conviction, but simply the finding of an appeal board and nothing more, if it is fair that that should be the last word on the subject? I am completely in sympathy with the idea of dealing rigorously with persons who are engaging in subversive activities, but I want to be very sure that they get the full benefit of our rules of law and of our judicial processes before it is found conclusively that they have engaged in subversive activity, when these serious consequences flow from such a finding.

Hon. Mr. HARRIS: There is no reason for elevating persons under this section to a higher degree of respectability; that is what Mr. Crestohl had in mind when he made his suggestion under section 36 or section 39; and while his amendment may not have been precisely correct under the circumstances, I think his principle was clear, that the minister would not have the final word on this thing, and that there should be a court which could pass on them in some form or other, under some machinery which might be set up. And if you are going to do it for the chap who is suspected of having engaged in treasonable offences, I suppose you ought to do it for them all.

Mr. CROLL: I have not heard of any great injury to people covered by the law as it formerly stood, and I do not think any of us have. What you intend to do is to take one step instead of two. Would the department and you feel less comfortable if you left it as it was before, in order to give him the full benefit of every conceivable hearing that he could possibly have under the Act rather than to short-circuit it?

Hon. Mr. HARRIS: Well, in the past you could hold two inquiries.

Mr. CROLL: Yes.

Hon. Mr. HARRIS: And I presume you could do that in the future; but it is doubtful if the so-called crime would be committed a second time after the first Board of Inquiry, so it is for the committee to decide whether or not this is the kind of thing that should make a person subject to deportation, and if so, to provide the machinery to do it.

Mr. CROLL: He has always been subject to deportation; that man has always been subject to deportation, has he not? I think so.

Hon. Mr. HARRIS: Not if he has had domicile.

Mr. WHITE: How many have lost their citizenship through engaging in subversive activities?

Hon. Mr. HARRIS: I do not know and I do not think I could tell you. We have not got anybody here from the Citizenship Branch.

Mr. WHITE: Does it affect many?

Hon. Mr. HARRIS: The amendment was made only a year ago and I do not think we have had very many.

Mr. CROLL: Does this bring it into conformity with the Citizenship Act?

Hon. Mr. HARRIS: Yes.

Mr. CRESTOHL: Assuming you are examining a person who has been engaged in the drug traffic or in prostitution let us say 10 years ago, and you find a person like that is undesirable; and then after the adoption of this Act you find a person who has been convicted of subversive activities 5 years ago falling into the same category as one of the other offenders; would he then be subject to the consequences of this Act? Are we making this thing retroactive, or are we saying that it will only apply to those who will commit an offence of a subversive nature after the adoption of the Act?

Hon. Mr. HARRIS: There is no intention to make it retroactive, but I think that Justice would have to pass on that.

Mr. CRESTOHL: My point is this: It speaks at some time of all the other types of offences.

Mr. L. A. COUTURE (*Department of Justice*): No provision of the Act was intended or was contemplated as having any retroactive effect.

Mr. CROLL: May I ask a question of the minister. I am reading all this with a view to section 12 and the other section, section 31.

Mr. COUTURE: Perhaps I should add that I am expressing the general rule governing all the various provisions, unless in one instance there should be specific mention of retroactivity. But the general rule of law which would apply here is that there will be no retroactive effect unless in the section you find a specific mention to that effect.

Mr. FLEMING: Do you find any such mention anywhere in this bill, Mr. Couture?

Hon. Mr. HARRIS: The final one certainly is subject to the saving clause.

The CHAIRMAN: Now, shall we get along with No. 4, subsection (4)?

Mr. CROLL: The understanding is that the final decision will be with the minister?

Hon. Mr. HARRIS: No; you mean in connection with section 4?

Mr. CROLL: Yes, section 4 and the related sections.

Mr. FULTON: Who makes the deportation order, is it the minister or the director?

Hon. Mr. HARRIS: Section 4 subsection (4) states, if I understand it correctly, that the inquiry which will be held by the special inquiry officer would result in an appeal to someone who would have to find that this person had been engaged in activities which are set out in (*a*), (*b*), and (*c*) of section 19; and if that is the final conclusion, then the person will have been deemed to have lost his Canadian domicile at the time of the committing of the offence. That is the principle you are asking us to pass on without passing on whether or not the appeal will reach the minister.

Mr. CROLL: In asking the committee to pass on this, we know that the appeal finally reaches the minister in one form or another, it would be much easier for us to pass on this section. That is my point.

Hon. Mr. HARRIS: I see.

Mr. CROLL: After all, the minister has a responsibility which is far beyond that of any functional board; I think I would go along if I felt that the man had at least an appeal within the framework of the department to the top of the department. I do not think this is the sort of thing we should leave in the hands of civil servants. I think it is a matter which should come to the one man who is responsible to the people.

Hon. Mr. HARRIS: Can we let it stand and dispose of the appeal board then?

Mr. CROLL: Yes; we can deal with section 32.

The CHAIRMAN: Then section 4 will stand and we will proceed to section 5.

Mr. CRESTOHL: It remains standing on the one question you have pointed out?

Mr. CROLL: Yes.

Mr. CRESTOHL: I would like to dispose of the question of it being retroactive notwithstanding the reply we received, because I am puzzled. Let us assume that after this Act is adopted the Board of Inquiry is set up to deal with the two cases, first, that of the person who has been found guilty of trafficking in drugs or prostitution. There is no question but that person would be subject to this Act and would lose his domicile. But by the Interpretation Act, a person who had engaged in subversive activities in this case will not be affected by this Act; and that does not seem to be logical according to my way of thinking.

Mr. CROLL: The answer to that is that you can put your finger on a drug case which has taken place at a certain time, the other is a technical conviction.

Mr. CRESTOHL: No. Let us say the conviction had taken place some months ago, and one is acted upon while the other one is not, because you say it is not retroactive.

Mr. FULTON: Where do you get the authority for your statement with respect to the case of subversive activity?

Mr. CRESTOHL: The Department of Justice just gave us that information a moment ago.

Mr. FULTON: Do you read that from what Mr. Couture said, that he altered the clear words of subsection (4) having regard to section 19? I am sure the meaning of the words is that if a man is found upon inquiry under this Act to have been engaged in, or to have been convicted of any of the classes of things described in section 19, he would lose his domicile. The clear meaning of those words is not altered by what Mr. Couture said about the lack of retroactive effect.

Mr. COUTURE: My question was specific. "Would anyone convicted of a subversive act prior to the coming into force of this Act be covered and lose his domicile?" And the answer I understood was: "no, he would not be affected or lose his domicile because the Act was not retroactive."

Hon. Mr. HARRIS: Is it not normal that anybody who was convicted today would have his conviction judged by the law as it is today, the existing Act, and not a new one?

Mr. FULTON: If this Act should come into force next week, a person who comes before a Board of Inquiry and is found by that Board of Inquiry, or the

special inquiry officer to have engaged in subversive activity three months ago, prior to this date, surely section 19 and section 4 would come into effect with respect to that subversive activity, would it not?

Mr. CRESTOHL: That is what I thought, but my opinion was changed when Mr. Couture gave a contrary opinion.

Mr. FULTON: Then what is the situation?

Mr. COUTURE: A report of any of the things in section 19 could not be effective before this bill became law; but there might be representations under section 19, made by people who thought they could report convictions under the Act however formal. Subsection 4 would be a conviction; and, the date of his conviction would be the determining guide; that is, the conviction would bear a date subsequent to the passing of the Act.

Mr. FULTON: Well then, take this case that would be covered by the words of subsection 4: to have been engaged in subversive activities—the activities described in paragraph 19. Supposing that this Act should become law at the end of next week, or at a time subsequent or immediately following the passing of this Act, you get a report, say, from the clerk of a municipality and the case goes before a special enquiry officer and presumably it relates to activities that took place let us say in January of this year and your special enquiry officer finds on the evidence brought before him that the person was in fact at that time, in January of this year, engaged in subversive activities within these words in subsection 4; surely then, there being no words in subsection 4 to prohibit it he would proceed under this subsection and under paragraph 19, even though it took place prior to the passing of the Act. Am I correct in that?

Mr. COUTURE: Providing the crime was previous to the passing of the Act.

Mr. FULTON: It would have to because the report did not reach him until after the passing of the Act. It may have related to a matter which took place prior to the passing of the Act.

Mr. COUTURE: That might be.

Mr. FULTON: Surely a procedure provided by this Act would be one respecting these activities; it would be a different procedure from that in the old Act.

Mr. COUTURE: I don't think it could be brought under the old Act because there is no retroactive provision.

Mr. FULTON: I quite agree with you. You are merely giving effect to this Act with respect to inquiry with respect to anything that may have happened after it came into effect. I do not think that situation is at all at variance with the intent of this Act although it has no retroactive effect.

Mr. COUTURE: Yes.

Mr. CRESTOHL: I would like to ask Mr. Couture a question. Let us assume that next week this Act comes into effect and under a board of inquiry this man has been found guilty of a subversive act let us say three months ago. Do you say he would not loose his domicile because the Act you say here is not retroactive—is that correct?

Mr. COUTURE: It is difficult to give a general answer. I suppose that if such a problem arose it would be resolved on the basis of the facts themselves. I think we should not rely entirely on the date of the conviction. A lot would depend on that.

Mr. CRESTOHL: We will say the date of conviction was the 10th of January, 1952; that he is convicted of subversive activities and sent to jail; will he be affected by this Act if that complaint is made next week to this court of inquiry?

Mr. COUTURE: In such a case the report refers to the date of a conviction, and if the section is not given any retroactive impact, I do not think the case would be one that would fall under the new Act.

Mr. CRESTOHL: You might have a situation where there has been a conviction against the person who is found guilty of prostitution let us say three months ago; would that person not be affected by this Act; because, if that is so, then it certainly disrupts the whole system of inquiry of the department and all past performances of prospective immigrants.

Mr. COUTURE: I think there is a question of bridging the gap. There is a provision in the Interpretation Act called bridging—I think the provision is found in section 192; however, you will find it in the law, there is provision in the Act for that.

Mr. CRESTOHL: It is a matter of provision.

Mr. COUTURE: There is a provision for the continuance of that which could have been or was tried under the former Act carrying it over into the period in which the new Act becomes operative. There are certain provisions to cover cases of the kind you are now raising.

Mr. CRESTOHL: I am not quite clear on it; there are no precedents for it that I know of.

The CHAIRMAN: Now, we are on subsection 4 of section 4. Shall the section carry?

Carried.

Section 5 (1).

Mr. MURRAY: I thought that we had carried 5.

The CHAIRMAN: Section 5 was carried, we are now on section 5, subsection (1).

Mr. FULTON: With regard to that I wonder if the minister could tell us what is necessary in the way of establishing that an organization or a group or a body, such as referred to in this section, does in fact promote or advocate subversive activities. It is not covered by the section itself.

Hon. Mr. HARRIS: I do not think there is anything on that. Now, Mr. Chairman, if I may speak off the record, I would like to give the committee some information on this.

The CHAIRMAN: This will be off the record? Agreed.

(Discussion proceeded off the record.)

The CHAIRMAN: Shall section 5 (1) carry?

Carried.

(*m*)?

Carried.

(*n*)?

(Discussion off the record).

The CHAIRMAN: Subsection (*m*)?

Carried.

Then we go on to clause 19 (1) (*a*).

Mr. CROLL: What is that?

Hon. Mr. HARRIS: 19 (1) (*a*) is another subversive clause.

Mr. CROLL: Oh, yes. The next one you want, Mr. Chairman, is 31.

Mr. FULTON: While we are on this section 19 there is a clause which I would like to relate it back to, 4 (iv). Perhaps I have already raised the point, but I want to raise it again and I might as well do it now—Oh, I beg your pardon, that was answered during the discussion this afternoon.

The CHAIRMAN: Section 31—subsection (1)?

Carried?

We will then go back to section 12.

Hon. Mr. HARRIS: This brings up the whole question of Immigration Appeal Boards.

Mr. FULTON: Mr. Croll wanted to be sure that this came to the attention of the minister in the long run, and this has been standing awaiting the arrival of the minister.

Mr. CROLL: Yes.

Mr. FULTON: Do you want to follow that?

Mr. CROLL: I suppose so.

Hon. Mr. HARRIS: We will still let that stand until we get the rest of it cleared up. We have not covered these offences and penalties, in connection with section 50.

The CHAIRMAN: We are on section 12.

Mr. CROLL: No, section 50.

The CHAIRMAN: Oh, section 50, are we going to stand 12?

Mr. FULTON: Yes.

The CHAIRMAN: Section 50, (*a*)?

Carried.

(*b*)?

Carried.

(*c*)?

Carried.

(*d*)?

Carried.

Mr. CROLL: In (*e*) will you change the word "truly" to the word "truthful"?

Hon. Mr. HARRIS: Yes, that will be changed to read "truthful".

The CHAIRMAN: (*e*)?

Carried.

(*f*)?

Carried.

(*g*)?

Carried.

(*h*)?

Carried.

(*i*)?

Carried.

(*j*)?

Carried.

Shall section 50 carry?

Carried.

Section 51.

Mr. CROLL: Just one minute, you have got a new one in here—where is it? I suppose that is to deal with the most recent arrivals in this country.

Mr. FULTON: Which one is that?

Mr. CROLL: (*i*).

Hon. Mr. HARRIS: No; well, it has come up a lot recently, but it is intended to cover in (*l*) all the cases of collecting money by stating that it is needed to bribe a private person.

Mr. CROLL: Well, that is what I had in mind.

Mr. FULTON: The section reads—

> (*i*) makes any charge to or receives any fee, recompense or reward from any person upon representations that a bribe, fee or other consideration has been paid or is payable to secure or assist in securing the admission to Canada of any person;

Why do you have in that that doubled barreled form of wording? Why not just say; makes any charge or receives any fee, recompense or reward? Why put in "any person upon representations"?

Hon. Mr. HARRIS: There is no offence committed or offence created with respect to a person who charges someone for services in connection with obtaining the entry of someone into this country. The offence is that he represents to a person that he wants money because he has to pay a fee, or would have to pay someone else to get the admission.

Mr. CROLL: That is all right.

Mr. CRESTOHL: That is an offence.

The CHAIRMAN: (*i*)?

Carried.

(*j*)?

Carried.

Shall section 50 carry?

Carried.

Section 51, subsection (*a*)?

Mr. CROLL: Just a minute these were all new.

Hon. Mr. HARRIS: Yes.

Carried.

(*b*)?

Carried.

(*c*)?

Carried.

(*d*)?

Carried.

(*e*)?

Carried.

Mr. FULTON: Before the section carries might I ask the minister if he is in a position to make any further comment on the statement in connection with this matter that we were talking about?

Hon. Mr. HARRIS: No, the counsel in Montreal is no further ahead, other than that the study is completed.

Mr. FULTON: Are there any administrative practices or regulations which you might lay down other than the inclusion of this penal section in the Act, to tighten up and prevent a recurrence of such a thing? Have you got to the point where you have made any decision on that?

Hon. Mr. HARRIS: We did introduce certain minor administrative changes in some of the offices here last year which were intended to avoid some of the difficulty; but actually the best thing you can do is to change your personnel, if you find them unsatisfactory, and that has been done in several cases.

The CHAIRMAN: Section 51 subsection (1)?

Carried.

Subsection (2)?

Carried.

Section 52?

Carried.

Section 53: Officers of corporations.

Mr. CROLL: Let it stand for a minute. The transportation people talked about it.

The CHAIRMAN: Section 54?

Carried.

Section 55?

Carried.

Section 56?

Carried.

Section 57 subsection (1)?

Carried.

Subsection (2): Where commission outside Canada.

Carried.

Section 58 subsection (1)?

Carried.

Subsection (2)?

Carried.

Mr. FULTON: With respect to section 57 subsection (2), it reads:

> (2) Any proceedings in respect of an offence under this Act or the regulations that is committed outside Canada may be instituted, tried or determined at any place in Canada.

It seems to me to be desirable in prospect, but perhaps difficult to use that with any sense of reality.

Hon. Mr. HARRIS: The difficulty is to prosecute an unfaithful servant who has committed an offence abroad, to prosecute in Canada a person who has committed an offence abroad, and while it would be pretty sweeping and undesirable to charge him, let us say, in Vancouver if he happened now to be dismissed and out of the service in Montreal; but the purpose is to permit proceedings being launched in Canada with respect to offences committed abroad.

Mr. FULTON: How would you go about getting the witnesses, and so on?

Hon. Mr. HARRIS: I think you would have to arrange your venue at the most convenient place for the largest number of those charged, or for the largest number of witnesses.

The CHAIRMAN: What about commission evidence?

Mr. FULTON: No, you cannot take commission evidence outside of Canada.

Hon. Mr. HARRIS: No.

The CHAIRMAN: Under the Act?

Mr. FULTON: It is confined to within Canada.

Mr. CROLL: Yes, to within Canada.

The CHAIRMAN: Section 57 subsection (2)?

Carried.

Section 58 subsection (1)?

Carried.

Subsection (2)?

Carried.

Section 59 subsection (1)?

Carried.

Subsection (2): Effect.

Mr. FULTON: Did the transportation companies have any objection to this?

Mr. CROLL: No.

The CHAIRMAN: Section 59 subsection (3)?

Carried.

Section 60?

Carried.

Could we have a recess for a moment.

(Discussion took place at this point off the record).

Mr. CRESTOHL: I am concerned with section 12 and section 31 which deal with appeals, and I feel opposed to the inclusion of these proceedings. Section 12 and section 31 deal with the same appeal board. I am reading now subsection (3) and (4) of section 31:

> (3) An Immigration Appeal Board or the minister, as the case may be, has full power to consider all matters pertaining to a case under appeal and to allow or dismiss any appeal, including the power to quash an opinion of a special inquiry officer that has the effect of bringing a person into a prohibited class and to substitute the opinion of the board or of the minister for it.
>
> (4) The decision of the majority of an Immigration Appeal Board or of the minister, as the case may be, is final.

It is final, and you cannot budge beyond that. I think it militates against—I am not speaking about giving a person the right to have his day in court, but what would happen, for example, after the appeal has been finalized by the minister under section 31 and section 4, where new evidence is discovered, evidence which was not available at the time the appeal board sat? Under our courts or under our system of law there is such a thing, and there are various proceedings by which you can ask for a re-opening of the "enquete", to have this evidence heard. But if the language of the Act as it reads now means that it is so hopelessly final, that the only proceeding we have left is to go to

the minister and say to him: "Mr. Minister, we have found some new evidence which we think, if you would hear it, might alter your decision." That is why I say I would like to see this word "final" modified in some form, so that it would be still left open for introduction of new evidence.

Mr. GAUTHIER (*Portneuf*): What would you suggest? What word would you suggest?

Mr. CRESTOHL: "If upon submission to the minister by petition or otherwise of new facts or new evidence which was not available at the time the appeal was heard, the minister is of the opinion that this new evidence should be introduced, he may re-open the "enquete" for the hearing of this new evidence."

Mr. CROLL: If I may follow in that line, I want to give the minister something to think over tonight. I have been thinking about this matter; section 12 and section 31 which go to the core of this bill. In the first place, they must be considered in the light of the disability on the part of the individual to go to the courts; they give him no right to go to the courts. What we are doing—is a matter that requires a great deal of thought. We are to some extent depriving him of representative government, because we now have a delegation of authority by the minister, which has never been done before, such as this delegation of authority from the minister to civil servants; and then of course there is this finality which is another serious matter. What we are doing in effect is something we must be very careful about because we are introducing here the American system of dealing with these matters, such as deportation. The Americans do not have responsible government to the same extent that we have. In the United States they have no minister in the sense that we have, responsible to a parliament. It is true they have a person in charge who is a cabinet minister, but he is not responsible to the Congress or to the Senate and he does not sit in either house. But our theory has been, throughout the years, that this is a responsibility of the minister, and since we deprive the immigrant of his right to go to the courts, we cannot have it both ways. The delegation of authority under these circumstances is a very serious matter. I think it will subject the minister and this committee and parliament to a great deal of criticism. I can see the minister attempting in some way to delegate some of this authority that is very onerous. He can do it and I have no objections to the minister doing it within his department, and delegating the power to review to any group he likes. But the minister would finally have to deal with it; I do not think there is any thing we should do to take away from the minister that responsibility which is his. He is answerable, and he always has been answerable, and for that reason I think the minister's responsibility should remain under the Act, and whatever internal changes the minister wishes to make is for him to make. But to go beyond that I think would be introducing an entirely new principle into the Act which, on reflection, we will regret having done, because we are proceeding along the American system which lacks that responsibility.

Hon. Mr. HARRIS: Let me clear up one point. Does section 29 provide for the introduction of new evidence in all circumstances in which there has been an inquiry?

Mr. CROLL: I did not make that point.

Hon. Mr. HARRIS: No.

Mr. CROLL: 29 is on a proper basis.

Hon. Mr. HARRIS: I realize that, but do not forget that section 29 gives the majority of the appeal board the right to review their proceedings. That meets one of the objections made by Mr. Crestohl.

Mr. CRESTOHL: That is right.

Hon. Mr. HARRIS: But there is no finality actually. You can change your mind and introduce new evidence in accordance with section 29.

Mr. CRESTOHL: If you will add to section 4 and section 31 these words, "subject however to section 29 of this Act", I would agree with you. But do not forget that section 31 comes after section 29.

Mr. HENRY: Could the minister not meet Mr. Croll's objection, which I think is a real one, by giving a blanket direction under paragraph (*a*) of section 31 subsection (2), which says:

> (2) All appeals from deportation orders shall be reviewed and decided upon by an Immigration Appeal Board, with the exception of any appeal that
>
> (*a*) the Minister directs the Immigration Appeal Board to refer to him; or . . .

My idea is that he would take a preliminary look at all cases, and then if he chooses, he might refer them to the board; but I can see that he does not cover the question of being able to review the decision.

Hon. Mr. HARRIS: I do not think that is possible unless the minister were to lay down a list of the kind of cases that would not be dealt with by the Immigration Appeal Board. He could not refer in advance to any given case.

Mr. CROLL: Let us forget the Immigration Department for just a moment. All of us know enough about other departments, so let up take an application, for example, for steel in the departments of the Right Hon. Mr. Howe; the head of the department says: "no". But that is not final. We know that on a great number of times, in his wisdom, the minister has seen fit to provide steel for such and such a case. Consider another department today. Look at War Production where millions of dollars are spent and where the ministers have very great difficulty in seeing all the contracts which appear before them. They could very well delegate their authority under the Act, but it is not our concept of the way a responsible minister should act. I have no quarrel with the minister or with the board. I quarrel with the principle of it. It is a new principle and one which I consider to be the derogation of authority.

Mr. FULTON: May I ask the minister the reason the change is made? Is it because there is such a tremendously growing volume of appeals, or is it considered advisable to eliminate appeals to the minister, which used to be of right except in those few cases which are covered in section 18? Why is it considered desirable to eliminate the appeal to the minister which used to be as of right?

Hon. Mr. HARRIS: That refers to the more recent type of appeals involved in deportation cases which in some cases remained around for a considerable length of time, and while such delays are not unusual it does have a bearing on the hearing of these cases. There are a great many, for instance, in which there might be much merit, and especially in a remedial section like this. It almost inevitably happens that as regards a ship which has brought a person who is being deported, the transportation company or the government have been involved in a certain amount of criticism in the exercise of that discretion, and there is the general feeling that a person should not be deported without very good reasons; and the result is that you have someone staying around for weeks or months waiting for the next ship of that particular line. That is an extreme case which is not likely to happen under the present system. It was to deal with cases of that kind that the Immigration Appeal Board was instituted, and in that way it would be frequently possible to make decisions in three or four or five days. There is the other

case too to be made—and this is not a personal view—the case of the work involved. But I would think there were between a thousand or 1,400 appeals a year in an average year, and in a good many of them there is nothing significant by way of principle, but most of them are sufficiently important to go to an appeal board. But the whole purpose was to avoid the length of time between the launching of an appeal and the decision. The T.C.A. officials complain about spending $2,000 on one case pending appeal. That is probably an extreme case, but it is more or less an example of what is happening and there is always frustration and vexation at the delay, even if you have the clerical set-up and good interpreters; and, of course, it takes time to have the evidence transcribed after the hearing. I suppose it would average from three to five weeks from the time the appeal is made until it is dealt with.

Mr. FULTON: On this section, I have no very pronounced views concerning the expression made by Mr. Croll. I would like to agree with them in principle. What would there be in the way of time saved by saying that there shall be no appeal in those cases which involved deportation orders made against immigrants who have just come to a port of entry and against whom a deportation order has been made, because they have only recently landed on Canadian soil and it is probably that they have not yet acquired any rights at all in Canada; whereas an appeal shall be allowed in the case, let us say, where a man has been in Canada for more than a certain length of time, the alternative to the case of those types which come under section 19.

Mr. CROLL: There would be no delay in the case of a man who arrives let us say as a passenger, and the decision is made to allow him to enter. You would have no delay in cases of that kind.

Mr. FULTON: I think you should allow an appeal in the case where a man has been in this country for a certain length of time and a deportation order has been made against him; made for instance under section 19 on account of subversive activities; he would have certain rights to be heard there. I wonder if it would be possible to provide this right of appeal being allowed in those cases where a man has been in Canada for any length of time at all as distinguished from the person who has just landed at a port of entry? Would that be satisfactory?

Mr. CROLL: My point is that traditionally, for 40 years the minister has had the responsibility, whether here or in the Income Tax Board or any other department, I don't care where it has been, or whatever department—the minister has always had the responsibility. We feel that the responsibility might be on the floor of the House.

Mr. WHITE: You cannot compromise on this matter.

Mr. CROLL: No, I do not see how you can. I think they understand that. It is a matter of principle really.

Mr. CRESTOHL: I want to repeat a suggestion I made this morning, that appeals should be allowed by the minister, and it does not matter what other cases he chooses to have taken to appeal. Just because a person involved wants an appeal does not mean that it must be allowed. Before he is given that right of appeal the case should be reviewed. Let him make his representations to the minister as to his grounds for appeal and let the minister decide on the basis of the facts submitted as to whether or not the application for appeal should be allowed, and if it appears on the face of it to be a frivolous appeal, then the minister would have the right to deny the application. That should be the responsibility of the minister, and there should be no right to question it.

Mr. CROLL: Mr. Crestohl, may I point out that what you are suggesting now exists under the labour code. You remember the case where certain employees took an appeal against the Canadian Press who were charged with

union busting activities. They exercised that right of appeal to the minister for leave to prosecute. That appeal to the minister is the most impressive part of the whole procedure. It is difficult for him to say "no" to anyone, because if he says "no" he appears to have pre-judged the whole thing, and I think he will allow such an application in almost every case. I do not think we should put the minister in that position. The minister will deal with that appeal because he will feel that he just can't say "no".

Mr. CRESTOHL: I do not think the situation is similar. In the one case it is asking for a right to prosecute and in the other it is asking for leave to appeal. I am strongly behind our system in the province of Quebec. I referred to one case this morning. There are certain cases in our jurisdiction where a person has not got the right of appeal, but where he can do so he has to apply to a judge of the court of appeal by petition saying: "I would like to appeal, these are my grounds for appeal"; and if there are sufficient grounds to support the petition he will accept it and leave to appeal may be granted; but you will make sure that it is not frivilous, not made for the purpose of obtaining delay, but only for the purpose of securing justice. I think the minister should retain for himself that responsibility with respect to appeals and I think that is an important item in the administration of justice.

Hon. Mr. HARRIS: When I introduced this bill I did say that we would explain to the committee the reasons for the delays which the present procedure brought about. I have made a general statement on that. I could give you the details of cases, but I think I have made my point: that they are very much of a type; and I do not think I have very much more to say on that. The committee did give consideration to it here the other night; and, bearing in mind the fact that we are perhaps in fact creating an injustice now by these long delays involved in obtaining a decision, we should also consider the other end of it.

The CHAIRMAN: Section 12 and 31 they will stand.

Hon. Mr. HARRIS: What was it you wanted to know, Mr. White?

The CHAIRMAN: We have another five minutes if you want to go on.

Mr. WHITE: I was not clear on section 50, subsection (i). The reason I ask the question is that I received a letter from a correspondent—and I do not know very much about this sort of thing, but I was wondering whether in the case of a person who had an appeal before this board, he would have the right to obtain the services of a solicitor, to call in a lawyer to help him and to pay him a fee?

Hon. Mr. HARRIS: There is no law that will prevent anybody in this country from retaining a solicitor to approach the department or to prepare the necessary application and conduct correspondence with regard to it with the department, even on the part of some person abroad who sought admission. If the solicitor does act for such a party, I presume it would be in order for him to charge a fee according to whatever arrangement he may have made with his client whom he is assisting.

Mr. FULTON: That will be open to any solicitor or anybody else who might render that sort of service.

Hon. Mr. HARRIS: That is right.

(Discussion continued off the record.)

Mr. MURRAY: I would just like to ask a question concerning immigrants who misrepresent their abilities when making application for entry. I know of many cases of people who have come to Canada who said in their eagerness to get here, that they were carpenters, or chemists—whatever it is—or farmers —in many instances the men who arranged to sponsor them found that when they got here they did not know even how to milk a cow. To me eagerness

to get into Canada does not justify misrepresentation of a person's capacity to work. I think there should be some way of controlling that sort of thing. Mere eagerness to get into the country does not excuse misrepresentation of their ability.

The CHAIRMAN: I am sure that will be taken into consideration. Are there any further questions?

Then tomorrow morning we will continue and stay with it until we are through.

The committee adjourned until 11.30 o'clock a.m. tomorrow, June 19th, 1952.

APPENDIX "A"

BILL 305

Submission of CANADIAN NATIONAL RAILWAYS, CANADIAN PACIFIC RAILWAY COMPANY, TRANS-CANADA AIRLINES, CANADIAN PACIFIC AIRLINES LIMITED, CUNARD STEAMSHIP COMPANY LIMITED, CANADIAN PACIFIC STEAMSHIPS LIMITED.

Section 36, subsection (2)—delete "period" and add "at his own expense".

Section 40, (1)—Page 20, line 2—delete everything after the phrase "or to the country of which he is a national or" etc.

(2) line 13—insert a period after the word "Canada" and delete the balance of the subsection.

(3)—DELETE, and substitute the following—"In the event that under subsections (1) or (2) it is not possible to convey such person to the place whence he came to Canada or to the country of which he is a national or citizen or to the country of his birth, the transportation company may transport him to any country approved by the Minister which is willing to receive him into its territory."

(4)—Same as (3) in Bill.

(5)—Same as (4) in Bill except that following words should be omitted—"the Minister may in his absolute discretion direct that"

(6)—NEW—Notwithstanding anything contained in this Section the transportation company concerned will not be liable for costs incurred during deportation proceedings, or for the cost of deportation of a person if such person was in possession of valid and unexpired Immigration or non-Immigration documents.

Section 41, (1)—Add "if the said transportation company subsequently is held liable for his deportation under Section 40.

Section 42, (c)—DELETE.

Section 47—line 46—after the word "transportation" insert "within Canada" Page 22, line 1—before "free" insert the word "such"

Section 53—Line 10—after the word "offence" delete the remainder of the paragraph and substitute—"and is liable on conviction to the punishment provided for the offence upon proof that the act or omission constituting the offence took place with his knowledge or consent, or that he failed to exercise due diligence to prevent the commission of such offence."

BILL 305

SUPPLEMENTARY SUBMISSION OF TRANS-CANADA AIRLINES

After hearing Mr. Maunsell's explanation to the Committee of the suggestions which he has made for the amendment of Bill 305, Trans-Canada Airlines finds itself in complete agreement with same.

If the Committee finds that it cannot accept Mr. Maunsell's submissions in their entirety, particularly the one with respect to a transportation company not being held liable when it has observed due diligence in accepting a passenger, Trans-Canada Airlines has an alternative suggestion to make.

Bill 305 amends Section 39 of the Immigration Act by making its provisions more restrictive, i.e., confining the geographical limitation to the United States. If the Committee should not accept the proposition that a transportation company would be held free of responsibility if it had shown due diligence, Trans-Canada Airlines suggests Section 40 (1) be amended to read as follows:

> Where a deportation order is made against a person who came to Canada through any country other than the country of which he is a national or citizen, and that country refuses to allow him to return, or be returned to it, the transportation company that brought him to such country shall, where he is deported, pay the costs of deportation from the port of entry from which he will leave Canada, and shall at its expense convey him or cause him to be conveyed to the place whence he came to such country, or to the country of which he is a national or citizen, or to the country of his birth, as directed in the deportation order or other order or direction made by the Minister, Director, or a Special Inquiry Officer.

EVIDENCE

JUNE 19, 1952
11:30 a.m.

The CHAIRMAN: Will you come to order, gentlemen, please. There are several clauses yet to be disposed of which have been stood over from previous meetings. We have as witnesses today representatives of the various transportation systems, and it might be well for us to proceed with section 36, if it is your pleasure.

Hon. Mr. HARRIS: The transportation companies yesterday suggested the addition of 4 words at the end of subsection (2) of section 36, which would indicate that a person being deported who elects to take voluntary departure, might do so at his own expense. We are not in favour of the amendment because the only obligation imposed on the transportation companies is the obligation in section 40, which, in every case, is preceded by the words "where he is deported", and that does not include a voluntary departure.

Mr. FLEMING: It is perfectly clear, is it, that you do not consider the amendment necessary?

Hon. Mr. HARRIS: That is right.

Mr. FLEMING: Because the position which the transportation companies argued for yesterday was so fully taken care of by the bill?

Hon. Mr. HARRIS: That is right.

The CHAIRMAN: Section 36, subsection (1), "Deportation"?

Carried.

Section 40 subsection (1): "Liability for deportation where U.S.A. refuses to allow return".

Hon. Mr. HARRIS: The transportation companies suggest the dropping of several lines subsection (1) and (2), but we are not in a position to accept the suggestion because it would restrict the obligation of the company only to deportation to the place whence he came to the United States. There are so many difficulties involved in deportation that you are not in a position to choose at all times the most obviously easy country. That is why we have all these choices. However, on their main points, we have an amendment to suggest. We will add at the end of the section the words—

Mr. CARROLL: Is that subsection (2)?

Hon. Mr. HARRIS: No, subsection (1). "At the request of the company . . ."

Mr. FLEMING: Is this new?

Hon. Mr. HARRIS: No. "And subject to the approval of the minister to a country that is acceptable to such person."

Mr. FULTON: Just a moment, please. "Subject to the approval of the minister".

Hon. Mr. HARRIS: "to a country that is acceptable to such person and that is willing to receive him."

In order to clarify that, we will have to refer section 2, subsection (*d*).

The CHAIRMAN: The definition of "deportation".

Hon. Mr. HARRIS: By inserting after the word "birth" in the second last line: "Or to such countries as may be approved by the minister under this Act."

And then continue: "as the case may be".

The CHAIRMAN: Shall we deal with section 40 subsection (1) first?

Mr. FLEMING: May I ask how this is going to affect the case administratively which was put by Mr. Maunsell yesterday, of the person coming from India as far as Japan, and there taking a Canadian Pacific Airlines plane at Japan, and landing, let us say, in San Francisco and making his way into Canada?

Hon. Mr. HARRIS: The Canadian Pacific will have to pay the cost, or provide the transportation to any one of the countries mentioned in subsection (1), regardless of whether or not they brought the person from that particular country.

Mr. FLEMING: So that if you could not find some other country which was willing to have him in a country which was a little closer to Canada, it means that the obligation now borne by the transportation company will continue unabated, and they will be held responsible for providing transportation back to India?

Hon. Mr. HARRIS: That is right.

Mr. FLEMING: I think that is unduly onerous on the transportation company; certainly the last carrier in that case has had no part to play in bringing the individual to Tokyo or to Hong Kong, to take the example which was put yesterday; and it seems to me, having regard to the vastly changed circumstances since the present Act was first enacted, that it is onerous and unfair to saddle the transportation company with the cost of returning an individual to the country of origin in a case of that kind, I mean in the case which was put yesterday, taking him back a good many thousand miles beyond the point where the last carrier first took him aboard. I think we ought to have regard to the great change in circumstances now-a-days, with the department extending the area over which it is assuming responsibility for examining intending immigrants coming from the four quarters of the globe.

The CHAIRMAN: Is there any further discussion?

Mr. CROLL: I move the adoption, Mr. Chairman.

The CHAIRMAN: You move the adoption. All in favour?

Mr. FLEMING: I move in amendment, Mr. Chairman.

The CHAIRMAN: We have got one motion to adopt. Do you want to amend it?

Hon. Mr. HARRIS: Mr. Chairman, I move as an amendment that we add the words I have read. We can dispose of that and then there may be other amendments to the section if desired.

The CHAIRMAN: It has been moved—you have heard the amendment to the motion by the addition of these words. All in favour?

Carried.

Mr. FLEMING: Mr. Chairman, I now move that all the words in subsection (1) after the word "America" in line 2 on page 20 be stricken out.

Mr. CROLL: That is right. That is the suggestion that was made yesterday. May I just say that the suggested words of the minister at the request of the government "subject to the approval of the minister to a country that is acceptable to the person that is willing to receive him" is a pretty important part of the bill.

We are dealing with human beings here and we can never under any circumstances permit transportation companies or anyone else to get rid of human beings in one fashion or another and these are proper safeguards.

They might very well find that there is a ship going to Guatemala and that is the place to send him. He may not want to go there and could not possibly live there and consequently this becomes a very important part of the bill and it seems to me it ought to be readily acceptable to the committee.

Mr. CRESTOHL: Mr. Chairman, am I right in understanding that if we adopt Mr. Fleming's amendment we virtually nullify the amendment which we have adopted that was made by the minister?

Mr. FLEMING: It will become unnecessary.

Mr. CRESTOHL: In other words, the honourable minister has amended that section by the addition of that complete clause and, if we now adopt the amendment of Mr. Fleming we strike that entire amendment which was just approved out together with your words after "America". I think Mr. Chairman, you should point that out.

The CHAIRMAN: It gave me some concern for a moment too but I find that the amendment of the minister is merely the addition of certain words and the amendment of Mr. Fleming is not only the deletion of the additions to the bill but other words.

Mr. FLEMING: Mr. Chairman, just one word. This section has to do with the payment of the expenses of many people. That is the nub of the problem. I do not think that cost should be saddled on the transportation company under the circumstances given. The amendment given by the minister helps the section and maybe if the words I would like to strike out stand I would certainly like to have the minister's amendment.

The CHAIRMAN: You have heard the amendment moved by Mr. Fleming seconded by Mr. Churchill. All in favour of that motion?

Contrary?

I declare the amendment lost.

Mr. SHAW: Mr. Chairman, isn't that an unusual way of taking a vote, to ask all those who are not in favour to indicate, those who are in opposition? It is just unusual. You did not ask those who were for. I am not objecting; I thought it was unusual.

Mr. CRESTOHL: Yes, but there was a show of hands.

Hon. Mr. HARRIS: The same amendment is moved in section 2 which I moved in section 1.

Mr. FLEMING: And I also will move a similar amendment that I moved to (1).

The CHAIRMAN: Let us take the first one first. You have heard the amendment made by the minister to amend section (2) of 40. All those in favour of the amendment?

Carried unanimously.

Mr. FLEMING: Now, may I move that all the words after the word "Canada" in line 13 on page 20 be stricken out.

The CHAIRMAN: You have heard the amendment by Mr .Fleming that all of the words after the word "Canada" in line 13 be stricken out. All those in favour of the amendment please indicate?

I declare the amendment lost.

Mr. FULTON: Mr. Chairman, may I ask the minister whether anything can be done to afford relief to the other situation which was referred to yesterday when a man comes here as a visitor on a return ticket?

Hon. Mr. HARRIS: We will come to that.

Mr. FLEMING: Is there anything the minister would like to say about other sections that would have a bearing on the proposal to delete (3) yesterday with the substitution of a new (3)?

The CHAIRMAN: Subsection (3)—

Mr. FLEMING: Mr. Chairman, just one observation. I think the minister is prepared to say that the amendments he has just now introduced and which the committee has adopted to subsections (1) and (2) fully meet the proposal made by Mr. Maunsell yesterday for the introduction of a new subsection (3).

Hon. Mr. HARRIS: Perhaps I should not be the judge of that but that was the intention in doing it.

The CHAIRMAN: Subsection (3) is carried.

Subsection (4).

Hon. Mr. HARRIS: In subsection (4) there are a number of points that might require comment. This provides for the charging of the transportation companies with the cost of deportation in several instances—the group who are deported within five years for reasons which arose subsequent to admission and those who are deported after five years for any reason.

We agree that it is not desirable to impose upon the transportation company the costs in those conditions subject to something I am going to say in a moment.

I am in agreement with striking out the words "the minister may in his absolute discretion direct that". The result would be that where the government having an opportunity to deport a person for a subsequently arisen cause chooses to do so, the transportation companies are not involved. Similarly, it is felt that where an offence occurs after five years such as under the Narcotics Act, which I think is the most obvious one, and the government chooses to deport, it is admittedly a drastic conclusion but it may be desirable, the government should also bear the expenses involved.

There is this qualification that the use of the words "deportation proceedings" in the second line are perhaps a little too vague for our purposes. We want a specific time which would tie the proceedings down so that the five year rule would be understood. I am therefore suggesting an amendment to line 2 which would read:

> Notwithstanding anything contained in this section where an inquiry is ordered more than five years after the date.

Now, the inquiry is the inquiry which follows upon the report under 19.

Mr. CROLL: That is on receipt of a notice from the clerk of a municipality that so and so has been in trouble?

Hon. Mr. HARRIS: Right. The report itself may be within the five year period but the order of the inquiry must be within the five year period. That is the purpose.

Mr. FULTON: So you strike out the words "where deportation proceedings are instituted" and substitute "in a five-year period".

Hon. Mr. HARRIS: Right.

Mr. CRESTOHL: Shouldn't you go down a little lower to line 30 and say "and where a deportation is ordered following such inquiry"?

Hon. Mr. HARRIS: No, these are alternatives.

Mr. CRESTOHL: Then is he deportable just on an inquiry being ordered or does this obligation become effective just because an inquiry has been ordered or because a deportation order has been made following that inquiry? I think you should link together this change with the suggestion I am making.

Hon. Mr. HARRIS: No, I think not. No, they are alternatives.

Mr. FULTON: Well, the words surely are perfectly clear "where deportation is ordered due to causes which arose subsequent to admission".

Hon. Mr. HARRIS: There are two groups, the inquiry held after five years which is in one class and there is an inquiry within five years resulting in a deportation for a cause which arose after admission. So the section will read:

> Notwithstanding anything contained in this section where an inquiry is ordered more than five years after the date on which the person concerned was admitted to Canada or whose deportation was ordered due to causes which arose subsequent to admission, the deportation costs shall not be paid by the transportation company.

The CHAIRMAN: You have heard the suggested amendment. All in favour? Carried.

Mr. FLEMING: Before you leave 40, there were certain other amendments proposed by Mr. Maunsell on behalf of the transportation companies. He suggested a new subsection (6) which will now presumably become (5) to the following effect:

> Notwithstanding anything contained in this Section the transportation company concerned will not be liable for costs incurred during the deportation proceedings, or for the cost of deportation of a person if such person was in possession of valid and unexpired Immigration or non-Immigration documents.

Hon. Mr. HARRIS: That was the next one I had on my list. The government is not prepared to accept the suggested amendment.

Mr. FLEMING: And no alternative?

Hon. Mr. HARRIS: No.

Mr. CARROLL: Mr. Chairman, before Mr. Fleming starts, do I understand—I am taking the matter of the steamships—do I understand that if a person who has been screened, in, say, any European country by the immigration authorities medically and socially, that if he comes into Canada, say, a week afterwards on one of those ships and it is found then that something was overlooked, not by the transportation company but by your officers in Europe and the company have nothing at all to do with the matter, do you think that it is just and fair that if such a person is found to be unworthy of entry as an immigrant, to force the company to pay his way back to Europe?

Mr. FLEMING: And to pay the cost of his detention.

Hon. Mr. HARRIS: The answer is yes, because the principle of the Immigration Act is not that the person is admitted when he is examined abroad. The principle is that he is admitted at the port of entry.

Mr. CARROLL: I know that if he comes here without any negligence on the part of the steamship companies, I think it is unfair myself, although I do not think the transportation companies did ask to go that far, but I think that is something that the Immigration Department should give further consideration.

Hon. Mr. HARRIS: We have given a good deal of consideration to it.

Mr. CARROLL: Well, if the thing comes up again I am prepared not to support that. I think it is most unfair.

Hon. Mr. HARRIS: You can look at it in either one or two ways, either that we should accept the person from abroad after preliminary examination there and accept the responsibility from the time he leaves, but no immigration policy or Immigration Act has been to that effect since there was an Immigration Act.

Mr. CARROLL: I can understand why it might be years ago when the companies themselves used to take people over here, the steamship companies and so forth, but I cannot see why the steamship companies—and I am talking of them especially now—should be saddled with those costs. Of course there is a subsection here where if they did anything that was wrong, or their officers did anything that was wrong in getting those people over here, then they are

subject to prosecution. I can understand that all all right, but I still cannot understand why they should be obliged, after being screened, not by the steamship companies but by officers of the Immigration Department, why they should be obliged to pay their costs back. However, I am only putting forth my views on it.

Mr. FLEMING: Then I move, Mr. Chairman, that there be added to clause 40 a new subsection (5) in the following words:

> Notwithstanding anything contained in this section, the transportation company concerned will not be liable for costs incurred during deportation proceedings or by the costs of transportation of a person if such person was in possession of a valid and unexpired immigration or non-immigration document.

I have nothing to add to what has been very pertinently observed by Mr. Carroll except to emphasize that this relieves the transportation company only in the case where the person who is subsequently deported is in possession of valid and unexpired immigration or non-immigration documents.

Mr. CROLL: Mr. Chairman, may I just make this observation with respect to what Judge Carroll said, and he will recall this more vividly than perhaps I can. My dates may not be right, but the department can correct me. We had, previous to 1911, steamship companies loading immigrants on board boats even if they had to help them on to the boats,—there was no denial of that—for which we turned out to be thankful. Subsequent to that—and I am not sure of the year, but we have had immigration officers in Europe, if I recall correctly, at focal points since about 1910. Am I wrong or right on that, Mr. Smith?

Mr. SMITH: There were medical officers around that time.

Mr. CROLL: All right, let us say 1915. Certainly they were there then.

Mr. SMITH: I am not sure, but I am sure of 1918.

Mr. CROLL: So this is not something new. What we have actually done is augment the number of medical officers and gave them better facilities than we formerly had for them.

Mr. CARROLL: And social inquiries.

Mr. FLEMING: And security inquiries.

Mr. CROLL: Well, new problems have arisen and we have augmented our forces there, so that for all purposes the scene from the point of view of the railway companies and the transportation companies is not changed at all. As the minister points out, this has been the practice for a great number of years and is still the practice in countries, if I recall correctly, that are still in favour of large scale immigration, such as Australia and, I think, New Zealand and the United States.

Now, when we speak of the possession of valid or unexpired immigration or non-immigration documents, the question of validity is one that may arise. They may be valid in some eyes—I think Mr. Maunsell said if they were forged documents he would not hold the government to it, that question may arise. But it seems to me that to make any departure from that at the present time would be treading on dangerous ground. I think the trouble from the desire of the air people to try and fill their loads, not so much from the boat people as it is from the air people. I do not think that anything that we can do or anything that the transportation companies can do will influence the man who sells transportation from attempting to fill that load as well as he possibly can, with the result we are going to run into a considerable amount of trouble unless we leave the Act as it is for the present. It may be that in the light of air transportation some years hence we may have to make some changes, but I do not think it is the proper thing to do at the present time.

Mr. FLEMING: Mr. Croll has said that the situation has not changed at all, that medical officers were placed at focal points in Europe 40 years ago. My information is not that, and the evidence is to the contrary. What has happened is that the trend has been increasingly towards holding examinations of all intending immigrants abroad. We had that before us in the House a couple of weeks ago, when we were discussing the estimates of the Department of National Health and Welfare. The preparation of intending immigrants who are being examined for all purposes abroad is increasing, and all the time we are providing more and more money to extend these facilities abroad, and the transportation companies under this amendment are not going to be relieved in any case where the intending immigrant arrives here with an improper passport, it will only apply where the person arrives here with a valid and unexpired passport, and if the individual comes here with a valid and unexpired document—it may be more than a passport—a valid and unexpired document, then surely it offends one's sense of fair play to expect the transportation company then to carry him all the way back and, if you please, in the meantime to pay all the expenses he runs up while he is being detained here pending the conclusion of the deportation proceedings.

Now, the situation is very greatly changed. It is not right to say the situation has not changed at all. It has very greatly changed in the last generation.

Mr. GAUTHIER (*Portneuf*): I suppose if clause No. 5 were to be adopted the transportation companies would not pay the return passage and the country would be obliged to do it.

Mr. FLEMING: Yes, and the costs incurred during deportation proceedings or for the costs of deportation.

Mr. GAUTHIER (*Portneuf*): I am against it.

Mr. FULTON: One of the effects of the amendment, if adopted, would be the situation where a man came in as a visitor with a return ticket and after having landed in Canada decides he wants to stay. We were told yesterday, and I did not hear anything to the contrary or denial of the fact that notwithstanding that he came in as a visitor with a return ticket, he can then turn around and say "I want to be an immigrant", and if he is refused permission to land as an immigrant then he can demand that the company take him back at their cost, in addition, ask for the refund on the return portion of his ticket. I would like to ask a question of the minister—if there are any other proposals he has in mind to relieve that situation.

Hon. Mr. HARRIS: We have a suggestion to make there; but I do not agree with your example in any event. I am not in agreement necessarily that a man should be entitled to a refund. That is a matter which is to be discussed later.

Mr. FULTON: I want to be clear that this is not the only—

Hon. Mr. HARRIS: Yes, there will be another one.

Mr. CRESTOHL: It seems to me that Mr. Gauthier has put his finger on the issue: who will take the loss in the event of deportation? I think that is what the issue resolves itself into. Hitherto the transportation companies are the ones who have. These companies have enjoyed a very special form of franchise in the past. They have had very great privileges, and they are the ones who are making the profit from this immigration business, not the government, and I do not see why they should not assume this cost; I mean, they are the only ones to benefit in dollars and cents. They are the ones who profit, and I think they are the ones who should assume that responsibility by absorbing at least a portion of that cost. They are the only ones who are making a dollars-and-cents gain. Mr. Gauthier is right. I see no reason why the country should have to take that loss.

Mr. FLEMING: You mean even though the country has issued a valid document as part of the process? Surely they must assume some responsibility if the government issued a valid document to that person in the first case.

Mr. CRESTOHL: On that basis, if we are to follow Mr. Fleming's suggestion, such a person should never be deported.

Mr. FLEMING: No, not that.

Mr. CRESTOHL: Should not at any time be deported.

Mr. FLEMING: Well now, my friend should take a hold on his horses there. That is a different subject altogether. We are dealing now with the cost of deportation for proper cause when the individual has entered Canada on a valid and unexpired document issued to him by the government. You are saying to the government: just issue the document and go Scott free and the transportation company which simply accepted the passenger who had valid documents issued by the government of Canada should pay the shot.

Mr. CROLL: That is on the theory that the government can't be wrong.

Mr. FULTON: Isn't the position here contemplated by this amendment surely different from what Mr. Crestohl has in mind? You take the case of a steamship company which has never had any contact with this man before, has never advertised in order to invite passengers to take passage to Canada by that line—perhaps it is not quite so simple as that—but, in any event this immigrant desires to come to Canada and gets the various immigration documents over in Europe and then he presents himself at the office of the transportation company and arranges to come to Canada; now, do you think it is right for them to have to take him back?

The CHAIRMAN: Right there, Mr. Fulton, I would like to ask you a question. Is he admitted over there or at the border?

Mr. FULTON: I am not dealing with that question at the moment. I am trying to deal with Mr. Crestohl's argument. This man presents himself at the ticket office and says I want to be conveyed to Canada, and the transportation company have to accept him under those circumstances, being a public carrier. Now, you are saying that the transportation company sells him a ticket, that by accepting him as a passenger, if on arrival in Canada he is rejected the transportation company have to carry him back to his own country. It seems to me most unfair.

The CHAIRMAN: You have heard the motion by Mr. Fleming. Those in favour of Mr. Fleming's motion?

Those opposed?

I declare the motion lost.

Hon. Mr. HARRIS: Now, then, Mr. Chairman, section 41. It was suggested that an amendment be made in section 41 by adding the words to subsection 1; "if the said transportation company subsequently is held liable for his deportation under section 40"; the result of that would be that the companies would not be subject to payment of costs pending the period of examination at the border point. The government is not prepared to accept this.

Mr. FLEMING: Mr. Chairman, I move that there be added to subsection 1, following the end of it, the following words: "if the said transportation company subsequently is held liable for his deportation under section 40".

The CHAIRMAN: Where is that, is that at the end of subsection 1?

Mr. FLEMING: Yes.

Mr. CROLL: Can't the government be right at any time; or, is the transportation company always right.

Mr. FLEMING: May I say this, Mr. Chairman, that I find it completely revolting to my elementary sense of justice that under the circumstances that we have been discussing here the government goes scott free and the transportation company gets stuck for the full amount. As a matter of fact, the government are extending their facilities abroad all the time.

Mr. CROLL: The facilities which the government provide for these transportation companies are becoming greater and greater all the time and that enables them to carry on business.

The CHAIRMAN: Mr. Shaw:

Mr. SHAW: First, Mr. Chairman, I find it difficult to agree with Mr. Croll in his assertion that because a thing has been done for 40 years or more it must be good. If you were to follow that theory we would never get anywhere.

Hon. Mr. HARRIS: That is not so with the C.C.F.

Mr. CROLL: No, nor with the Social Credit either.

The CHAIRMAN: What is the difference?

Mr. SHAW: If the medical officers of the department pass upon a prospective immigrant and he arrives at the port of Halifax and he is found to have a communicable disease, possibly incurred on his way, must the transportation company pay the cost of his detention?

Hon. Mr. HARRIS: Yes.

Mr. SHAW: That seems to me to be most unreasonable; it is neither fair nor realistic.

Hon. Mr. HARRIS: You have there both a principle and a possibility.

Mr. SHAW: Well, I am dealing with the principle.

Hon. Mr. HARRIS: The principle is that we have always imposed obligations on the transportation companies—

Mr. SHAW: Pardon me, I find it difficult to hear you.

Hon. Mr. HARRIS: I said, we have always imposed obligations on the transportation companies, but we have gradually whittled those obligations down by opening these offices abroad with the result that the number who come to our border points who now are actually rejected is increasingly fewer in relation to the total who come. What you said about communicable diseases might have been incurred on board, perhaps not; but we must maintain the principle that the final decision about admission is at the Canadian border, not at a distant place; for the reason that you fix your responsibility there. The transportation company knows, and everybody in the world knows that the granting of a travel document is nothing more than a means of going to a place where a decision will finally be arrived at. It does not in itself confer any rights at all.

Mr. SHAW: Of course, it seems to me—you are not claiming infalibility for your medical officers.

Hon. Mr. HARRIS: No, neither there, nor in Canada.

Mr. SHAW: You mentioned communicable diseases. If it were contracted on board a ship would there be any way of establishing that?

Hon. Mr. HARRIS: Perhaps not.

Mr. SHAW: What about the case of a disease like T.B.?

The CHAIRMAN: All those in favour of Mr. Fleming's amendment? Those opposed?

I declare the amendment lost.

Hon. Mr. HARRIS: Now, section 42. There I would draw your attention to subsection (c).

The CHAIRMAN: Just a moment. 41 (1) has been carried. 41 (2)? Carried.

42?

Hon. Mr. HARRIS: Might I just add, that 41 (2) is a new assistance to the transportation companies.

Mr. FLEMING: That is a crumb that has fallen from the government's table.

Mr. CROLL: What was that 41 (2).

The CHAIRMAN: What did you say?

Hon. Mr. HARRIS: It is an additional assistance to the transportation companies.

The CHAIRMAN: 42 (*a*).

Carried.

42 (*b*).

Mr. FLEMING: On 42 (*b*) Mr. Chairman, there may be a question of ending the subsection with the word "behalf" in line 4 depending upon what the minister is going to say about (*c*).

Hon. Mr. HARRIS: That question now arises as to the relationship between the government, the transportation company and the immigrant when deportation takes place. At the moment the law is that the transportation company is obliged to return the immigrant at the cost of the transportation company. This was a useful and in fact a necessary provision in the past and may possibly be of some use at the moment as well. The committee, I think, will understand, as has already been said, that there would have to be some restraints against a transportation company—none of which is represented here, I might add—who might conceivably fill a ship with persons having return tickets, without too much regard to the possibility that they might be deported; and in the past, that has occurred.

Nevertheless, we recognize that conditions have changed to some extent at least, so I am going to suggest the following amendment to clause (*c*) which reads as follows:

> 42 (*c*) pay such costs and, subject to any agreement between a transportation company and its passenger respecting return fares, refrain from, directly or indirectly, making any charge to or taking any remuneration or security from the deported person concerned in respect thereof.

Mr. CROLL: You do not want to put him in "hock" for the return fare. Is that it?

Hon. Mr. HARRIS: That is partly it. And the result will be that the transportation company shall still pay the costs of the period of detention, but may, if it makes a suitable agreement with the immigrant, recover the actual return passage.

Mr. CROLL: One thought occurs to me in this. I do not think it has occurred in Canada, but there is a practice which has grown up in the United States of many immigrants together hiring a plane for the purpose of travelling on a non-scheduled flight; whereupon they are refused admission and sent back. Then the plane company have to take 40 to 50 back. How do you control that aspect of it?

Hon. Mr. HARRIS: We cannot control that; we can just reject the person, if he is not admissible. But if your company is one which has offices in this country, we can always use persuasion in the case, if we are not too happy about it. But that is all.

Mr. CRESTOHL: What would be the situation if a company simply worked out a scheme by which they would lease out a plane to, let us say, 40 pas-

sengers under a sort of subcontract arrangement and they would say: "We are not responsible. We will provide the pilots, but we refuse all responsibility." There is no company, then to transport these people back. Would they be transporting themselves?

Hon. Mr. HARRIS: Well, those persons, if they were not admissible to Canada, would be rejected, of course, at the air field where they landed. I think that we could get into the field of ICAO about that time to make sure that plane leaves and the persons go with it. They could have whatever argument they liked with people they leased the plane from.

Mr. FLEMING: Up in the air?

Hon. Mr. HARRIS: Yes.

Mr. CROLL: Mr. Minister, what is in your mind when you speak of "subject to any agreement"? What is your thinking on it?

Hon. Mr. HARRIS: My thinking is this, that if a transportation company wants to protect itself by saying to the immigrant "We are not sure. . ." —and they would only say this in some cases ". . . that you would be admitted as a matter of fact under the law, we would like you to agree that should you be rejected you woud pay your return costs." Now, if they do that we have no objection to it.

Mr. CROLL: Let us take the case of an immigrant who starts for Canada with documents in order, buys a one-way ticket. The company says "No, we will carry you only if you buy a two-way ticket." The poor fellow has scraped bottom to get a one-way ticket—he is taking his wife and children along too. Aren't we going to run into trouble when we run into that situation?

Hon. Mr. HARRIS: I don't think so when you consider that the transportation companies can bring something like 180,000 people here last year and only have to take 460 back.

Mr. FLEMING: I would like to see clause (c) stricken out entirely but I gather from our experience of recent minutes there is not much use in moving it but I will say the minister's amendment is a distinct improvement.

Mr. FULTON: May I ask whether this would make it impossible for any visitor under the circumstances referred to earlier who is deported and has applied for landing as an immigrant going to the country and demanding a refund?

Mr. CROLL: He has made an agreement, hasn't he?

Hon. Mr. HARRIS: We are not too happy about making law with respect to an agreement between the transportation company and its passenger especially if it could be the cause of action in, say, any European place. So that while the transportation company would have to discuss the matter pretty frankly with the passenger, we would hope that the resulting friction was between the two of them according to what understanding they might reach.

The CHAIRMAN: Does section 42 (c) carry as amended?

Carried.

Section 43?

Carried.

Section 44 (*a*)?

Carried.

Section 45?

Carried.

Section 46?

Carried.

Section 47?

Hon. Mr. HARRIS: On section 47 the transportation companies suggested the insertion in the second line after the word "free transportation", of the words "in Canada". We are not prepared to accept this suggestion subject to a few comments I shall make.

This is a clause which would cover two groups of persons—actually one group of persons, an immigration officer who is obliged, largely as an accommodation to the travelling public, to travel on board a ship for the purpose of doing work while the passengers are there. We feel that under those circumstances there cannot be any particular objection to giving him free transportation.

There can be objection to the servants of the provinces of Canada getting free transportation outside Canada and I would be agreeable to the insertion of an amendment by inserting the words "in Canada" after the words "free transportation" in the second line on page 22. I so move.

Mr. CROLL: Do I understand then you are depriving yourselves of the right to move about outside of Canada?

Hon. Mr. HARRIS: I am depriving the right conferred upon the provincial governments of having more than one officer entitled to free transportation.

Mr. CROLL: I see many of these officers or I have in the course of my travels on the railways. Are the facilities that are provided for them in the course of their being away, those that go down to Toronto and those that come back and have to make a trip, are they adequate in the opinion of the department or has the department examined them? What are they, Mr. Fortier or Mr. Smith?

Mr. SMITH: Would you repeat the question?

Mr. CROLL: I have asked you if you have made adequate provision for the officers who are on these trains, the men who board a train at Rouse's Point or go up to Toronto for the purpose of clearing the passengers who are going through and who go on to Windsor and then back. What provision is made for their sleeping accommodation? I know he gets a meal but what provision is made for his sleeping accommodation?

Mr. SMITH: If there are any overnight requirements, the transportation companies provide sleeping facilities for them. They are adequately looked after.

Mr. CROLL: It is not a problem?

Mr. SMITH: It is not a problem.

Mr. CRESTOHL: Mr. Chairman, I would like to inquire about the words "free transportation of one immigration officer of each of the governments of the provinces of Canada." Are there immigration officers attached to the provinces?

Hon. Mr. HARRIS: There may be. The British North America Act provides the jurisdiction.

The CHAIRMAN: Section 47 as amended?

Carried.

Section 48 (2)?

Carried.

Section 49 (*a*)?

Carried.

Section 49 (*b*)?

Carried.

Section 49 (*c*)?
Carried.

Section 49 (*d*)?
Carried.

Section 49 (*e*)?
Carried.

Section 49 (*f*)?
Carried.

Section 49 (*g*)?
Carried.

Section 49 (*h*)?
Carried.

Section 49 (*i*)?
Carried.

Section 49 (*j*)?
Carried.

Section 49 (*k*)?
Carried.

Section 49 (*l*)?
Carried.

Section 49?
Carried.

Section 50 is carried.

Section 51 is carried.

Section 52 is carried.

Section 53?

Hon. Mr. HARRIS: Section 53 imposes penalties upon directors and the like and is taken verbatim from the Aeronautics Act and that was the origin of our penalty. However, upon consideration it occurs to us that the obligations of aeronautical companies might be more serious than those of a company dealing with transportation of immigrants and we are prepared to accept the amendment suggested yesterday by Mr. Maunsell. So that after the word "offence" on line 10, all other words will be struck out and the following substituted:

> and is liable on conviction to the punishment provided for the offence upon proof that the act or omission constituting the offence took place with his knowledge or consent, or that he failed to exercise due diligence to prevent the commission of such offence.

Mr. CROLL: Mr. Minister, you say you copied the Act from the Aeronautics Section?

Hon. Mr. HARRIS: Yes.

Mr. CROLL: Well, in the interests of uniform legislation and uniform interpretation is it wise to make a change?

Hon. Mr. HARRIS: I think so.

Mr. FULTON: Amend the other one as well.

Mr. CROLL: Well, you had better write him a letter and tell him.

Hon. Mr. HARRIS: This is no reflection at all on the section in the Aeronautics Act, the fact that we do not adopt it.

The CHAIRMAN: You have heard the amendment. All those in favour of the clause as amended?

Carried. Clause 53 as amended is carried.

Now we will take up clause 61.

Mr. CROLL: This was not in the old Act.

The CHAIRMAN: 61 (*g*) (1), drop the word "race".

Mr. FLEMING: I did not catch the last remark. Did he say he was satisfied the words "ethnic group" covered the same subject as the word "race"?

Hon. Mr. HARRIS: The Oxford dictionary says so.

Mr. FLEMING: That is your answer?

Mr. CHURCHILL: What is the difference between the word "race" and the words "ethnic group"?

Hon. Mr. HARRIS: I took the view I have out of deference to the members of the committee who thought that there was some unfortunate connotation as used here. The word "race" is extremely convenient. We refer to racial origin and it is the term you need to make up your monthly report, the statistics and all those things in the department. It is readily understood by everyone and we rather take the view that persons who have taken objection to it are getting beyond the realm of the immediate use of the Immigration Act, but if anyone feels strongly on the subject we have no objection to it because we can use the following words to cover it.

Mr. CROLL: I do feel strongly on the subject because it has taken on a meaning that the Oxford dictionary has not given it and is used in other Acts in a manner that I find has connotations that I do not think this committee would wish it to have. In view of the fact that "ethnic group" under the interpretation covers the word "race", I think it would be in the interests of the bill and its acceptance that the word "race" be deleted.

The CHAIRMAN: The word "race" will be deleted.

Mr. CHURCHILL: Just before you delete it, I am not so sure that that is a necessary move. Does it mean this, that instead of using "racial origin" you are going to use the words "ethnic group origin"?

Hon. Mr. HARRIS: We will have to continue to use in our department the term "racial origin" related to our own purpose, although not related to this section.

Mr. CRESTOHL: Unless you prefer to define the word "race" in your list of definitions, as I suggested yesterday. I would prefer to have it struck, though.

The CHAIRMAN: All in favour of 61 (*g*) (1) as amended? Agreed.

Mr. CRESTOHL: Mr. Chairman, may I ask you to have another look at subsection (*f*) of section 61, making regulations?

The CHAIRMAN: Are you moving we reconsider that clause?

Mr. CRESTOHL: If you please.

The CHAIRMAN: All in favour?

Carried.

Mr. CRESTOHL: 61 (*f*) reads, "the prohibiting or limiting of admission of persons who are nationals or citizens of a country that refuses to readmit any of its nationals or citizens who are ordered deported". I would like to suggest

that we do accept persons who may be victims of political persecution. They might be persons in a class that might be seriously affected if we do not make some provision to cover that.

Mr. FLEMING: Would you not have to define that subject, Mr. Crestohl, political persecution—sometimes we in the opposition think we are victims of political persecution in the House.

Mr. WHITMAN: It may be the other way around.

Mr. CRESTOHL: There has been some definition in the term, it has been used in legislation and quite widely quoted in reports. I think if you do not cover them they will be left hanging on a limb.

Hon. Mr. HARRIS: This is the authority to make regulations to do so, but it does not follow that the regulations will be made, or alternatively that all persons from that country will be excluded.

Mr. CROLL: Is this not just a threat to those nations that are not co-operating?

Hon. Mr. HARRIS: Correct.

Mr. CROLL: That is what it is there for, so I think you should have it.

Mr. FLEMING: Section 61, (*g*) was terminated with a period after the word "admission", and; "and" are struck out. We struck out (*h*), so you will have to strike out at the end of (*g*) the semicolon and the word "and" and substitute a full stop.

Mr. CROLL: I agree with Mr. Fleming's amendment this time. I support it.

Mr. FLEMING: Without reservations?

The CHAIRMAN: We are now dealing with section 65 (1).

Mr. FLEMING: What guarantee is asked for now? You do not get a guarantee now at all?

Hon. Mr. HARRIS: No, this is an advantage to the transportation companies.

The CHAIRMAN: Shall section 65 (1) carry?

Carried.

Now, section 66 (1)?

Carried.

Section 66, subparagraph (2)?

Carried.

Section 66 (3)?

Carried.

Section 67 (1)?

Carried.

Section 67 (2)?

Carried.

Section 68 (1)?

Carried.

Section 68 (2)?

Carried.

Section 70 (*a*)?

Carried.

Section 70 (*b*)?

Carried.

Section 70 (*c*)?

Carried.

Now we will go to section 3, subsection (3).

Mr. CROLL: Do you remember what the problem was there, Mr. Chairman?

Mr. FULTON: Subsections (2) and (3) both stood together, did they not, Mr. Chairman? I mean subsection (2) of this section also stood.

Hon. Mr. HARRIS: The purpose in drafting subsection (3) was indicated in the headnotes, Admission to Canada, and Canadian Citizens and Persons with Canadian Domicile. It was intended to define those persons as of right in the one case, or to be allowed in the other, who might have the opportunity of coming into Canada by statute. Subsection (3) was intended to be an exception to those in subsection (2). It was not intended to set up another prohibited class of persons, and while as I say I was not present yesterday when you had some of your discussions, the purpose that you had in mind would be carried out by subsection (3) reading as follows:

Any person with Canadian domicile other than a Canadian citizen.

Mr. FLEMING: The suggestion made yesterday, Mr. Chairman, was in the first line of section 3, subsection (3), that the word "person" be stricken out and the words "resident of Canada" be substituted.

Mr. CROLL: No, my note was, "Any resident of Canada other than a Canadian citizen." Yes, you are right.

Hon. Mr. HARRIS: I move that the words "with Canadian domicile" be inserted after the words "any person".

Mr. CROLL: Any person with Canadian domicile other than a Canadian citizen.

The CHAIRMAN: Shall the section as amended carry?

Carried.

Section 2. Do you want that now?

Hon. Mr. HARRIS: No, let us take 5 (*a*) (iv), "epileptics".

The CHAIRMAN: Oh, yes, that is 5 (*a*) (iv).

Mr. CROLL: I thought we had dealt with that yesterday.

Mr. FLEMING: I thought we had dealt with that yesterday.

The CHAIRMAN: 5 (*a*) (iv).

Carried.

Section 2. Subsection (*k*).

Mr. FULTON: I thought we had carried section 19. The minister discussed 4 (iv). I think we carried 19.

The CHAIRMAN: I thought we had already done that. I am not sure. Yes, 4 (iv).

Mr. CROLL: That is right, section 2 (*k*) ties in with 31 (2) and section 12.

Hon. Mr. HARRIS: Before you leave that I have one correction to make. Will you refer to section 30?

Mr. CROLL: Yes, that is right.

The CHAIRMAN: Yes.

Hon. Mr. HARRIS: Yesterday it was suggested, I think by myself that it should read a, b, c, and s. That was an error. The other groups are complaints or for disability causes. It is not intended to have them in that group.

The CHAIRMAN: What should it be then?

Hon. Mr. HARRIS: Just (*a*), (*b*) or (*s*).

The CHAIRMAN: Shall subsection 3 as amended carry? It will now read (*a*), (*b*) or (*s*).

Carried.

Now shall we go on to 2(*k*).

Mr. CROLL: 2(*k*) is the same as 31.

The CHAIRMAN: Yes, 31.

Mr. CROLL: Let us take the two together and hear what the minister wants to say about them.

Hon. Mr. HARRIS: This is the item which deals with appeal boards. I think I was explaining it yesterday, and I think it was the understanding of the committee that some procedure other than the present should be adopted so far as the incidence of delays is concerned. On the other hand, it is not desirable to vest in an immigration appeal board a decision which would be final as against the exercise of ministerial discretion. I am going to suggest amendments without actually moving them for the moment, to see if they do meet the wishes of the committee. Instead of 31(2) I think we should have this wording: "all appeals from deportation orders shall be reviewed and decided upon by the minister—with the exception of appeals that the minister directs should be dealt with by an immigration appeal board". Then, further along, a rather long amendment to be added to clause 5, as follows: "notwithstanding subsection 4, the minister in any case"—now the next three or four words are perhaps not absolutely necessary—"the minister in any case in which he is satisfied that the circumstances warrant it"—I should think that ought to be taken for granted but it might be just as well to have it in there—"may review the decision of an Immigration Appeal Board and confirm or quash such decision or substitute his decision therefor as he deems just and proper".

Mr. CARROLL: Substitute what?

Hon. Mr. HARRIS: "Substitute his decision therefore as he deems just and proper, and the minister for these purposes may direct that the execution of the deportation order concerned be stayed pending his review and decision".

Mr. CRESTOHL: "be stayed"? What are the words after "be stayed"?

The CHAIRMAN: "be stayed pending his review and decision".

Mr. CROLL: May I make one suggestion. I think you have gone a long way to meet the wishes of the committee and at the same time to leave you in the responsible position you are in; but it seems to me—and I think I know why you are doing it, so I shall say it while the officials are here—that when you say "in which he is satisfied that circumstances warrant", that it almost puts you on proof to your department that the circmustances warrant it. I think it is an indirect reflection upon your department, because it puts you in a position where you almost have to explain to them. It seems to me that these words are not necessary, because you go on to say: "may review the decision of the Immigration Appeal Board and confirm or quash such decision or substitute his decision therefore as he deems just and proper." So that the decision is purely your own judgment in any event. It seems to me that those words, if they were taken out, would leave both you and the department in a stronger position. And to say, "notwithstanding the fact the minister may review the decision of the Immigration Appeal Board", and so on, it is exactly what I think you should do; but these words are not at all helpful, and they put you in an embarrassing position.

Hon. Mr. HARRIS: I do not think it would result in that at all.

Mr. CROLL: No?

Hon. Mr. HARRIS: Nevertheless, as I read it, it occurred to me for the first time that no minister would intervene unless he thought circumstances did warrant it; and there was no point in stating what was obvious. So it does not make any difference if the words are dropped out, so far as I am concerned. But I would like to have a discussion now on the merits of the amendment.

Mr. CROLL: Would you mind reading the amendment again slowly. I copied down as much as I could.

The CHAIRMAN: Section 31 subsection (2): "Who decides appeals", will now read as follows:

> All appeals from deportation orders shall be reviewed and decided upon by the minister, with the exception of appeals that the minister directs should be dealt with by an Immigration Appeal Board.

All the rest of subsection (2) will be deleted.

Mr. FULTON: That covers the point which was raised yesterday. I should say that is a very good amendment.

Mr. CROLL: Yes. Now read the new subsection (4).

The CHAIRMAN: Subsection (4) is the same. Subsection (5) will be added. It is in the following words:

> Notwithstanding subsection (4), the Minister in any case may review the decision of an Immigration Appeal Board and confirm or quash such decision or substitute his decision therefor as he deems just and proper, and the Minister for these purposes may direct that the execution of the deportation order concerned be stayed pending his review and decision.

Mr. HENRY: I am wondering, Mr. Chairman, if the minister could give us any idea as to what classes of cases are to be referred to the Immigration Appeal Board?

Hon. Mr. HARRIS: I have made no decision on that, I have not even discussed it at any length, but the difficulty we are trying to overcome is the case of a person at a border point who must wait for some weeks for a decision on his appeal, and we will definitely, I would say, indicate a certain number of cases that are all too frequent, in which there is no merit, that can easily be disposed of.

Mr. FLEMING: I think the minister asked for comments on the merits of his proposal. I for my part think the suggestion is commendable. I was just wondering if the amendment he has introduced by way of a new subsection (5) may be a little clumsy and require more revision from the point of view of draftsmanship, in view of subsection (4), which reads:

> The decision of the majority of an Immigration Appeal Board or of the Minister, as the case may be, is final.

And then we go on to provide, in effect, that subsection (4) does not mean what it says. Would it not be much simpler to combine—it would not take much in the way of redrafting to combine subsections (4) and (5).

Mr. CROLL: Or changing the order may do the trick.

Mr. FLEMING: No.

Mr. FULTON: Could you not cover that by saying, "Subject to subsection (5), the decision of the majority . . ."?

Mr. FLEMING: Instead of introducing subsection (5) with the words "Notwithstanding subsection (4)", why not combine the two of them by starting in with the words that the minister is going to use in subsection (5) . . .

> The Minister in any case may review the decision of an Immigration Appeal Board and confirm or quash such decision or substitute his

decision therefor as he deems just and proper, and the Minister for these purposes may direct that the execution of the deportation order concerned be stayed pending his review and decision,

and then say at the end:

Save as aforesaid, the decision of the majority of the Immigration Appeal Board is final.

Hon. Mr. HARRIS: In view of the time, if we could pass it on the understanding that we will give consideration to the re-drafting of it, and I may make an amendment in committee of the whole.

Mr. CRESTOHL: Would you also have a look at whether or not it is necessary to retain subsection (4) altogether?

The CHAIRMAN: Section 31, subsection (1)?

Carried.

Section 31, subsection (2) as amended?

Carried.

Section 31, subsection (3) as amended?

Carried.

Section 31, subsection (4)?

Carried in principle.

Section 31, subsection (5)?

Carried, subject to redrafting.

Mr. CRESTOHL: The whole subject to review by the minister and redraftsmanship.

Mr. FULTON: Did you dispose of section 2 (*k*)?

The CHAIRMAN: No, we have not.

Mr. FLEMING: You have section 12 yet, too.

The CHAIRMAN: Section 2, subsection (*k*) is the Immigration Appeal Board.

Carried.

Mr. FLEMING: Under subsection (2) of section 12, Mr. Chairman, is it necessary to have an appeal board of more than three? The language is "of at least three persons". Is it likely a case will ever arise where you will need more than three persons?

Hon. Mr. HARRIS: No, but we have been hamstrung in the past by too much rigidity.

The CHAIRMAN: Section 12, subsection (2).

Carried.

Section 12.

Carried.

The CHAIRMAN: Section 2 (v)?

Carried.

Shall the title remain as in Section 1?

Carried.

Shall the bill as amended carry?

Carried.

Shall I report the bill as amended?

Carried.

Shall the reprint of the bill as amended carry?

Carried. The committee adjourned.