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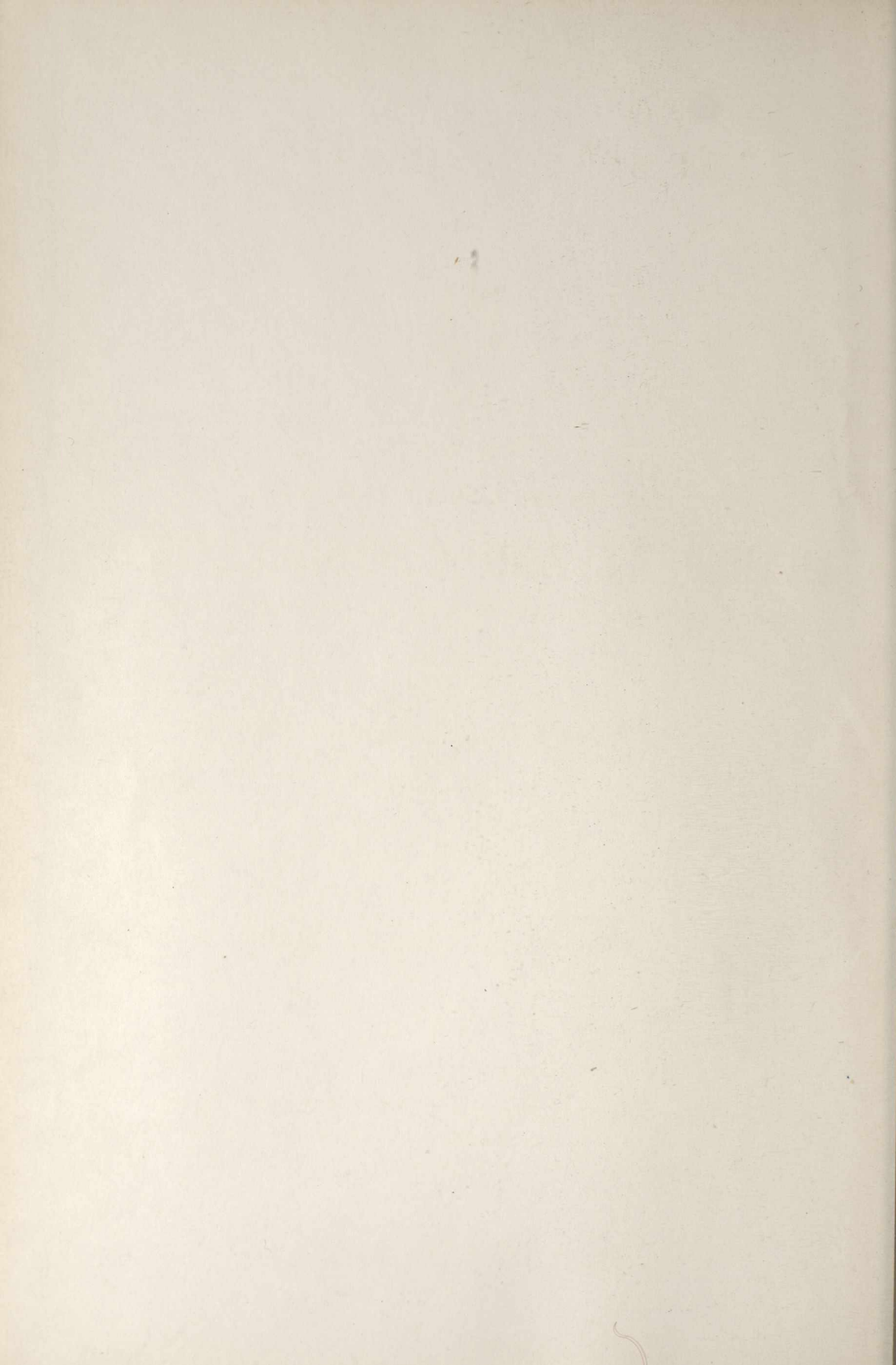
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1958

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill C-55, An Act respecting Broadcasting.

The Honourable Adrian K. Hugessen, Chairman.

No. 1

TUESDAY, SEPTEMBER 2, 1958

WITNESSES:

The Honourable George C. Nowlan, Minister of National Revenue; Mr. S. M. Finlayson, President of the Marconi Company of Canada; Mr. D. S. Thorson, Legislation Branch, Department of Justice; Mr. Alphonse Ouimet, General Manager of the C.B.C.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1958

TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

*Aseltine	Haig	Monette
Baird	Hardy	Nicol
Beaubien	Hawkins	Paterson
Bishop	Hayden	Pearson
Bouffard	Horner	Power
Bradley	Hugessen	Quinn
Brunt	Isnor	Raymond
Campbell	Jodoin	Reid
Connolly (<i>Halifax North</i>)	Kinley	Robertson
Connolly (<i>Ottawa West</i>)	Lambert	Roebuck
Dessureault	Lefrançois	Smith (<i>Queens-</i> <i>Shelburne</i>)
Emerson	*Macdonald (<i>Brantford</i>)	Stambaugh
Euler	Marcotte	Veniot
Farris	McGrand	Vien
Gershaw	McKeen	Wood
Gladstone	McLean	Woodrow—50.
Gouin	Méhot	
Grant	Molson	

(Quorum 9)

**ex officio* member.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate

THURSDAY, August 28, 1958.

“Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Methot, seconded by the Honourable Senator MacDonald, for the second reading of the Bill C-55, intituled: An Act respecting Broadcasting.

After further debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Methot moved, seconded by the Honourable Senator Pearson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

Faint, illegible text, likely the main body of the minutes, containing details of a meeting or proceedings.

Witnessed and attested at the City of New York, this _____ day of _____, 19____.

Secretary

President

MINUTES OF PROCEEDINGS

TUESDAY, September 2, 1958.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators:—Hugessen, *Chairman*; Aseltine, Baird, Bishop, Bradley, Brunt, Connolly (*Ottawa West*), Gladstone, Gouin, Jodoin, Kinley, Lambert, Macdonald, Methot and Woodrow—15.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill C-55, An Act respecting Broadcasting was read and considered.

Heard in explanation of the Bill were: The Honourable George C. Nowlan, Minister of National Revenue; Mr. D. S. Thorson, Legislation Branch, Department of Justice; Mr. Alphonse Ouimet, General Manager of the C.B.C.

Also heard was: Mr. S. M. Finlayson, President of the Marconi Company of Canada with respect to clause 14(b) of the said Bill.

In attendance but not heard were: Mr. W. V. George, Assistant to the President of the Marconi Company of Canada, and Mr. Richard Misener, Manager of radio station CFCE of Montreal.

On Motion of the Honourable Senator Baird, seconded by the Honourable Senator Woodrow, it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Bill.

At 12.10 p.m. the Committee adjourned until 10.00 a.m., Wednesday, September 3rd, 1958.

Attest.

Gerard Lemire,
Clerk of the Committee.

THE SENATE
STANDING COMMITTEE ON TRANSPORT AND
COMMUNICATIONS

EVIDENCE

OTTAWA, Tuesday, September 2, 1958.

The Standing Committee on Transport and Communications, to which was referred Bill C-55, an act respecting broadcasting, met this day at 10 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Gentlemen, if the committee will come to order we have a quorum. The Senate has sent to us Bill C-55, an act respecting broadcasting for the consideration of this committee. We have a number of representations to be made to us in connection with the bill, which was introduced and explained on second reading by Senator Méthot. We have the Honourable Mr. George Clyde Nowlan, Minister of National Revenue, who was in charge of the bill in the other place. We also have Mr. J. A. Ouimet, General Manager of the Canadian Broadcasting Corporation. I should express the thanks of the committee to the Minister for being here to assist us this morning in our consideration of the bill. Mr. Nowlan tells me he will have to leave at 11 o'clock when the other house meets because he has some other legislation coming on immediately at that time. However, after he has left, Mr. Ouimet will be available to answer questions. We have one private body which is to make representations to us in connection, as I understand it, with only one section of the bill; that is the Canadian Marconi Company, which is represented here by Mr. S. M. Finlayson, its president, Mr. George, its assistant to the president, and Mr. Misener, who is the manager of its radio station CFCF Montreal.

I should say to the committee that this is perhaps a slightly unusual situation in this respect, that I know these gentlemen very well, since I happen to be a director of the Canadian Marconi Company.

Senator BRUNT: It must be a good company.

Senator ASELTINE: You are well qualified.

The CHAIRMAN: And I should further explain to the committee that I have no financial interest in that company other than the one director's qualifying share; but I am in the hands of the committee as to whether it is felt it is proper for me to continue.

Senator BRUNT: By all means continue.

Hon. SENATORS: Agreed.

The CHAIRMAN: I would obviously abstain from voting on any matter directly relating to the interests of the Canadian Marconi Company.

Senator MACDONALD: Are there no other organizations who desire to be heard?

The CHAIRMAN: None so far have given their names to the Clerk of Committees.

Senator BRUNT: I will have to say something about CFRB in Toronto, the TV station at Kitchener, and the TV station at Windsor, because they are all vitally concerned in this bill.

The CHAIRMAN: It may be that somebody in the room here wishes to make representations, who has not given his name to the clerk. Is there anybody else, then, other than the gentleman from the Canadian Marconi Company, to whom I have referred? Well, I think that is the answer.

Senator MACDONALD: Were notices sent to any organizations of this meeting?

The CHAIRMAN: The clerk will have to answer that.

The CLERK OF THE COMMITTEE: No other.

Senator MACDONALD: I noticed there were three organizations who voiced objections, one the Canadian Congress of Labour, also the Canadian Federation of Agriculture, and the Canadian Radio League.

Senator ASELTINE: They tried to find out something about them, but did not succeed.

The CHAIRMAN: It may be, of course, gentlemen, that some of these organizations are not aware of the meeting of this committee this morning. Perhaps when we come to consider the matter later on at adjournment we might decide to hold the committee open for another day in case any of these organizations wish to make representations.

Senator BAIRD: I should think if they were very keen they would have found out.

The CHAIRMAN: Yes.

Senator MACDONALD: We did not know ourselves until last night.

The CHAIRMAN: Well, I think that is a matter to consider later. In the meantime we have enough to go on with this morning, I think. I was going to suggest that if it meets with the approval of the committee we might start off with the Minister, whose time is limited, and ask him if he would be good enough to make a general statement with respect to the bill, and then we can ask him questions on it for as long as he is available. Then we can go on questioning Mr. Ouimet, and then I suggest that we hear the representatives of the Canadian Marconi Company. After that, if there are no further representations. I would suggest that we consider the bill clause by clause. Does it meet with the approval of the committee, that general method of proceeding?

Hon. SENATORS: Agreed.

The CHAIRMAN: Very well, then I would ask Mr. Nowlan to be good enough to make a general statement to us about this bill.

Hon. George Clyde Nowlan, Minister of National Revenue: Mr. Chairman and honourable senators. This bill has been pretty widely reported in the press, and I think that anything I would say in a general statement is fairly well known to you also, of course. We want to have the record clear with respect to it.

Now, Senator MacDonald referred to the three organizations which had expressed some protest or doubts on the bill. I do not know about the Canadian Federation of Agriculture, nor do I know of the Canadian Congress of Labour, except what I saw in the papers; but as far as the Canadian Radio League is concerned, after they had had two or three meetings they decided that although the bill was not entirely acceptable to them, it was satisfactory, and I do not think they would want to appear before you even if an opportunity were presented to them. Graham Spry, as some of you know, I believe, was the acting head of the League, and he is again back to his duties in London, and I think for the moment the League has finished its work. It is a representative organization of many people in various organizations, and they did have a committee appear in Ottawa which met with the Prime Minister and myself

on two occasions, and their quarrel with the bill is one which on the matter of policy we felt we could not accept. They wanted the long-term budget of the C.B.C. without reference to Parliament except over a period of five years, and I think that was the gravamen of their criticism of it, as it is also the substantial criticism, I think, of the Canadian Labour Congress and the Canadian Federation of Agriculture, but of that I cannot speak.

This bill is divided into two parts.

Senator MACDONALD: I notice in the house the objections which were made by the League were first, that the Board of Broadcast Governors would be explicitly charged with the duty of reporting on the whole of broadcasting in Canada, private and public, and the second was that the Canadian Broadcasting Corporation, as part of a single national system, should report to the Board of Broadcast Governors.

Hon. Mr. NOWLAN: That is right. That was the second one. The primary one was the question of grants. That is the one I feel we could not accept.

Also in the room, honourable senators, is Mr. Thorson of the Department of Justice who with Mr. Driedger, was the chief draftsman of this bill. Mr. Thorson is here to assist the committee in any way with respect to legal matters or any other questions you may wish to ask him.

Senator MCDONALD (*Kings*): Did the Federation of Agriculture make any suggestions with regard to this bill?

Hon. Mr. NOWLAN: The Federation of Agriculture belongs to the Radio League, and Mr. Hannam was there as I recall it. The delegation was received by the Prime Minister and myself, as was Mr. Jodoin of the Canadian Congress of Labour. The Radio League was represented by the Canadian Congress of Labour, the Federation of Agriculture, the Catholic Women's League, the Catholic Federation of Labour, the Women's Institutes—they altogether had a representation which they said represented over 8 million people for whom they were authorized to speak, and I think about 75 of them from all over Canada were there at this meeting with the Prime Minister and myself, and subsequently an Executive Committee consisting of five or six met with me on two other occasions making representations in connection with this bill.

The bill itself is divided into two parts, as you will have seen, and one part is quite independent of the other. I suppose one could, if one wanted to, take a pair of scissors and almost cut one from the other and each would be operative, and it is for that reason that the draftsman decided that the interpretation sections should be repeated in clauses 2 and 21.

The chief change effected by this bill, as I see it, is the fact that all regulatory powers heretofore exercised by the Canadian Broadcasting Corporation are taken away from that corporation and vested in this Canadian Board of Broadcast Governors, a new organization created. You are familiar with the fact that throughout the years the Canadian Broadcasting Corporation has operated as an operating unit, operating a national network with affiliated stations and also under the Canadian Broadcasting Act was authorized to make regulations and exercise control over all radio stations in Canada, both public and private. A great deal of complaint has been offered about that system during the years, as well as a great deal of criticism of the C.B.C. for exercising both functions. Some of that criticism was undoubtedly unjustified, much of it, I think, was unjustified, but the fact remains that the Canadian Broadcasting Corporation was subject to this criticism and I think to some extent it interfered with the operations of that corporation and interfered militantly against its general efficiency. So it was decided that those functions should be separated, and the first part of the bill, as you will notice, deals with the Board of Broadcasting Governors. That board is given the power

to make regulations over private and public stations, given the power to recommend licences and generally to regulate a national integrated system in Canada.

You all appreciate, gentlemen, that our system consists of an integrated publicly and privately-owned system. The Government of itself cannot finance sufficient publicly-owned stations to cover this nation. You may remember—as some of you undoubtedly do—that the first report of the first Royal Commission, a quarter of a century ago, namely the Aird Commission, was that the nation—the Government—should own all the stations in Canada. It was thought that was impossible to do, financially, and so a system gradually evolved where you had publicly-owned stations in virtually the larger areas, but so distributed as to give fair coverage to the nation, and then you had your privately authorized stations under the control of the C.B.C. to some extent, and required to carry C.B.C. programs when it was necessary; and the two together, public and private, make an integrated national system. We hear a great deal of talk about private stations and C.B.C. being competitors. In one sense of the word that is true; they are competitors for the advertising dollar, in so far as the C.B.C. gets advertising dollars, but in another sense of the word they are not competitors. My thinking is that they are partners—sometimes unwilling partners in the past, but partners in a fully integrated system, and in this country, three Royal Commissions and 13 Parliamentary committees, throughout the years have unanimously recommended that we should have a national system of broadcasting in order to develop a Canadian—shall we say—culture, entity and spirit. That was the essential part of the policy of all people and all parties, and that is the situation today.

As I said, this Board of Broadcast Governors is to exercise a regulatory function which heretofore was exercised by the C.B.C. It also has to recommend licences, because the procedure of granting a licence is that an applicant when he makes application heretofore to the Department of Transport, which approves technically of the applicant;—that is, that the station is not going to interfere with the other stations around—it has power to act; all matters of technical importance are to be cleared by the Department of Transport, and the Department of Transport having said that “technically we have no objection to this applicant”, or very often they make some change: the application heretofore has gone before the Board of Governors of the C.B.C., who consider it on a broad national basis,—“Is this station necessary? Is it so on and so forth? Is it in the national interest that we should have a station there, and is this going to interfere with other established stations, commercially?” All these questions were dealt with by the C.B.C.; and then, if the C.B.C. said “Yes, you can have your licence”, they recommended it to the Minister of Transport, who in turn recommended it to the Governor in Council. The licence finally was issued on an order in council by the Cabinet. That procedure is roughly the same today. I want to qualify that in a moment.

The CHAIRMAN: This would be under section 12 of the bill?

Hon. Mr. NOWLAN: That's right. If you study the bill carefully you will probably notice an anomaly. The first part, dealing with the Board of Broadcast Governors, is to be under the control or at least under the direction, shall we say, of a minister named by the Governor in Council.

Senator MACDONALD: Not under the direction.

Hon. Mr. NOWLAN: That's right, not under the direction. That is not the right word. The minister who shall report on the Board to Parliament is to be named by the Governor in Council.

Senator MACDONALD: Has he been named yet?

Hon. Mr. NOWLAN: No. Similarly, the minister who shall report on the C.B.C. shall be named by the Governor in Council. Under these provisions you can get two different ministers or you might have one minister.

Senator McDONALD (*Kings*): It will probably be one minister.

Hon. Mr. NOWLAN: I can tell you here that no decision has been made by the Government as far as I know. The matter has not yet been discussed. At the moment the Minister of National Revenue, you will understand, has no statutory power as such to report for the C.B.C. It might be the Minister of Justice or the Minister of Labour. The C.B.C. Act contains a similar provision that a minister shall be designated by order in council to report to Parliament.

The CHAIRMAN: You are not changing that in the new bill?

Hon. Mr. NOWLAN: No. Dr. McCann, the former Minister of National Revenue, was so designated by the preceding Government, and I was so designated by this Government. But this has not happened because we have held the office of Minister of National Revenue; it is just because we were so designated by order in council.

Senator CONNOLLY (*Ottawa West*): Do you think it would be the same minister who would report for both?

Hon. Mr. NOWLAN: I would think it would likely be but there has been no decision or discussion in connection with it.

Senator MACDONALD: I suppose in some respects it might be advisable to have different ministers.

Hon. Mr. NOWLAN: As you pointed out, Senator Macdonald, and quite properly, the minister is not in charge of either one of these. He is simply a reporting mechanism to Parliament. If a minister was going to excise real control over these two boards, it would be better to have separate ministers because if they were combined then the independence of the C.B.C. and of the Board of Broadcast Governors might be questioned very much.

Senator MACDONALD: In any event, the minister would not be directing.

Hon. Mr. NOWLAN: No. I used an unfortunate expression a few minutes ago. The minister has no power to control or direct in any way.

The CHAIRMAN: Under this bill the minister or ministers are simply vehicles through which the respective organizations report to Parliament?

Hon. Mr. NOWLAN: Yes, and also to obtain funds from Parliament because the funds have to come from the Consolidated Revenue Fund.

Senator MACDONALD: Doesn't the Minister of Finance get the funds for the C.B.C. under this bill?

Hon. Mr. NOWLAN: No. Under this bill there has to be a five-year capital program submitted to the Minister of Finance and to whoever the other minister happens to be who is responsible to report for the C.B.C. What has happened is what occurred the day before yesterday. The minister in charge of the C.B.C. now and in the future will have to pilot the vote through Parliament. The Minister of Finance has to approve the estimates for Treasury Board purposes. He recommends them to Treasury Board which scrutinizes them and when they are approved they appear in the estimates and the minister responsible to report for the Board of Broadcast Governors and/or for the C.B.C. will have to pilot the estimates through the House of Commons.

Senator MACDONALD: Yes, but under section 35 the minister who is answerable to Parliament for the operations of the C.B.C. is the minister who reports on the financial needs of the C.B.C.

Hon. Mr. NOWLAN: Under section 35 the minister responsible for the C.B.C.—at the moment myself—shall annually lay before Parliament a capital

budget and an operating budget for the next ensuing fiscal year, approved by the Governor in Council on the recommendation of the minister—myself at the moment—and the Minister of Finance. It is a dual situation there. It has to be on the recommendation of both. That is the way it has been. If you look at the history of the last few years you will find the expenditures of the C.B.C. were approved by Treasury Board on the recommendation of the Minister of Finance before they ever appeared in the estimates at all. As you know, that does not appear in public. The Treasury Board meets as a committee of Cabinet. But all these expenditures have been approved by the Treasury Board subject to the excise tax which was granted to them by statute, and subject to the specified amount which was authorized for a period of three years.

The CHAIRMAN: I don't want to interrupt but the minister is dealing with Part I of this bill and we have rather got into Part II, I am afraid. He was dealing with section 12 under the heading of licences, and he was telling us that under the new bill the procedure with respect to licences, which have to be applied for to the Minister of Transport, will be the same except that the applications will be dealt with by this new body, the board, rather than the C.B.C. I think we should get back on the rails, and, Mr. Minister, if you would go on with your explanation of Part I of the bill, when we come to Part II we can deal with the matter which has been raised.

Hon. Mr. NOWLAN: You may wonder why one section of the bill refers to a minister to be designated by Governor in Council, and in another section we have a specific reference to the Department of Transport. The reason is this. The procedure governing the issue of licences for radio stations in Canada, for instance, the Red Line Taxi Company or the Canadian Broadcasting Corporation, to go from one extreme to the other, is controlled by the Radio Act. Under the Radio Act the Minister of Transport makes a recommendation, and the draftsman who drafted this bill felt that to start making changes in the Radio Act might involve a reconsideration of the whole act and that it was inadvisable in this session of Parliament to have a revision of the Radio Act as well as of the C.B.C. Act. So this provision is left in the bill as you see it today. I am not at all sure of this but it may be that in another session of Parliament the Radio Act will be amended so that the right or power to recommend licences for broadcasting stations will devolve upon the minister designated by the Governor in Council. But at the moment you may have possibly three ministers under this bill: the minister in charge of Part I, the minister in charge of Part II, and you do have at least specifically the Minister of Transport who makes a recommendation to the Board of Broadcast Governors, having considered first the technical angles.

Senator MACDONALD: And you have the Minister of Finance also.

Hon. Mr. NOWLAN: Yes.

Senator MACDONALD: You referred to licences, that the C.B.C. would have to apply for a licence under the Radio Act, and also a taxi company. However, when the taxi company licence is granted by the Transport Board, that is the end of it.

Hon. Mr. NOWLAN: Yes. The Board of Broadcast Governors has nothing to do with this in any way, shape or form. The Transport Board functions to see that these stations don't increase their power. You might have the Red Line Taxi interfering with the Ottawa Police short wave signal, if they have one. So the Department of Transport covers all these things.

Senator MACDONALD: But not the Board of Broadcast Governors?

Hon. Mr. NOWLAN: No.

The CHAIRMAN: I gather the real meaning of Part I is in section 10, Mr. Minister?

Hon. Mr. NOWLAN: I have heard that described in various ways. I have heard it described as the meat, and someone has said that it is a platitudinous statement of good intentions. You can look at it either way, although the actual legislative power lies in section 11, the power to make recommendations. Sections 11, 12 and 13 are the operative sections of the bill. Those are the real sections with the powers. Section 10 can be referred to, I suppose, as the broad general principle.

The CHAIRMAN: Yes.

Hon. Mr. NOWLAN: Section 11 gives the power to make regulations. Incidentally, the wording of most of these regulations is taken verbatim from the old Canadian Broadcasting Act, which is available if you want to make comparisons of them.

Senator MACDONALD: Will these regulations apply to the C.B.C.?

Hon. Mr. NOWLAN: Definitely. That is set forth, as I will point out in a moment when we come to the C.B.C. part. All the powers on regulations, on the powers of licensing in the future, will apply to the C.B.C. as well as to private stations. In other words, if the Canadian Broadcasting Corporation wants to obtain a licence for a new station in the future it will apply to the Board of Broadcast Governors in exactly the same way as, shall we say, Tom Jones who wants to get a licence.

The CHAIRMAN: I think you will find that in the last subsection of section 29 in the second part of the bill, which says the corporation, that is, the Canadian Broadcasting Corporation, is bound by the provisions of Part 1.

Hon. Mr. NOWLAN: That is right. If you read section 29 you can see that the corporation can do this subject to approval of the Governor in Council, and to make sure that was to be made subject to such approval we have inserted, "The Corporation is bound by the provisions of Part 1".

Senator BURCHILL: Why was it necessary to have such a large board? In the country I come from if we want to get a job done we appoint a small committee. If we want the thing to go to sleep we have a large body. Isn't that right, now?

Hon. Mr. NOWLAN: Well, somehow or other we contrived to get them down, but that involves a question of policy to which a great deal of consideration was given.

Senator ASELTINE: And geography?

Hon. Mr. NOWLAN: You have two schools of thought, one, who suggested that there should be a small board, and the analogy was used of the Board of Transport Commissioners and the Aeronautics Board, and various Government boards such as that, which have operated efficiently and well, and they control in so far at least as transportation is concerned all competing organizations, and a very good argument can be made for them. On the other hand, the other argument, and the one which the Government accepted, and which personally for what it is worth I think was the right one, was a broad board, a large board, because broadcasting and radio I think are not analogous to freight rates or transportation. You can measure a distance between Montreal and Halifax and set a freight rate on a carload of flour, or what have you, and do it with some mathematical accuracy. You cannot measure broadcasting by any such yardstick. This is someone who comes into your home and mine, and he comes in one night when we are feeling good-natured, and we turn on the radio or television, and we say, "This is a wonderful program—this is fine". The next night, if we have indigestion, or have had a bad day in the house, or were

kicked around in the home, we turn it on, and we say, "This is a terrible show"—I could use some more exclusive expression than that—and you turn it off in disgust and say, "This is C.B.C.—what an outfit". I think that happens to each and every one of us. In other words, you are dealing here with not a commodity, but a human reaction, and my feeling strongly was, and the Government's feeling was, that in dealing with this—not the technical end which can be dealt with by experts, but with program and content, the maintenance of Canadian standard, the development of a Canadian national outlook, all these matters which are referred to here, you want a cross-section of the nation as a whole, men and women who together could represent Canada, an amalgamation of them, discussing between themselves, and coming to an agreement between them, which after all is a compromise, an agreement which to a greater extent than any other way could represent Canada as a whole. If you have a small board it will be efficient technically, but rightly or wrongly it is going to be assumed—you get the Ottawa complex, shall we say—that it will be a Civil Service board, which no matter how efficient they may be sometimes perhaps would not be qualified to speak for Canada as a whole. That at least is the theory, the thought, and there was a distinct two schools of thought. Incidentally, CARTB, which represented the private broadcasters, were very strongly at one time in favour of a small professional board, and they worked on me and urged it be done. I put it to them, did they want a small board per se, or did they want an independent board, and they said they wanted an independent board regardless of the size. Incidentally, the CARTB advised me they were thoroughly satisfied with the provision here about the size and had no representation to make.

Senator MACDONALD: You are speaking with respect to the Board of Broadcast Governors?

Hon. Mr. NOWLAN: The Board of Broadcast Governors.

Senator KINLEY: You have three full-time?

Hon. Mr. NOWLAN: That is right. The Fowler Report, which, by the way, I would recommend for light reading and for serious reading, and is also one of the best written reports of a Royal Commission ever published—I think you get everything in it from slang to good English, and I recommend it for good reading on vacation, and also for serious study,—The Fowler Commission suggested there should be fifteen part-time members, and said there should be no full-time members. I do not think that view was generally accepted. I think the Fowler Commission did a remarkably good work, but I do not believe, and never did, that you could get a board charged with these responsibilities and have it exercised by a part-time voluntary membership. Mr. Fowler told me himself he was tremendously impressed by the quality and calibre of business men met by the commission who were ready and willing and had offered to serve on any board of this nature as a public service, and undoubtedly there is that tremendous reservoir which the Government of the country could draw on, but that is not in itself going to give the direction; and what I feared was the fact that Fowler said you have to get away from full-time men otherwise they will control it. Well, no board of part-time members is going to run itself. With all due respect, what would have happened? A permanent secretary of able civil servants who inevitably would do the planning, and so on, and so forth. And I was afraid that the Board of Broadcast Governors would be literally controlled by the secretary. As between the two I much prefer to have it directed by members of a board drawn on a broad national basis, even if they are paid for full time, than to have it under the control of however able a small group of people resident in Ottawa, and more or less divorced from the rest of Canada, and so on.

The CHAIRMAN: I think there is a good deal to be said for your view there. Of course, Senator Burchill, from the practical point of view section 9 does provide for a small executive committee to do the day to day work.

Senator CONNOLLY (*Ottawa West*): May I ask a question at this stage? Mr. Nowlan, in the establishment of the Board of Broadcast Governors I would assume, or perhaps I should ask if it is the intention to have a considerable staff? I am thinking of this situation, that when the C.B.C. is the regulatory body as well as the operating body and licensing body, they have a good many technicians and specialists in various parts of the field of broadcasting, and they were able to advise the Board of Governors, and did advise the Board of Governors, on applications for licences, and matters of that kind.

Is that type of personnel to be duplicated in a build-up under the Board of Broadcast Governors? I realize that a good deal of the technical help required on applications for licences came from the Department of Transport—the Telecommunications Section of that department has been functioning for many years. Is there going to be a huge duplication of staff of technical people, legal people, of practical people to advise generally?

Hon. Mr. NOWLAN: No, I would think not, Senator. I cannot see any reason for that. We have, as you say, the technical people in the Department of Transport today, there are technical people in C.B.C. and I do not see any reason why this Board of Broadcast Governors would have to build up a large staff of that kind. There will be plenty of assistance available on whom they can call.

Senator CONNOLLY (*Ottawa West*): The plan is to use facilities existing in departments of Government, but I would think they would not be using the C.B.C. people as advisers.

Hon. Mr. NOWLAN: No, they will not be using the C.B.C. as advisers, but there are people presently employed by the C.B.C. who deal with regulatory work and I presume they will have to be absorbed by some other department of Government because the C.B.C. will have ceased to function in this sphere.

Senator CONNOLLY (*Ottawa West*): Will there be many people affected?

Hon. Mr. NOWLAN: I would rather that you asked that question of Mr. Ouimet, who is here. I do not know.

As to the Executive Committee: you will notice the Executive Committee consists of seven members, and that means that the majority of the Executive Committee will be part-time. The quorum is five. It is up to these members to be there so that the quorum will be in control at the meetings. We deliberately fixed the membership of seven so that there would be a majority of the board, consisting of men or women, because I hope women will be appointed to it, and there are also powers given to the board over the Executive Committee. You will notice the board can pretty well control the Executive Committee for the Executive Committee must submit minutes to the general board for their approval, and I am advised by the Justice Department that if the general board wishes they could overrule a decision for the Executive Committee.

Senator CONNOLLY (*Ottawa West*): I would like to follow up with just one more question. In the establishment of the Board of Broadcast Governors, and the placing of the Canadian Broadcasting Corporation in an operating position is it expected that there will be much of an increase in the cost, shall I say, at the top?

Hon. Mr. NOWLAN: No, I would not think so, Senator. No decision has been made with respect to the salaries paid to the three full-time men. I can tell the committee quite frankly and very definitely that the Government has given no consideration whatsoever to personnel to be appointed to this

board—that is as to persons or individuals. It has given consideration to personnel in a broad way of Canadians representing the nation as a whole, but I have never heard one name mentioned, and I have not given consideration to any one individual.

Senator McDONALD (*Kings*): The more important thing looking to the success of this new board will be to get men of strong character and men of independence of thought.

Hon. Mr. NOWLAN: That is right, Senator. I have said in the house, and you have seen it in the press and I do not want to repeat it, you cannot legislate broadcasting. That is impossible. You can legislate on a bill of lading but you cannot legislate on broadcasting.

Senator LAMBERT: It is important though to have the head of the board known as soon as possible.

Hon. Mr. NOWLAN: That is true, Senator. Success or failure is going to depend on the calibre of the men and women who are chosen on these various boards. The best bill in the world will not recompense you or meet the requirements for poor personnel selected. I think one might almost go, so far as to say—it would not be desirable,—that a poor bill might work if you had the right personnel—it is a matter of co-operation and understanding. For instance, under the present act the C.B.C. Governors was assisted by a General Manager of the C.B.C. and I am quite sure Mr. Ouimet, who is here present, could never say where the Chairman of the Board stopped and the Manager began. He never found out, because they worked together, the system worked and operated smoothly and well, and although the line of division was set out in the act it was really non-existent when it came to operation.

Senator BRUNT: Would it be fair to say any analogy that shareholders of a company cannot run broadcasting?

Hon. Mr. NOWLAN: That is probably true, Senator Brunt.

Senator BRUNT: Thank you.

Senator GOUIN: Provision is made that the full-time governors will be made up of a Chairman, a Vice-Chairman and another member. May we have any indication as to why he has no title? Will he just be chosen at large, so to speak?

Hon. Mr. NOWLAN: No, that is a question that I cannot answer as such. We wanted a nucleus here of three full-time men for the Executive Committee particularly, and my own feeling is that there is going to be a great deal of work, far more than Mr. Fowler ever realized, in the next year or two in dealing with applications for licensing and holding hearings across this country. There is a tremendous amount of work there and I think it is not realized from this bill, but everyone knows what Government policy has been heretofore, and this is not a matter of C.B.C. at all, it is a matter of Government policy; the preceding Government established it and this Government is maintaining it, that certain areas were restricted and you could not have competing stations in that area. However, I think the time is rapidly approaching when that policy should be modified and it certainly should not be modified until after we had these changes made in the act. And if there was going to be a change in regulations of any kind, and I am not saying it will be modified in the immediate future—but I think the time is very near here when it has to be—and when that time does come the number of hearings which will have to be held, and the amount of work done in Toronto, Montreal, Winnipeg, Vancouver, and a score of other places, I think there is going to be plenty of work for three full-time men working together, or one of the members can hear certain matters on local questions by delegation, so you may have one member sitting

in Halifax with a small committee there and so on. I really think the three men will be kept busier than the old board for the next two or three years, but after that I am not sure.

Senator CONNOLLY (*Ottawa West*): Will the board have power to break itself up for hearings?

Hon. Mr. NOWLAN: It can, on certain restricted matters.

Senator MACDONALD: Why should not the third member be empowered to act as Chairman in the absence of the Chairman and Vice-Chairman?

Hon. Mr. NOWLAN: He is authorized to do that in case of their illness.

Senator MACDONALD: I do not see that in clause 5 of the bill. Clause 5 provides that the Chairman is to be the chief officer of the board and if the Chairman is absent the Vice-Chairman may exercise his powers. Then in the absence of both the Chairman and the Vice-Chairman why shouldn't a third full-time member act as Chairman?

Hon. Mr. NOWLAN: Well I had hoped that he would, and after all if we choose the right type of people here I think we will achieve that. I thought we should not go any further down the line and tell them what they should do in the event that the Chairman and Vice-Chairman were away. I think it almost certain that the third member would be chosen in the event that the Chairman and Vice-Chairman were away sick, ill or dead but we did not spell that out. Now that is a detail that would be advisable to consider, but we left it to the board to make that choice in the not very frequent occasions when such an event happened.

Senator MACDONALD: Would it not be better if there were provision for a third full-time member to act as chairman in the absence of the other two? Somebody would have to call the meetings.

Hon. Mr. NOWLAN: I would have no objection to that at all, but we thought that, having designated the chairman and vice-chairman, we should not do any more.

Senator CONNOLLY (*Ottawa West*): Just on that point—perhaps it has escaped me, but is there anything in the measure which permits the Board of Broadcast Governors to make its own regulations with respect to its own internal management?

Hon. Mr. NOWLAN: Yes, there is.

Senator MACDONALD: If I may get back to the numbers on the board: there will be 15 on the Board of Broadcast Governors, and 11 on the board of the C.B.C. That makes 26 in all. Now under the provisions of the present C.B.C. there are how many members?

Hon. Mr. NOWLAN: There are 11.

Senator MACDONALD: There are 11 altogether, and only one is a full-time member?

Hon. Mr. NOWLAN: Of the Board of Governors.

Senator MACDONALD: There are 11 members on the C.B.C. Board of Governors, and the present Board of Governors of the C.B.C. is doing the work that is combined in both the Board of Governors and the C.B.C. directors under this bill?

Hon. Mr. NOWLAN: Oh no; oh, no. Because the Board of the C.B.C. Governors are only responsible for questions of regulations and licensing and matters such as that. In addition to the one full-time member of the Board of Governors, Mr. David Dunton, you have a substantial number of executive officers of the C.B.C., all of whom are responsible for operations.

Senator MACDONALD: That set-up, I presume, will remain?

Hon. Mr. NOWLAN: That set-up will continue.

Senator MACDONALD: The point I am getting at it that the C.B.C. now is responsible for everything that is contained in this bill, and is made up of 11 members, one of whom only is full-time, whereas, under this bill there are 26 members, 5 of whom are full-time.

Hon. Mr. NOWLAN: That is right.

Senator MACDONALD: Quite a large increase.

Hon. Mr. NOWLAN: It is quite a large increase. Of course you have two corporations where you had one before, and two distinct organizations.

Senator BRUNT: You are going to deal with other licences that were not dealt with up to the present time; for instance, this TV.

Senator MACDONALD: They were considered previously.

Senator BRUNT: No, there were no TV from Montreal, Toronto or Vancouver, for instance.

Senator MACDONALD: They were not granted; that is true.

Senator BRUNT: They were not even considered. There was no hearing.

Senator MACDONALD: I am not so sure. They were certainly desiring to have them.

Hon. Mr. NOWLAN: That is a legitimate criticism: you have two boards, and you have more people there than you had before. The only thing I can say in response to that is that there are more responsibilities than there were before.

Senator MACDONALD: That is what I do not understand. I cannot see that there are any other responsibilities under this bill than there were in the former bill.

Hon. Mr. NOWLAN: Because the Board of Broadcast Governors is going to exercise much more powers, with more independence, and do much more work than the C.B.C. Board of Governors.

Senator BAIRD: They had jurisdiction over the C.B.C.

Hon. Mr. NOWLAN: They had jurisdiction over the C.B.C. in matters of licences and applications, but the consideration given to it by the C.B.C. Board of Governors was, to say the least, rather academic. Now it will have to be given serious consideration by the Board of Broadcast Governors, and there will be possibly hearings where the C.B.C. and the private applicants who are appearing together and urging their claims before the Board of Broadcast Governors—which is something that did not happen in the past. I think another criticism which honourable members may have in their minds is the \$100 fee per day, which seems pretty heavy; but I am advised, and I think Mr. Ouimet can corroborate this, that the C.B.C. Board of Governors is having real difficulty to get people to attend; at least, they come, but at a real sacrifice; and they felt that, even if there was no change made in the corporate structure of the C.B.C. there had to be a substantial increase in the emoluments paid to voluntary people, otherwise they would not come to the hearings. That is why we had the \$100 fee set per day for both the Board of Governors and the Board of Directors, and the salaries to be fixed by the Governor in Council. There has been no consideration given to the salaries, but my impression is, that to get the type of man we want to get—men or women—we will be paying fairly large salaries to these people to induce them to come. You notice their term is seven years on the Board of Broadcast Governors—longer than the other, because the Superannuation Act will apply to them, and we feel that five years might be too short for a man or woman coming in at 45 or 50, in that age bracket, where they had achieved a standard or a reputation, the type of people you are looking for; if you brought them

in at 50 and they knew they would be retired at 60 you could not get them. So it was sought to make it a little longer to make it possible for full-time people to be there for 14 years.

Senator MACDONALD: They are the only ones who get the benefit of superannuation. The ones who get the \$100—

Hon. Mr. NOWLAN: There is no superannuation for them.

Senator GOUIN: The governors cannot be at the same time directors of the C.B.C.?

Hon. Mr. NOWLAN: That is right.

Senator BRUNT: The \$100 a day is in addition to expenses.

Hon. Mr. NOWLAN: Their actual travelling expenses.

Senator BRUNT: And then you are taking half of it away from them.

Hon. Mr. NOWLAN: That is right.

Senator BAIRD: I would like to ask where all this money is coming from.

Hon. Mr. NOWLAN: Coming from me. I have to collect the taxes.

Senator KINLEY: After all, it is only \$600 a year—six meetings.

Hon. Mr. NOWLAN: Six meetings.

The CHAIRMAN: That sounds reasonable enough, I must say. It is getting to 11 o'clock, and the Minister has not yet had a chance to deal with Part II. I was wondering whether we could prevail on your good nature, Mr. Nowlan, to come to an additional meeting some time.

Hon. Mr. NOWLAN: I would be very happy to do so, sir. This is the situation. There is consideration, I understand, coming up first—I am not sure—to amendments with respect to the Estate Tax Bill; and then immediately afterwards there is the Customs Bill, which I think will involve me for some considerable time in the house. So I would not be available this afternoon or this evening. But I would be very happy to come here tomorrow morning at this time, or any time you suggest. It is not for me to say how long the Customs Bill will last, but it should be through by half-past two or three this afternoon, though it may last until tomorrow. I don't want to commit myself.

Senator BRUNT: If your Customs Bill gets through this afternoon would you be available this evening?

Senator MACDONALD: I understand we have another committee meeting tonight.

Hon. Mr. NOWLAN: I will be available anytime after the Customs Bill is through.

The CHAIRMAN: Thank you very much, Mr. Minister. It may be that when you appear before us again we will have heard some suggestions from other witnesses about changes in the legislation, which we would like to discuss with you.

Hon. Mr. NOWLAN: Yes. If I could retire now I will make myself available to you later.

The CHAIRMAN: Thank you. How shall we now proceed, gentlemen? The minister has not concluded his statement with respect to Part II of the bill.

Senator MACDONALD: Would you like to hear the witnesses?

The CHAIRMAN: Perhaps if we could deal with the Canadian Marconi Company representations now we could see where we stand after that. I understand they are making representations with respect to only one section of the bill. The alternative would be for the committee to go on with the general consideration and to hear Mr. Ouimet, but I think it would be better

to wait until the minister concludes his statement. Therefore, if the committee is agreeable we will now hear the Canadian Marconi Company witnesses.

Hon. SENATORS: Agreed.

Mr. Stuart M. Finlayson, President, Canadian Marconi Company:

Mr. Chairman and gentlemen, the reason we are here has to do wholly with clause 14 of the bill, which as you will see, defines citizenship and outlines those people who are eligible or ineligible for broadcasting licences. The company I represent finds itself in a difficult and, I believe, unusual position under this clause.

Our company was founded in 1903 by a private act of Canadian Parliament, and has so continued ever since. Under the act we were authorized to do a great many things in connection with communications in this country. Originally the ownership, or rather, I should say, the control of the company lay with Marconi's Wireless Telegraph Company of England. Our company was a subsidiary, a sort of daughter organization. As the years went on that control changed and about 30 years ago it came into the hands of a private company called Canmar Investment Company Limited, which has its corporate being in Montreal and is incorporated under the Companies Act of Canada.

Canmar Investment Limited has owned, ever since that time, approximately 50 per cent of the issued capital of Canadian Marconi. In 1953 the ownership of Canmar Investment passed into the hands of the English Electric Company of England, and at the present time Canmar owns 50.6 per cent of the issued share capital of Canadian Marconi Company. According to our latest records, about another 8 per cent is held by individual Canadian citizens, and the remainder, something like 40 per cent is very widely distributed, a large part of it in the United States, in the hands of small investors. I don't know of any one individual who owns as much, according to our records, as 1 per cent. I seriously doubt there are any even as high as that.

The CHAIRMAN: Your shares are publicly quoted on the Canadian stock exchange?

Mr. FINLAYSON: Yes, in Montreal and on the American Stock Exchange in New York.

Senator BRUNT: Could I interrupt to ask a question at this point?

Mr. FINLAYSON: Yes, sir.

Senator BRUNT: In view of this very wide distribution of shareholders, have the shareholders any effect on the broadcasting policy of this station?

Mr. FINLAYSON: I would say not, sir.

The CHAIRMAN: You might tell the committee what broadcasting station you own.

Mr. FINLAYSON: I was coming to that, sir.

Senator MACDONALD: Some of these shareholders who live in different parts of the country are on the directorate?

Mr. FINLAYSON: I was coming to that right now, senator. In the first place we have a board of directors of 11, authorized by the Act. There are 9 at the present time, of whom 7 are Canadians resident in this country. The other two gentlemen reside in England and come only occasionally to participate in meetings. Our broadcasting station, CFCF, was the first one in this country to be licensed as such and it has been in operation now for about 38 years in Montreal.

In 1938 we first inquired of the technical branch of the Department of Transport what might be the conditions for a television licence in Montreal.

As a matter of fact, it was in October, 1938; so we are just under 20 years of having displayed interest in television. After the war we formally applied to the Canadian Broadcasting Corporation, through the Minister of Transport, for a television licence in the city of Montreal. That licence application was heard here in Ottawa by the Board of Governors of the C.B.C., and in accordance with the Government policy which the minister has referred to of non-duplication of services, the application I believe is officially considered as having been deferred, if not actually set aside.

Ever since that time we have kept in touch with the Department of Transport and with the C.B.C. by letter or otherwise at intervals of a few months, continuing to show proof of our sincere interest in getting a television licence in the city of Montreal.

You will see right away, I think, that first of all we have a sincere and lasting interest in Canada. Our whole operation is in this country. We employ some 2,500 people in manufacturing, engineering, operations of various kinds, and a large part of defence production has been entrusted to us, as has the maintenance of certain defence facilities. We have always regarded ourselves, rightly or otherwise, as being Canadian citizens and British subjects.

I imagine that under the previous legislation, if the question had ever arisen, we would have qualified under those wordings. You will see that Canmar Investment, which holds 50.6 per cent of the shares, although it is the Canadian company, its whole ownership lies in England, and, as the remaining shareholdings of our own record in Canada is some 8 per cent, we would not, as we interpret this clause, qualify. However, it is our sincere belief that it was not the intention of the Crown to dispossess us of the right to qualify, if that is the proper way to put it.

Senator BRUNT: Would you not even qualify if you added up all the shares?

Mr. FINLAYSON: No, because we would still only have 58 or 59 per cent of them owned in Canada and England. Another point is that a corporation such as ours has no effective control over where its shareholdings may from time to time lie, and even if today we had 78 or 79 per cent we could by no means guarantee that would change by the time our licence came up for renewal as it does now every three years.

The CHAIRMAN: You mean through public sales of your shares on the market?

Mr. FINLAYSON: Yes. So we have operationally no control over the change of our shareholdings.

Senator MACDONALD: Could you give us the actual number of shares?

Mr. FINLAYSON: There are 4 million, 552 thousand and some odd hundreds, which I can't actually remember. 2,308,000 of these shares are held by Canmar Investment. I might mention, however, that either for my sins or for some other reason, I am president of Canmar, and the Board of directors of Canmar is in part a small facsimile of the Board of directors of the Canadian Marconi Company.

The CHAIRMAN: Perhaps I might interject to say that I am also a director of Canmar.

Senator BRUNT: Would you care to name the directors of Canadian Marconi?

Mr. FINLAYSON: As you will have seen, two of them are here present, the senator and myself; Mr. Mather, the chairman of the Canadian Pacific Railway; Mr. H. J. Symington; Mr. N. A. Timmins, Jr.; Mr. J. A. Boyd of Toronto; and Mr. G. Notman, the president of Canadair, is the other Canadian director; the two gentlemen who live abroad, are Sir Leslie Nicholls who was chairman of the British Crown Company, Cable & Wireless Limited, from whence English

Electric bought the 50.6% of our shares by buying Canmar, and Mr. H. G. Nelson, who is the managing director of the English Electric Company, which as I have explained holds the control.

Now, gentlemen, our whole reason for coming before you today is very simple. We feel quite sincerely that it could not have been the intention of the drafters of the bill to deprive a company such as ours of the right to apply for and gain the television licence, should that be granted, all other things being equal; and also we are a little bit concerned as to whether when our present broadcasting station licence comes up for review every few years, there might be any question of retaining even our current sound broadcasting licence for Station CFCF.

Senator MACDONALD: May I ask a question at this point? Do you take it from a reading of this bill that you would have to get a new licence, or do you expect that your licence will continue under the conditions of this bill?

Mr. FINLAYSON: As I say, senator, we are not quite sure what the narrow legal interpretation would be; but our present licence is one under the present legislation, and we would rather assume it would not be the intention to deprive us of our present licence, but even so we are a little bit in doubt if we qualify.

Senator MACDONALD: You say your licence comes up for review every few years?

Mr. FINLAYSON: Yes; it is merely brought up before the board of the C.B.C. and the Minister of Transport, to see we adhere to the rules and regulations, and that there are no black marks against us; then I believe it is reasonably sure that the renewal under the current legislation is automatic.

Senator MACDONALD: But under the new legislation you would not be complying with this?

Mr. FINLAYSON: We certainly would not. Now, we have given this much thought, Mr. Chairman, and have one or two suggestions that might or might not be practical, but if I may, I will take the time of your committee to explain the position in more detail. Quite frankly, and I do hope that the committee will find it convenient and possible to give us some solution for this problem, having to do not only with the maintenance of our present licence but also to retain for us as long as we continue in good standing the right to apply for other licences, but most notably a television station licence in Montreal, should the rules so ultimately permit.

Senator BRUNT: Would your problem be cleared up if section 14 was amended? I am not suggesting these identical words, but this is the general intent, that more than 50 per cent of the shares of the corporation applying for a licence must be held by citizens of Canada or the Commonwealth.

Mr. FINLAYSON: Yes sir, it would; that would cover us.

Senator BRUNT: So that you would be complying with the section.

Mr. FINLAYSON: Yes.

Senator CONNOLLY (*Ottawa West*): Is Canmar a member of the Commonwealth?

Senator BRUNT: I am not saying it is, but that is just a rough idea of a suggested amendment.

Senator MACDONALD: There may be other alternatives.

Mr. FINLAYSON: There may be other alternatives. But, you see, we fully qualify under the same clause about the two-thirds of the directors being Canadian citizens; we are fully competent under that part of the wording; and it is only this somewhat anomalous accident of the way the company has

been organized, and it has been organized for half a century, that puts us in this, as we think, grievous position. I would like to assure the committee, Mr. Chairman, that we have for nearly twenty years been of the view that we want a television station in Montreal. I do not like to debate this here, because it is not the appropriate place, but we feel we are proper applicants for such a licence, and all other things being equal, we do not think it is the intention of the Crown to deprive us of this privilege. I imagine, although I don't know this, that there may be other companies or stations in a similar situation. Obviously any solution that would apply to our case might possibly cover them.

Senator MACDONALD: But this clause would also apply to the radio station?

Mr. FINLAYSON: That is right, senator—as we read it.

Senator MACDONALD: So that you are not only concerned with the future, but with the present?

Mr. FINLAYSON: With the present, yes, we are.

Senator BAIRD: You are taking in a very big territory.

Senator KINLEY: What would the Americans say about that?

Mr. FINLAYSON: I don't know, sir.

Senator CONNOLLY (*Ottawa West*): Would you say your company is a flourishing company?

Mr. FINLAYSON: That is rather a difficult question, but my answer is yes, we have made a tremendous amount of progress in the last few years, and I believe that we can say that we are moving on from here in a really big way. I might add, gentlemen, something else, which I think is perhaps germane, that this broadcasting station of ours is a department of the company, it is not a separate corporate organism.

Senator CONNOLLY (*Ottawa West*): Wholly owned?

Mr. FINLAYSON: Wholly owned, but it is not a separate corporation, it is a department.

Senator BURCHILL: Just the one station?

Mr. FINLAYSON: Yes.

Senator CONNOLLY (*Ottawa West*): What is your capital set-up?

Mr. FINLAYSON: Four and a half million shares at a par value of one dollar each. Now, the true net worth, of course, is very considerably greater than that.

Senator KINLEY: Is your present set-up under the restriction of railroads and shipping lines, where it is stipulated that 50 per cent or 75 per cent, whatever it might be, shall be Canadian?

Mr. FINLAYSON: No, but ours is a corporate company, and it so happens that Canmar does own almost 51 per cent, but other than that there is nothing to prevent the publicly held shares moving around as the market changes.

Senator KINLEY: Can you suggest why it was indicated at 75 per cent?

Mr. FINLAYSON: No sir, I don't know.

Senator KINLEY: Except I suppose that you could sell the company at 75. Usually it is a three-quarter control.

Mr. FINLAYSON: Yes, but in our corporate set-up the majority of those present at the annual meeting or represented by proxies, govern.

Senator BRUNT: In what exchanges are transactions made?

Mr. FINLAYSON: The American Stock Exchange, the old curb one, and the Canadian Stock Exchange in Montreal.

Senator BRUNT: I believe it is a fact that all your Canadian directors were born in Canada?

Mr. FINLAYSON: I believe this to be true; I think that is absolutely correct.

The CHAIRMAN: No, I am an exception, I am afraid.

Mr. FINLAYSON: Then I have to withdraw. But I believe this very sincerely, gentlemen, that we are a Canadian company. Our policies are entirely Canadian, and our operations for these many years have always been conducted on that basis.

Senator KINLEY: Are there any provisions anywhere whereby a company control must be 75 per cent Canadian?

Mr. FINLAYSON: I don't know, Senator Kinley.

Senator KINLEY: I have never heard of one.

Senator CONNOLLY (*Ottawa West*): Would you know, Mr. Finlayson, if there are other companies engaged in the broadcasting field in Canada which are in a position similar to your company?

Mr. FINLAYSON: I have heard that there are, but I have no details so I do not really know.

Senator BRUNT: Yes there are.

Senator MACDONALD: Are you referring to the Commonwealth countries?

Mr. FINLAYSON: No, I believe it is just a question where the shares are held by the public rather than the nature of the company.

Senator BRUNT: Mr. Chairman, I could give the committee some information on that. A station in point is CFRB in Toronto, which is owned and operated by Standard Radio Limited, whose stock is traded on the Toronto Stock Exchange, and they have no control over the ownership of their stock, it is traded every day, purchased by Americans or Englishmen or Canadians.

Senator MACDONALD: Who are their directors?

Senator BRUNT: I have no information as to the directors, but I do not know how that company could be sure that at all times they had the required amount of stock as specified in section 14 of the bill.

Then there is a television station in Kitchener which is owned by Famous Players which is, of course, controlled by Americans.

Senator CONNOLLY (*Ottawa West*): Perhaps we might get from the officials the names of other companies that are in this position.

The CHAIRMAN: I wonder if Mr. Ouimet could help us on that?

Mr. OUIMET: I do not think I could, Mr. Chairman, but I will check it up.

The CHAIRMAN: I think we should have that information, Mr. Ouimet. Will you please be good enough to get it for us?

Mr. OUIMET: I certainly will, Mr. Chairman.

Senator BRUNT: The same situation exists in regard to station CKLW at Windsor. I think that is controlled by Americans.

Senator MACDONALD: Do I understand, Mr. Finlayson, you do have an amendment which might be offered?

Mr. FINLAYSON: Yes, there are two thoughts that occur to us, Senator Macdonald, one was that section 14, paragraph (b) of that section should stop at the word "citizens", and the remaining words following the provision that two-thirds of the directors be Canadian citizens, be wholly erased. That would be one suggestion. The other is very much along the line mentioned by Senator Brunt. The other one that has occurred to us, which may or may not be sound legislation or a true approach is, of course, an insertion of wording that would save current broadcasters in good standing harmless, if that is a proper term, so they could go on for the rest of their natural existence and qualify as a licensee.

So there are really three points that have occurred to us. I do not suggest which of these is a proper one, but this latter one about current stations in good standing is of course sufficiently broad to take care of any reasonable case, but whether it is good legislation or not I do not know.

Senator KINLEY: What, Mr. Finlayson, do you think is the reason behind this?

Mr. FINLAYSON: I do not know, Senator Kinley.

Senator KINLEY: Foreign propaganda?

Mr. FINLAYSON: Under the present legislation you have to be a Canadian citizen or a British subject and this seems to be an extension and a clarification of that. Our contention is that, corporately speaking, we are Canadian citizens and British subjects.

Senator CONNOLLY (*Ottawa West*): I do not know if that would be the rule if there are stations in existence where the stock is owned predominately by, say, Americans. I do not think we should ask Mr. Finlayson for an opinion.

Senator BRUNT: No, that is Government policy, Mr. Chairman.

Senator MACDONALD: Certainly it is.

Senator BRUNT: He should not be asked to define Government policy.

Mr. FINLAYSON: No, I am merely in the position here, Mr. Chairman, of asking this committee if it is not possible to give us and others who find themselves honestly and reasonably in the same position, some relief that will allow us not only to carry on with our present broadcasting station but also to be valid applicants for a TV licence as long as we remain in good standing under the broadcasting legislation.

Senator BRUNT: Mr. Finlayson, if this section applies to Canadian stations that are now doing broadcasting your station could not possibly qualify under it?

Mr. FINLAYSON: That is right, senator.

Senator BRUNT: And that means your station will probably have to go out of business because I do not know how you are going to acquire that 42 per cent from the Americans.

Mr. FINLAYSON: I do not know how we can do it, but it might move into somebody else's hands tomorrow morning, as far as we know.

Senator CONNOLLY (*Ottawa West*): I think it should be pointed out, Mr. Chairman, that if the section is modified to enlarge it to have British subjects, and citizens of any Commonwealth country included, you still are excluding any other form of foreign domination in any of these companies.

Senator MACDONALD: The United States, for instance?

Senator CONNOLLY (*Ottawa West*): Yes, or any other, Dutch, Belgian.

The CHAIRMAN: There is one point I am not quite clear on which I think the committee should be clear on and that is with regard to the issuing of a licence. The issuing of a licence is done under the Radio Act and do I understand it is the case—perhaps our Law Clerk could find out—whether once a licence is issued it remains issued until cancelled or whether it is to be renewed and a new licence issued every three years or so.

Perhaps Mr. Ouimet could tell us about that.

Mr. OUIMET: Actually renewals are on the recommendation of the C.B.C. Board of Governors, but they have been pretty well automatic but I think technically speaking a renewal is the issuance of a new licence.

The CHAIRMAN: So the American company would not qualify for the issuance of a new licence.

Mr. FINLAYSON: That is my fear, Mr. Chairman.

Senator CONNOLLY (*Ottawa West*): The reissuing of their licence is in jeopardy.

Senator BRUNT: So that your present existence is threatened under section 14 of the bill?

Mr. FINLAYSON: That is the way we read it Senator Brunt.

The CHAIRMAN: This seems to be obviously a matter of Government policy and I do not think we can ask any of the officials, Mr. Ouimet or the gentleman from the Department of Transport to suggest anything to us on this. I think we have to defer talking about this question until the Minister is back with us again and perhaps we might suggest something to him.

Senator MACDONALD: That is what I was going to say. As we have done in other committees, we have made suggestions to the officials that they take up our suggestions with the Minister and then they might come back with a recommendation to us. But we can go further than that and we can make an amendment ourselves but I think we would like to get the views, and I quite agree with you on that, Mr. Chairman, of the Minister either directly or through his officials.

The CHAIRMAN: If that be so then it is a question of what the committee feels it should recommend to the Minister. It is true that to deal with the case of the Canadian Marconi Company alone we could broaden section 14(b) (ii) by including a commonwealth corporation as well as a Canadian corporation, but that would not deal with the American ownerships.

Senator ASELTINE: I think, Mr. Chairman, we should let this section stand for the present.

The CHAIRMAN: I think so, undoubtedly, but the question is just how far we could like to go and how far we could persuade the Minister in accepting any suggestion we might make.

Senator MACDONALD: I think we should follow your first suggestion, Mr. Chairman, and ask Mr. Ouimet to get information with respect to similar companies which may not have the majority of their shareholders in England, but might have them in the United States or some other country. I think we should have a fuller statement on that.

Senator CONNOLLY (*Ottawa West*): Would this suggestion help in addition, Mr. Chairman? Since the Minister is obviously the one who should be asked about this question of Government policy perhaps it could be arranged before he returns that he be given a copy of the typescript of this portion of the evidence so he could consider it.

The CHAIRMAN: We could do that.

Senator BRUNT: Could we have an opinion from the Department of Justice on this section 14, as to whether it is going to apply to the renewal of licences on existing stations?

Mr. THORSON: Of course honourable senators appreciate the reluctance of any lawyer to give an opinion before having considered all the facts and having made a study of them, but my quick opinion is this company would not qualify.

The CHAIRMAN: Shall we leave the matter on this footing, to ask Mr. Ouimet to obtain full information for us as to all broadcasting companies which might be affected prejudicially by this section 14, and let us have that information at our next sitting? Does the committee wish to go this far, to suggest to Mr. Ouimet that he discuss the question with the Minister before the next sitting?

Senator MACDONALD: Oh, I would think so.

The CHAIRMAN: Mr. Ouimet is aware of the problem now, and perhaps at our next sitting, if the Minister is present, we might reach some satisfactory solution.

Senator MACDONALD: He might discuss with the Minister the advisability of amending the section by dropping out all the words after "citizens" in the 42nd line, 14 (b).

Senator METHOT: And that you drop also "Canadian citizens" on the other page.

The CHAIRMAN: Yes. The section would then end after the word "citizens" on line 42 of page 6.

Senator MACDONALD: I haven't given consideration to it myself, but I thought the Minister might consider it.

The CHAIRMAN: Has the committee any further questions for Mr. Finlayson? I think we have the problem, the general problem created by this section, in our minds now. I do not think we require his presence any further.

Mr. FINLAYSON: Will we be required by the committee at their subsequent meetings? Would it be of any help if we were here?

The CHAIRMAN: It might be useful. The Minister might wish to ask you questions. I think it would be advisable if you could be here tomorrow... It will probably be tomorrow morning; some time tomorrow, anyway.

I don't know whether there is any advantage in our proceeding further at the moment, until we have the Minister's discussion of Part II.

Senator BRUNT: There is one question I would like to ask Mr. Ouimet.

The CHAIRMAN: I think you, Senator Connolly, had a question that you were going to ask Mr. Ouimet about the number of persons involved in the C.B.C. at the present time, who might move over to the new corporation.

Senator CONNOLLY (*Ottawa West*): This would be an appropriate time if Mr. Ouimet could give that information.

Mr. OUIMET: Our station regulations group is combine with our station relations group, so I can't give you exactly from memory how many are working strictly on regulations. I could check and give you the number this afternoon, or whenever you sit again.

Senator CONNOLLY (*Ottawa West*): Would you have any information as to the approximate set-up in numbers for the Board of Broadcast Governors in their whole operation?

Mr. OUIMET: I have no idea.

Senator CONNOLLY (*Ottawa West*): You have no plan?

Mr. OUIMET: No plan. Of course this will not be the responsibility of the corporation in the future.

Senator CONNOLLY (*Ottawa West*): Do you look forward to a decrease in the number of your technicians and other personnel?

Mr. OUIMET: No, not on the technical side. If you are talking about engineering, we have no special staff devoting their time exclusively to regulations or to the work of the board. We loan one or two of our men as needed. But I do not think in the course of the year this would amount to more than, say, a month or two months of work.

Senator CONNOLLY (*Ottawa West*): You do not look to any sizeable reduction in the number of personnel employed by the C.B.C. as the result of the passage of this legislation?

Mr. OUIMET: There may be some reduction on the personnel charged with the enforcement of regulations.

Senator CONNOLLY (*Ottawa West*): How many are in it now?

Mr. OUMET: That would depend, I would say to the extent the new board is more lenient or perhaps more strict about regulations. We still need a regulatory group to make sure we are observing the regulations.

Senator CONNOLLY (*Ottawa West*): How many were in that group?

Mr. OUMET: Well, I cannot give the exact number to you from memory. It is a group of the order of 15.

Senator BAIRD: But the mere fact of you not having other private stations to regulate should in itself lessen the staff?

Mr. OUMET: That is what I say. I expect there will be some decrease in the regulatory staff, but how much, really, I can't tell. It may be that we will have a great number of reports to make to the new board with respect to our own observance.

Senator MACDONALD: Under this new act, you would have two full-time members, whereas under the old act you only had one.

Mr. OUMET: The set-up of the Board of Broadcast Governors I find hard to compare to our present set-up, for two reasons. In the first place the C.B.C. has nothing to do with the future planning of the Board of Broadcast Governors organization. You realize that: we will have no responsibility whatever. Furthermore you will realize also that we have done no work with respect to that organization. This is a matter of policy of the Government and not of the C.B.C.

Senator MACDONALD: I was going to ask you at the present time, when the C.B.C. decides to set up a new station, does it make an application under the Radio Act to the Transport Board?

Mr. OUMET: We have to apply for a licence and need an Order in Council; yes we have to apply to the Department of Transport.

Senator MACDONALD: Just like a private station?

Mr. OUMET: Yes. There is a difference though. We don't appear before our own board at a public hearing.

Senator MACDONALD: So the procedure is this. If you want to set up a new station you apply under the Radio Act to the Department of Transport, and if that department grants it do you apply for an order in council?

Mr. OUMET: Actually we cannot establish a station without an order in council, and I believe also that every licence requires an order in council. I am not absolutely sure. I should explain to the committee that my responsibilities heretofore in the C.B.C. have been in the management of the Corporation's operation rather than at the Board level, which was the duty of the Chairman of the Board. So some of these details are not present in my mind but I can check...

Senator MACDONALD: The present practice is that you get the permission of the Department of Transport and then you obtain an order in council. On the other hand, a private interest gets permission of the Department of Transport to apply to the C.B.C. for a licence?

Mr. OUMET: A private interest submits a brief to the Department of Transport. The brief is looked at from the point of view of technical regulations, and if the application satisfies the technical requirements of the Department of Transport, it is then referred to the C.B.C. Board for recommendation. The C.B.C. Board holds a public hearing on it and recommends for or against, or it may recommend a deferment to the Department of Transport. What the Department of Transport then does with it is something about which I am

a little in the dark. I know that they recommend to the Cabinet as a whole but whether approval is by order in council or through other form I am not sure.

Senator MACDONALD: If it is approved by Cabinet then the order in council follows. But my point is that if a private station applies for a licence at the present time, then other private stations at a private hearing can oppose it.

Mr. OUMET: Yes, usually other interested stations are heard at the same time. Very often a private application may be opposed by other private interests, or it may be supported. Very often it involves competition in the same area.

Senator MACDONALD: But if the C.B.C. applies under the Radio Act to the Department of Transport for a licence, then the private stations have no way of opposing it.

Mr. OUMET: At the moment there is no public hearing so there is no way of opposing it at a public hearing.

Senator BRUNT: Well, is there any way of opposing it?

Mr. OUMET: Yes. There have been cases in the past. There is the well known case in Newfoundland where the C.B.C. applied for a licence and did not get it. A private station got the licence.

Senator BRUNT: Whom did it apply to?

Mr. OUMET: We recommended to the Department of Transport that a licence be granted to the C.B.C., and the government did not grant the Corporation that licence they granted it to a private station.

Senator BRUNT: You did not get past the Department of Transport then?

Mr. OUMET: I think it was at Cabinet level.

Senator MACDONALD: Under the proposed act a private station will have an opportunity of opposing an application by the C.B.C. at a public hearing?

Mr. OUMET: That is correct.

Senator MACDONALD: That might be an advantage so far as private stations are concerned?

Mr. OUMET: So far as the Corporation is concerned we see no objection to the procedure. I don't know whether it will be an advantage to private stations themselves. I would not go that far.

Senator BRUNT: I notice that under section 30, Part II, of the proposed legislation, the C.B.C. is granted powers of expropriation. This is something that really concerns me not only from the point of view of this Government but from the point of view of provincial Governments.

The CHAIRMAN: I think it is section 32 you are referring to.

Senator BRUNT: Yes, section 32. At the present time I understand that the Department of Public Works and the Department of Defence, the Canadian National Railways, Trans-Canada Air Lines, possibly the Bell Telephone Company and now the C.B.C. have powers of expropriation. In the province of Ontario it is even worse. We find that the Department of Public Works, the Department of Highways, the Hydro Electric, the Liquor Control Board, the Union Gas Company, the University of Toronto, Queen's University, the University of Western Ontario, and possibly Carleton College and Ottawa University have powers of expropriation. If this continues we won't be selling land in the future at all. It will be all expropriated. Do you think these powers of expropriation are necessary? If you require land could you not do it through the Department of Public Works?

Mr. OUMET: May I say that under the present Canadian Broadcasting Act we have the power of expropriation. We have that right now.

The CHAIRMAN: This is not changing anything.

Mr. OUIMET: No.

Senator BRUNT: Perhaps it should be changed.

Mr. OUIMET: We have used it quite frequently. Any public corporation which is in a position to need some property in order to render a public service should be in a position to expropriate; otherwise the price it might have to pay could be either very high or it would not be able to carry out certain projects considered to be in the interests of the public.

Senator BRUNT: The point I am making is this. Why not do it through the Department of Public Works? They have land evaluators and a legal department and everything else set up to do this. You set up exactly the same thing.

Mr. OUIMET: We do not have the same set-up, but we do buy our own property, build our own buildings and have our own engineers and architects.

Senator BRUNT: When you expropriate land how do you handle it?

Mr. OUIMET: First of all, of course, we would have gone through a series of negotiations in order to purchase the land. By that time we would pretty well know what it is worth because we have had it evaluated in order to set a price in our offer. By the time it is expropriated there is little additional work except the legal end of it.

Senator CONNOLLY (*Ottawa West*): Does your own legal staff do this?

Mr. OUIMET: Actually, no. We are represented by lawyers in the region where we expropriate.

Senator ASELTINE: Is this a recapitulation of the present section?

Mr. OUIMET: It is.

Senator BRUNT: If it was all done through Public Works you would only have to—

Mr. THORSON: Excuse me, but expropriations under the Public Works Department are for public works of Her Majesty in the right of Canada. Here you are dealing with a separate corporation.

Senator BRUNT: The act could be amended.

Mr. THORSON: You would have to amend the Expropriation Act.

Senator BRUNT: I hate to see this extension of the right of expropriation.

Mr. OUIMET: May I say a word here about the danger of having everything done centrally, even in the case of Crown corporations. The C.B.C. is in fact an independent corporation and the day you have everything done through Government departments for the C.B.C. it will no longer be, in my opinion, an independent Crown corporation as it is now.

Senator BRUNT: I do not think expropriation interferes in any way with the policy of the C.B.C. The method could be used possibly if all these appropriations were handled from one department.

Mr. OUIMET: All I can say is that the amount of money saved would be very little because we have no staff for this, and we have had perhaps three appropriations in five years.

Senator BRUNT: I thought somebody said five or six appropriations, but maybe I was mistaken.

Mr. OUIMET: No, I still think it is three in five years.

Senator MACDONALD: Three in five years?

Mr. OUIMET: I imagine over the 20 years we have not had more than ten or twelve.

Senator BRUNT: I understood you to say earlier that you had quite a few in recent years.

Mr. OULMET: We had quite a few in Vancouver just recently, and it is all in connection with the same property, that is adjoining properties.

Senator CONNOLLY (*Ottawa West*): I wonder if Mr. Thorson would care to deal with the point I raised when the Minister was here, in connection with the right of the Board of Broadcast Governors to set up regulations or bylaws to govern their own internal arrangements?

The CHAIRMAN: Well, I was looking at that. I notice that subsection 5 of section 4 of the bill says:

The Board may make bylaws respecting the calling of meetings of the board and the conduct of business thereat.

Does that cover your point?

Senator CONNOLLY (*Ottawa West*): I think that is it. I also wanted to ask Mr. Thorson about the Board of Broadcast Governors. It is a board, not a corporation, as I understand it?

Mr. THORSON: That is my understanding, yes. It is not a corporation.

Senator CONNOLLY (*Ottawa West*): So that at all times it should be able to carry out a policy that is set for it by Government?

Mr. THORSON: I am not quite sure to what your question is directed there.

Senator CONNOLLY (*Ottawa West*): Well, it is not a Crown corporation as is the C.B.C.?

Mr. THORSON: No.

Senator CONNOLLY (*Ottawa West*): So that a policy which it would set presumably would be policy of the Government?

Mr. THORSON: Oh no, not necessarily; likely it would be the board's own policy in the light of its own experience.

Senator CONNOLLY (*Ottawa West*): The board is there on the appointment of the Government, and presumably to carry out Government policy. It is not an independent board as a board of an independent company would be?

Mr. THORSON: I think perhaps the question is one that raises questions of policy rather than legal questions. Members of the board, as you have no doubt noted, are appointed during good behaviour.

Senator LAMBERT: May I ask if this legislation is in the nature of an amendment to the C.B.C. Act at the present time?

Mr. THORSON: It will repeal the Canadian Broadcasting Act, yes.

The CHAIRMAN: Section 41 repeals the act.

Senator LAMBERT: I was thinking would the C.B.C. still be a Crown corporation?

Mr. THORSON: Oh, yes.

Senator BRUNT: I have a request, and I do not think it has to do with Government policy, which Mr. Thorson might be able to explain to us. This is arising in connection with section 22, subsection 2, on page 9 of the bill, where the president and vice-president are appointed to hold office during pleasure, and the directors are appointed to hold office during good behaviour. Could we have an explanation as to the difference?

Mr. THORSON: To clarify that, do you mean the difference between an appointment during good behaviour and one during pleasure?

Senator BRUNT: Yes.

Mr. THORSON: One, of course, is removable for cause—the appointment during good behaviour. It is the sort of provision you will see in connection with statutes dealing with judges; the Board of Transport Commissioners is another illustration.

Senator BRUNT: But then you cannot remove the president and vice-president if they don't behave?

Mr. THORSON: Oh, yes; that is an appointment during pleasure.

The CHAIRMAN: Well, just what does that phrase mean?

Senator MACDONALD: Perhaps the witness should first be allowed to give his explanation of "good behaviour".

Mr. THORSON: I wanted to contrast appointments during good behaviour with those during pleasure, and there the appointment may be terminated for whatever cause commends itself to the appointing authority, but in the absence of such a determination the appointment will automatically expire at the end of a period of seven years.

Senator BRUNT: Would during pleasure include good behaviour?

Mr. THORSON: Oh, no, it is of a different character entirely.

Senator BRUNT: Well, then you cannot remove the president and vice-president because of behaviour?

Mr. THORSON: Oh, yes. I see what your question is concerning. Yes, an appointment during good behaviour may be terminated only for what may be termed colloquially a serious breach of duty or serious misbehaviour, the sort of thing for which a judge, for example, could be removed on address by Parliament. Now, an appointment during pleasure is much broader than that; you could be removed theoretically for whatever reason commended itself to the appointing authority.

Senator BRUNT: Well, a breach of good behaviour—you can remove the president and vice-president because that is included in "during pleasure"?

Mr. THORSON: That is correct.

The CHAIRMAN: I am still not very clear myself on that, Mr. Thorson. Take, first of all, the directors who hold office during good behaviour, under subsection 2. Now, the way they are removed is under subsection 4, is it not?

"A director ceases to be a director of the Corporation upon attaining the age of seventy years, and a director appointed to hold office during good behaviour may be removed at any time by the Governor General on address of the Senate and House of Commons."

Mr. THORSON: Yes, that is right, Mr. Chairman.

The CHAIRMAN: In other words, the only way he can be removed through absence of good behaviour is on address of the Senate and House of Commons. Well, now we come to "during pleasure", and do I understand you to say that that means that the president and vice-president, who hold office during pleasure, can be removed at any time by the Governor in Council?

Mr. THORSON: Well, of course, it is not a removal at whim, it is in the same way, for example, as a public servant could be removed—an appointment during pleasure.

The CHAIRMAN: But it means, in other words, that the Governor in Council could remove the president and vice-president at any time if it wished to?

Mr. THORSON: That is correct.

The CHAIRMAN: Well, that is rather serious, isn't it?

Senator MACDONALD: Without giving reasons.

Senator BRUNT: If it didn't like the colour of an appointee's hair, it could remove him.

Senator METHOT: Because an executive officer could be a man of good behaviour and yet be a bad administrator.

Senator CONNOLLY (*Ottawa West*): Does that not also apply to the Board of Broadcast Governors, these three permanent officials, who may be poor administrators but—

The CHAIRMAN: I was going to point that out, that in connection with the Canadian Broadcast Governors it does not say anything about "during pleasure". They hold office during good behaviour and are only subject to removal under subsection 7 of section 3, on address of the Senate and House of Commons. Now, what is the reason for that difference?

Senator BRUNT: Maybe it is a question of policy.

Senator MACDONALD: May I ask Mr. Ouimet if he happens to know how the president of the C.B.C. is appointed? Is he appointed during pleasure or during good behaviour?

Mr. OUMET: I am not absolutely sure, but I think it was good behaviour.

The CHAIRMAN: Again I ask the question why there is this difference between the full-time members of the Canadian Broadcast Governors, who are only removable during good behaviour under section 3, and the president and vice-president of the C.B.C., who are removable during pleasure under section 22.

Under the existing legislation the Chairman of the Board is stipulated to hold office during good behaviour for a period of 10 years, but on the executive level of the board's structure, section 5 provides that there is to be a General Manager who shall be Chief Executive and shall be appointed by the Governor in Council on recommendation of the corporation. That is an appointment during pleasure.

Senator BRUNT: If it is it does not say so.

Mr. THORSON: If it is not so stipulated in the statute it can be taken as an appointment during pleasure.

Senator MACDONALD: But the General Manager is appointed during good behaviour.

Mr. THORSON: No, during pleasure.

Senator MACDONALD: At least the Chairman of the C.B.C. is appointed during good behaviour.

Mr. THORSON: Yes.

Senator CONNOLLY (*Ottawa West*): What about the Board of Governors of the C.B.C.? Do they hold their appointments during good behaviour?

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): Under the present legislation?

Mr. THORSON: Under the present legislation the other governors hold office during good behaviour for a period of three years. They may be removed at any time by the Governor in Council for cause.

Senator MACDONALD: Is it necessary to add that a person holding office during good behaviour may be removed at any time by the Governor General on address of the Senate and House of Commons? Supposing the words in section (4) terminated with the word behaviour in line 20.

Senator CONNOLLY (*Ottawa West*): At least it provides a method of terminating their appointment otherwise they would not know where to go or how to do it.

Senator MACDONALD: There is no method provided for terminating the office of one who holds office during pleasure?

Senator CONNOLLY (*Ottawa West*): Precisely. He can be put out for any reason.

Senator MACDONALD: Why do you have to add any words after "good behaviour"?

Mr. THORSON: This is an exception to the general method of appointment. Usually public officials are appointed during pleasure. An appointment during good behaviour is a fairly rare circumstance in itself. An example would be the case of a judge; the statute itself provides how a judge may be removed and it stipulates, to make it absolutely clear, how a removal is to be made in circumstances where the appointment is made during good behaviour.

Senator MACDONALD: Do you know for instance what provision there is with respect to the President of the Canadian National Railways, as to whether he holds office during pleasure or during good behaviour?

Mr. THORSON: I could not say with any certainty.

Senator METHOT: I think it is during pleasure.

Senator MACDONALD: I do not think so.

Senator BRUNT: Mr. Thorson, in all cases where you remove a person for bad behaviour I presume there is a method provided such as in this subsection 4?

The CHAIRMAN: Mr. Ouimet has, I think, something to say on this.

Mr. OUIMET: This question was discussed in the house and I also happened to discuss it with the Minister. I think it was a question of policy of Government to have the President and the Vice-President appointed during pleasure. I think, though, that appointments during pleasure are not as frequent as appointments during good behaviour in the case of boards, in the case of judges and so on. I think that what Mr. Thorson was referring to was that public servants generally are appointed during pleasure.

Mr. THORSON: Of course there are a number of different boards, but most boards do not have judicial functions. The distinction seems to be as to the nature of the function being performed. If it is purely administrative the likelihood is it will be an appointment during pleasure, but if there is any judicial or quasi-judicial function to be performed then I would agree with Mr. Ouimet that the appointment would normally be stated to be during good behaviour.

Senator CONNOLLY (*Ottawa West*): The question that you raised, Mr. Chairman, is a matter of Government policy, and a question that the Minister should be asked to answer.

The CHAIRMAN: Yes, in view of the explanations we received, it may be the reason the Board of Broadcast Governors are only removable during good behaviour is that they exercise some of the functions of judges in deciding upon the issue of licences and that sort of thing, whereas the President and Vice-President of the C.B.C. exercise no such judicial functions and are therefore appointed during pleasure.

Senator MACDONALD: It seems unusual that the present Chairman of the Board should have been appointed during good behaviour and all the directors with the exception of the President and the Vice-President of the C.B.C. are appointed during good behaviour, but the President and Vice-President are appointed at pleasure. I do not know. That seems very strange to me and I think we should give very careful consideration to it.

Mr. THORSON: Perhaps the closest parallel to the position here of the President of the C.B.C. would be to the General Manager rather than to the Chairman of the Board.

Senator MACDONALD: No, there will still be a General Manager under the C.B.C.

If this bill goes through, if the President and Vice-President are removable during pleasure they are to be on the same basis as the General Manager of the C.B.C.

Senator CONNOLLY (*Ottawa West*): Some minutes ago, Mr. Chairman, I asked a question that was embarrassing to Mr. Thorson, but I was looking for information only. In the light of the discussion which we have now had it would appear to me at this time that the people who are more likely to be subject to Government policy and the desires of any Government at any time are probably the President and Vice-President of the C.B.C. more so than perhaps the members of the Board of Broadcast Governors including their full-time officials, because the President and Vice-President of the C.B.C. are appointed during pleasure while the permanent members of the Board of Broadcast Governors are appointed during good behaviour and are removable for cause as the statute describes.

I am not looking for skeletons in the closet. I am simply trying to find out what the sections mean and I think it may be fair to say that.

The CHAIRMAN: I think we should seek enlightenment from the Minister as to just what the policy is in that connection.

Gentlemen, I think unless anybody has any further questions on this subject to ask either of Mr. Ouimet or Mr. Thorson we have exhausted what we can do this morning and I think we should have to await now the return of the Minister to discuss part II of the bill before we proceed any further.

Mr. OUIMET: May I have a word Mr. Chairman. There was a question asked about the independence of the Board of Broadcast Governors and it was suggested that the Board of Broadcast Governors would carry out the policy of the Government. It is not within my province to comment on this except to say that it is a question that I know the Minister would like to have an opportunity to answer.

Senator BRUNT: We can get that from the Minister. If we make it 10 o'clock to morrow morning I am sure we can have the Minister...

The CHAIRMAN: Do I hear a motion to adjourn until 10 o'clock tomorrow morning? All in favour? Carried.

Whereupon the committee adjourned.

1958

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the Bill C-55, An Act respecting Broadcasting.

The Honourable Adrian K. Hugessen, Chairman.

No. 2

WEDNESDAY, SEPTEMBER 3, 1958.

WITNESSES:

The Honourable George C. Nowlan, Minister of National Revenue; Mr. S. M. Finlayson, President of the Marconi Company of Canada; Mr. D. S. Thorson, Legislation Branch, Department of Justice; Mr. Alphonse Ouimet, General Manager of the C.B.C. and Mr. R. E. Keddy, of the C.B.C.

REPORT OF THE COMMITTEE

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
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TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

*Aseltine	Haig	Monette
Baird	Hardy	Nicol
Beaubien	Hawkins	Paterson
Bishop	Hayden	Pearson
Bouffard	Horner	Power
Bradley	Hugessen	Quinn
Brunt	Isnor	Raymond
Campbell	Jodoin	Reid
Connolly (<i>Halifax North</i>)	Kinley	Robertson
Connolly (<i>Ottawa West</i>)	Lambert	Roebuck
Dessureault	Lefrançois	Smith (<i>Queens-</i>
Emerson	*Macdonald (<i>Brantford</i>)	<i>Shelburne</i>)
Euler	Marcotte	Stambaugh
Farris	McGrand	Veniot
Gershaw	McKeen	Vien
Gladstone	McLean	Wood
Gouin	Méthot	Woodrow—50.
Grant	Molson	

(Quorum 9)

**ex officio* member.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate

THURSDAY, August 28, 1958

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Méthot, seconded by the Honourable Senator Macdonald, for the second reading of the Bill C-55, intituled: An Act respecting Broadcasting.

After further debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Méthot moved, seconded by the Honourable Senator Pearson, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

ORDER OF BUSINESS

Extract from the Minutes of the Proceedings of the Senate

Thursday, August 12, 1933

It was reported to the Order of the Day, the Senate resumed the adjourned session on the motion of the Honorable Senator Hatch, seconded by the Honorable Senator Wheeler, for the second reading of the H.R. 10,000, entitled: "An Act to amend the Act of August 1932."

After further debate, the question being put on the motion, it was decided in the affirmative.

The Bill was then read the second time.

The Honorable Senator Hatch moved, seconded by the Honorable Senator Wheeler, that the Bill be referred to the Reading Committee on the part of the Senate.

The question being put on the motion, it was decided in the affirmative.

H. T. McNEEL

Secretary of the Senate

MINUTES OF PROCEEDINGS

WEDNESDAY, September 3, 1958

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators:—Hugessen, *Chairman*; Aseltine, Baird, Bishop, Bradley, Brunt, Connolly (*Ottawa West*), Gladstone, Gouin, Hayden, Horner, Kinley, Lambert, Lefrançois, Macdonald and Woodrow.—16.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill C-55, An Act respecting Broadcasting was further considered.

Heard in explanation of the Bill were: The Honourable George C. Nowlan, Minister of National Revenue; Mr. D. S. Thorson, Legislation Branch, Department of Justice; Mr. Alphonse Ouimet, General Manager of the C.B.C. and Mr. R. E. Keddy, of the C.B.C.

Also heard with respect to clause 14 of the said Bill: Mr. S. M. Finlayson, President of the Marconi Company of Canada.

In attendance but not heard: Mr. W. V. George, Assistant to the President of the Marconi Company of Canada.

On Motion of the Honourable Senator Hayden, seconded by the Honourable Senator Woodrow it was RESOLVED to amend the Bill as follows:—

1. Page 6, line 35:—Immediately after “14.” insert “(1)”
2. Page 7:—Immediately after line 4 add the following subclause:—
(2) The Governor in Council may exempt from the operation of this section, upon such terms and conditions as the Governor in Council may prescribe, any person who, at the time of the coming into force of this Act, was the holder of a license and was not a person described in paragraph (a) or (b) of subsection (1).

At 1.00 p.m. the Committee adjourned.

At 5.30 p.m. the Committee resumed.

Present: The Honourable Senators:—Hugessen, *Chairman*; Aseltine, Baird, Bradley, Brunt, Connolly (*Ottawa West*), Dessureault, Gladstone, Gouin, Hayden, Horner, Jodoin, Lefrançois, Macdonald, Methot, Vient and Woodrow.—17.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. Official Reporters of the Senate.

Bill C-55, An Act respecting Broadcasting was further considered.

Heard in explanation of the Bill were: Mr. D. S. Thorson, Legislation Branch, Department of Justice and Mr. Alphonse Ouimet, General Manager of the Canadian Broadcasting Corporation.

On motion of the Honourable Senator Macdonald, seconded by the Honourable Senator Gouin it was RESOLVED to further amend the Bill as follows:—

3. Page 9, line 6:—Strike out the word “pleasure” and substitute therefor “good behaviour”.
4. Page 9:—Strike out the lines 19 to 22, both inclusive, and substitute therefor the following:—
upon attaining the age of seventy years, and may be removed at any time, in the case of the President or Vice-President, by the Governor in Council for cause, and, in any other case, by the Governor General on address of the Senate and House of Commons.

It was RESOLVED to report the said Bill with the following amendments:—

1. Page 6, line 35:—Immediately after “14.” insert “(1)”
2. Page 7:—Immediately after line 4 add the following as subclause (2):—
(2) The Governor in Council may exempt from the operation of this section, upon such terms and conditions as the Governor in Council may prescribe, any person who, at the time of the coming into force of this Act, was the holder of a license and was not a person described in paragraph (a) or (b) of subsection (1).
3. Page 9, line 6:—Strike out “pleasure” and substitute therefor “good behaviour”.
4. Page 9, lines 19 to 22:—Strike out lines 19 to 22, both inclusive, and substitute therefor the following:—
upon attaining the age of seventy years, and may be removed at any time, in the case of the President or Vice-President, by the Governor in Council for cause, and, in any other case, by the Governor General on address of the Senate and House of Commons.

At 6.15 p.m. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,
Clerk of the Committee.

THURSDAY, September 4, 1958.

The Standing Committee on Transport and Communications to whom was referred the Bill (C-55), intituled: "An Act respecting Broadcasting", have in obedience to the order of reference of August 28, 1958, examined the said Bill and now report the same with the following amendments:—

1. Page 6, line 35:—Immediately after "14." insert "(1)"
2. Page 7:—Immediately after line 4 add the following as subclause (2):—
(2) The Governor in Council may exempt from the operation of this section, upon such terms and conditions as the Governor in Council may prescribe, any person who, at the time of the coming into force of this Act, was the holder of a license and was not a person described in paragraph (a) or (b) of subsection (1).
3. Page 9, line 6—Strike out "pleasure" and substitute therefor "good behaviour".
4. Page 9, lines 19 to 22:—Strike out lines 19 to 22, both inclusive, and substitute therefor the following:—
upon attaining the age of seventy years, and may be removed at any time, in the case of the President or Vice-President, by the Governor in Council for cause, and, in any other case, by the Governor General on address of the Senate and House of Commons.

All which is respectfully submitted.

Adrian K. Hugessen,
Chairman.

THE SENATE
STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS
EVIDENCE

Ottawa, Wednesday, September 3, 1958

The Standing Committee on Transport and Communications, to which was referred Bill C-55, respecting broadcasting, met this day at 10 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, I would ask you to please come to order; we have a quorum. Again we have the pleasure of having the Minister with us this morning, but I understand that he is again subject to the same qualification as yesterday and he has to leave at 11 o'clock, because he has other matters to deal with in the House of Commons. Yesterday the Minister had not had an opportunity in his general statement to deal with Part 2 of the bill relating to Canadian Broadcasting Corporation, and a couple of matters came up after he left this morning on which we would like his comments. The first had to deal with section 14, of the bill, "Non-Canadian Interests".

Senator ASELTINE: Has the Minister seen the report of the committee's proceedings of yesterday on that point?

The CHAIRMAN: Unfortunately, the report is not yet ready. I understand that the printed report of our proceedings yesterday will be available about 11 o'clock; but I understand that the Minister has been advised of the substance of the discussion yesterday on that point. That was one matter on which we would like the Minister's comments. Then after he left yesterday there was considerable discussion on section 22 of the bill in relation to section 3 with respect to the fact that the Board of Broadcast Governors are appointed during good behaviour, under subsection 2. Under section 22 the president and vice-president of the C.B.C. are appointed during pleasure. We wanted to find out what the reason of that distinction was, and I suggested that the Minister be good enough perhaps to deal with those matters in order, if first of all it would meet with his approval. Perhaps, Mr. Nowlan, you would first give us some general statement which you might like to make on Part 2, and then deal with these two specific matters.

Hon. Mr. NOWLAN: Well, Mr. Chairman, and honourable gentlemen, I was rather shocked, when I had the "blues" coming over yesterday afternoon, to find that I talked so much myself and gave so little opportunity to others to speak, and I assure you I won't make that mistake again. Even so, I did not have the chance to look at them, because as you probably know we were fairly busy over there until after 11 o'clock last night, and only this morning, an hour ago, had I a chance to meet with the officials and discuss what had happened here yesterday.

Now, as far as a short general statement on Part 2 is concerned, it creates a corporation, as you know; the number of directors will be the same as the Board of Governors of the corporation have been in the past. The terms are fixed for seven years for the president and vice-president, and the others hold office for three years, subject to re-appointment for one more term, and then there should be a lapse in between there. Virtually the staff are appointed by the corporation. The salaries of the officers shall be such as fixed by the

Governor in Council. The corporation is made an agent of Her Majesty, of course, for various reasons that are obvious. The objects and powers are largely the same objects and powers as are contained today in the Canadian Broadcasting Act, having deleted therefrom the power to make regulations, which has been transferred to Part 1, the Board of Broadcast Governors; and it is given power to acquire property. There is one rather substantial change made in the existing act. Any expenditure of over \$25,000 has to be recommended by the Minister to the Governor in Council.

Senator MACDONALD: Which Minister?

Hon. Mr. NOWLAN: The Minister, at the moment myself, responsible for Canadian Broadcasting Corporation as designated by Governor in Council. Now, under the act at the moment, as Minister, I have to recommend to the Governor in Council every expenditure amounting to more than \$25,000, and there are a great many of them. Take a one year or a three year lease in Montreal or Winnipeg, or other cities, the amount of the total revenue is over \$25,000, and sometimes runs \$5,000 more a year; and electronic equipment which at one time was a relatively minor matter and relatively cheap, is terrifically expensive now. So every week I am getting submissions on the average for \$25,000 or more which I have to recommend through the Governor in Council; and trying to maintain, and maintaining, the independence of the C.B.C. is rather difficult. It is more or less a matter of form, I suppose. In any event, this bill has amended that provision so as to provide for any expenditure under \$100,000, and that any such expenditure can be made by the corporation without reference to the Governor in Council. It is only whenever they require authority to expend more than \$100,000 that it has to come before the Minister, and eliminated from that provision is any reference to programming or programming contracts. In other words the Minister and the Governor in Council will not have any voice in the programming of the C.B.C. whatsoever. If they want to spend \$250,000 in providing a program, and I imagine some programs run into that over a period of years, it will be open to the corporation to do so subject of course to their budget.

The CHAIRMAN: You are discussing section 30 now—that is the \$100,000 limitation?

Hon. Mr. NOWLAN: That is right. I felt that the C.B.C. should be independent as far as programming is concerned, which it certainly has been, and I have done nothing in connection with programs whatsoever, and I would not, and I thought it should be spelled out in the bill that this limitation on finances had no reference to programming.

Senator MACDONALD: Did it have any reference to programming in the other bill?

Hon. Mr. NOWLAN: No, except that there was a limitation of \$25,000. The other day I authorized a program for \$40,000 which involves a series running over a considerable period of time.

The CHAIRMAN: I can quite see your point in wanting to get out of that responsibility.

Hon. Mr. NOWLAN: I authorized a program last year for a substantially larger amount of money, a Canadian program which will run over a period of four or five years. It is to be developed by C.B.C. and the corporation already has sold it to other broadcasting agencies around the world. But the only limitation on expenditures is for those over \$25,000, and I had to recommend it, and I frankly do not think the Minister should be responsible for choosing whether or not he is going to recommend this program and not recommend the other. Well, this provision takes out that limitation.

Senator MACDONALD: The \$100,000 is just with respect to disposing of any real or personal property?

Hon. Mr. NOWLAN: No.

Senator BRUNT: It means tangible assets more or less, does it not?

Hon. Mr. NOWLAN: Yes. We have to install repeater centres for programs to be broadcast in the west and the cost there is immense, and if I had to authorize every one of these expenditures of over \$25,000 I would be recommending many of them every week.

Senator BRUNT: This provision will relieve you from the necessity of going back to cabinet every day I suppose?

Hon. Mr. NOWLAN: Greatly so. Everything that has been done up to the moment by the C.B.C. will be maintained and transferred to the C.B.C. or to the Board of Broadcast Governors, if it is a regulation. In other words you do not have to start from scratch or anything of that kind, everything is maintained, the status quo is maintained.

Senator MACDONALD: Are the objects and powers in this part the same, with the one exception you mentioned, as in Part I?

Hon. Mr. NOWLAN: Not the same as in Part I because it is more the operational powers here, but Part I gives powers to make regulations, and the objects and powers come in section 29 and are concerned almost entirely with operations and programming.

Senator MACDONALD: Are they similar?

Hon. Mr. NOWLAN: They are similar to the ones in the Canadian Broadcasting Act, they are copied almost word for word, Senator Macdonald, as I recall it. I do not think there have been any changes other than technical ones.

The CHAIRMAN: I was wondering if you could explain section 39 to us, Mr. Minister, with respect to a working capital in excess of \$6 million. Do I understand that to mean the C.B.C. will have a working capital of \$6 million?

Hon. Mr. NOWLAN: Yes, that is what it means. As you know, there are old loans by the Governor in Council; the Government loaned money to the C.B.C., and C.B.C. had to pay interest on it, and these were also moneys from the Consolidated Revenue Fund. The Fowler Commission felt that it was silly to have this debt on which interest had to be paid, and suggested that the debt be wiped out.

The CHAIRMAN: Which is what you are doing?

Hon. Mr. NOWLAN: Which is what we are doing.

Senator MACDONALD: What is the section by which the C.B.C. receives its annual grant?

Hon. Mr. NOWLAN: Section 35, on page 14 of the bill.

Senator MACDONALD: In connection with that section, if I remember correctly, the Fowler Commission recommended the approval of an expenditure for five years for the operation of C.B.C., and not for the capital expenses.

Hon. Mr. NOWLAN: That is right.

Senator MACDONALD: This bill provides just the contrary.

Hon. Mr. NOWLAN: That is right.

Senator MACDONALD: Is there any reason for that?

Hon. Mr. NOWLAN: Yes, there was a reason. This is a compromise, shall we say, between the Fowler Commission recommendation and what is done now. Personally, I could see no difference between recommending a capital program every year, and recommending a current one only once every five years, because if Parliament wants to ask questions—as you well know, sir—there is nothing the most astute Speaker can do to prevent the chairman of the committee from making inquiries on anything which may directly or indirectly come before it.

If capital expenditures were to be submitted annually, the Government felt we would have the same debate on C.B.C. as if the current estimates were submitted. The capital would be relatively small; the current substantially large, and growing larger. You realize that today this corporation is spending in excess of \$60 million a year, and the Fowler Commission envisaged even greater expenditures, more than the whole cost of Government not too many years ago, at least within our history. The Government felt these expenditures should be referred to Parliament, and Parliament should approve of them, because they were entirely beyond the range of what was envisaged a few years ago.

Senator MACDONALD: But is it not so that if the grant is made annually for the operation, and if by March 31st the money has not been provided for the next year's operations, how can the C.B.C. plan its programs, especially before March 31st, because it won't know how much money it is going to have?

Hon. Mr. NOWLAN: The C.B.C. will be doing the same as they have done in other years: they will get their plans and accounts and place them before Treasury Board. Those things are being done now, as you very well know, by the various Government departments, who are making up their estimates for the coming year. The C.B.C. will submit its accounts to Treasury Board, they will be reviewed, and finally will appear in the Blue Book, not in detail, but as grants towards the estimates.

For instance, in 1957, when the Government changed and I took office, the preceding administration, I presume awaiting the report of the Fowler Commission and deciding what would be done, had provided only sufficient money for the C.B.C. to run six months. I was faced with the situation that by, I think, October 24th of last year, the C.B.C. would have to come to a full stop because there was not one cent left, roughly speaking, to pay its operations. So, it was necessary to provide for it in the supplementary estimates last year. I got the approval of Treasury Board, so we knew it would have the support of the Government, and the supplementary estimates provided money to carry on to March 31st.

In this case supplementary estimates would have to be provided, which you will notice cover the five years capital; that is where the compromise comes in.

Senator MACDONALD: That part does not concern me so much.

Hon. Mr. NOWLAN: You will notice the words, "together with a forecast of the effect of the program on the corporation's operating requirements". The Government's feeling was, and my feeling still is, once you get an undertaking from the Government on a five-year capital program, together with a forecast of its effect on the operating revenue, that the C.B.C. has an implied guarantee from the Government that the moneys will be provided within that framework for the operations, during the five-year period. Of course, as the five years approaches the end, you will have to advance that, and it may be that more monies will have to be provided than is estimated. For instance, if we go into colour television I can see where a substantial increase would have to be made over any forecast we could make at the moment, because we are not contemplating colour television at the moment. But we may have to. And the same way with advances in the north country, with a steady program of development there, with the combination of the two, the five-year capital program approved by the Governor in Council,—approved legislatively. The Government could disavow it, but it won't. You all realize that, subject to some disaster of some kind, and possibly a change of Government—no Government can bind a future Government—subject to that the C.B.C. has in front of it a five-year program which has been approved by the Governor in Council, and a forecast of its effect on the operating expenditure.

Senator LAMBERT: You are not going along with the \$500 million proposal of the Fowler Commission? Is there any amount attached to the five-year capital program?

Hon. Mr. NOWLAN: No, we have not attached any amount to the five-year program submitted to us, but it will be done this coming winter, and we will have to see what is involved in these astronomical figures of \$500 million for five years.

Senator MACDONALD: My concern is with the capital budget and the operating budget referred to in section 35(1). It seems to me that if an operating budget is tabled in the house in, we will say, February, for the next ensuing year, that would take it to the 31st March of the following year: Parliament adjourns in August, and it would not meet again until February. The C.B.C. can draw up its plans and it won't know whether they will be approved by Parliament, and they can make no plan for more than a year in advance. Now it does seem to me that it would be more advisable if the budget in connection with the operations of the C.B.C. was for a period of five years,—much more important in connection with the operation than it is in connection with the capital and I cannot understand why the Government has just reversed the suggestion made by the Fowler Commission.

Senator BRUNT: Mr. Minister, how did they operate in the past? On an annual budget?

Hon. Mr. NOWLAN: It has happened. There has been an annual budget during the past two or three years. This has been voted entirely by Parliament. In the first place, when the C.B.C. was organized twenty-two years ago it was a self-supporting organization; it derived its income from licence fees on radio sets,—a commercial revenue, and it remained in the framework of that revenue. Like any other corporation, if it started to run ahead of its revenue it had to cut down. It was self-supporting, you might say. That went on for a good many years. Then the licences were done away with. There were no licence fees and various evolutions took place and then television came in, and the costs started to rise and rise. To meet that the Government gave to the Corporation the excise tax on television and radio sets, which had no relation whatsoever to the needs of the C.B.C. Over a period of two or three years everybody in Canada was buying a television set and so the C.B.C. took in more money than it needed for its current operation. In fact, it put money in the bank. It had several million dollars invested in bonds. But the costs were still going up and then all at once the excise tax revenue started to go down and it has been falling and falling very rapidly. This revenue from television sets has gone down from \$12 million or \$14 million to an estimated \$6 million this year. Strangely enough, everybody thought radios were outmoded and forgotten, but the revenue here has been going up because people now have radios in their kitchens, rumpus rooms, motor cars, bathrooms, and they carry one around in their vest pocket when they go out. The excise tax from the sale of radios has increased immeasurably but still it is so far short of the demands of the C.B.C. that two years ago the Government started appropriating money for the C.B.C. Even in the years before that, although it was not done by a current operation, the effect was the same because the Government made loans every year.

Senator LAMBERT: Would you say that the market for radio and television appliances has been saturated in this country?

Hon. Mr. NOWLAN: I would certainly say that the receipts from excise tax on television sets would suggest that. At the same time, the excise tax revenue on radio sets is going up substantially.

Senator LAMBERT: If that condition exists wouldn't it have some bearing or some relation to the budgeting in the future?

Hon. Mr. NOWLAN: Oh yes, surely. It has had its relationship for the last two years or more. The Government has had to provide money through budgeting in addition to the statutory things allocated by excise tax.

Senator LAMBERT: My point is: wouldn't it lessen the demand? In other words, if you have a saturated market for radio and television equipment are you still going to keep on expending in order to give a little more amusement, entertainment, education or culture or what have you to those who have sets?

Hon. Mr. NOWLAN: I don't know about those who have sets but I can say that the costs of programming are going up. You should see the letters I get every day from all across this country. For instance, the isolated communities of British Columbia all want auxiliary stations or hookups. We are spending \$1 million or more now to cover the north country. There is going to be a substantial expenditure made in extending service to areas which have not been served so far. However, I would point out that C.B.C. has achieved a more substantial coverage than most people realize. As you know, many people complain about having only one television station available to them. It is supposed to be a terrible thing, but you never hear it said that people in over 55 per cent of the geographical area of the United States—I am not talking about the populated cities like Chicago and New York—have only one television station available to them, if any at all.

The CHAIRMAN: Mr. Minister, what you are saying is that under section 35(2) of the bill, the effect of the estimate of the five-year capital program on operating requirements, if approved by the Governor in Council, will mean that the Government in office at that time will have substantially agreed to the whole operating program of the Corporation for the next five-year period?

Hon. Mr. NOWLAN: I would say so. However, they have to go to Parliament annually.

Senator MACDONALD: Isn't it so that the Fowler Commission recommended the five-year budget for the operating branch because the former arrangement was unsatisfactory on an annual budget?

Now, another point you have mentioned, and we all agree with you, is that you want to maintain the independence of the C.B.C. I would say that the independence of the C.B.C. is more in relation to the operations than in connection with the purchasing of land and increasing its buildings, and so forth. Now, does not the fact that you only give them a budget for each year give the Minister referred to in section 35(1) and the Minister of Finance, a closer direction of the programming of the C.B.C. than it otherwise would have, if the plan had been set up for five years?

Hon. Mr. NOWLAN: If the set-up was for five years the C.B.C. would of course have financial independence, shall we say, for that five-year period. I do not think it is possible to forecast a five-year current operation budget because costs are going up so rapidly and expansion taking place.

Senator BRUNT: It might work to the detriment of the C.B.C., the five-year period.

Hon. Mr. NOWLAN: Capital cost of replacements, and of land, and so forth, go up, but they don't go up in the same ratio as operating costs do.

Senator MACDONALD: Under this one-year arrangement the C.B.C. each year has to submit its operating programme to the Government, to two Ministers, and that program has to be approved by two Ministers each year?

Hon. Mr. NOWLAN: That has been the practice for years.

Senator MACDONALD: I know it has been the practice for years, and the Fowler Commission thought that was an undesirable practice.

Hon. Mr. NOWLAN: That is right; they strongly recommended against that practice, and there were many people who subscribed to that, particularly those I think closely associated with the C.B.C., I am sure of that.

Senator MACDONALD: I imagine to carry out your wishes you would like, and this committee would, too, to maintain the independence of the C.B.C., and it does seem to me that in the minds of the public there will be a feeling that the C.B.C. is more independent of Parliament if the programming is such that the officials of the C.B.C. are allowed to set up their programming, or their budget for programming, over a five year period instead of having to come back each year and saying, "Now, we must have a program that will please the Minister of Finance and the other Minister; we must have such a programming or else they won't approve this and recommend our financing to the Governor in Council".

Hon. Mr. NOWLAN: Well, all I can say is that I have recommended a lot of expenditures for the C.B.C., and they certainly haven't had programs that pleased me by a long shot—some do and some don't.

Senator BRUNT: To budget on a program basis would put them in a straightjacket, and their own expenditures would be fixed for five years and you could not make any change. They would be on a definite program for five years, so much money voted, and no change could be made even if they wanted to spend considerably more; isn't that correct?

Mr. OUMET: This is correct.

Senator MACDONALD: Isn't it true that under this arrangement the Government is going to arrange the annual programs for the C.B.C.?

Senator BRUNT: No, I think it is the other way around.

Senator MACDONALD: It comes down to that; they have to know what the programming is to consist of, of course, I realize that.

Senator CONNOLLY (*Ottawa West*): There must be another aspect to it, too. I wonder if there is a bottom to the pit under which you can dig money for this work?

Senator LAMBERT: The Wheat Board had a five year plan once, and I think too that the same principle applied that the values were questioned to the same extent.

Senator CONNOLLY (*Ottawa West*): Is there any limit at all to where the expenditures for radio and television might be going?

Hon. Mr. NOWLAN: I haven't the figures in front of me. You undoubtedly remember, Senator Connolly, that the Fowler Commission foresaw increasing expenditures over a period of years. I have forgotten what his estimate was for the next five year period, but it was—

Senator CONNOLLY (*Ottawa West*): Astronomical?

Hon. Mr. NOWLAN: Astronomical. Very, very substantial, shall I say. We have increased the expenditures this year over last year—I would say Parliament has—but we have not reached the figures that Fowler recommended for this year. That is one reason this five year program is so hard to foresee, and certainly to submit I think the figures which would be involved in the five year programming, to Parliament, would create such a shock that it might be more adverse to the C.B.C. and if they went along with some element of doubt of what they were likely to get from year to year.

Senator CONNOLLY (*Ottawa West*): Is there any way of trying to estimate how far the public interest on expenditure should go? It is getting to the point where it is frightening, I think.

Hon. Mr. NOWLAN: It is.

Senator LAMBERT: On that point, is it essential in the operation of the C.B.C.—Mr. Ouimet may be able to enlighten us— to have a five year program for the C.B.C. as a basis for operation, or can it go satisfactorily year by year? Are there contracts involved which would be better served by the five year period than the one or two year period?

Mr. OUIMET: Well, all the departments of the Government and other Crown Corporations who work on a yearly basis have contracts that go from year to year. So there is definitely an understanding, if not a formal commitment by Parliament or the Government, to vote the money. Parliament or the Government honours all these contracts, although I understand they would not be absolutely bound to.

Senator BRUNT: Have you been handicapped in the past by operating on an annual budget?

Mr. OUIMET: Not so much by the operation on an annual budget as by the uncertainty about the future, and under this present arrangement with a five year plan for capital, together with the prediction of the effect of that plan on the operating requirements. I hope that we will be able to discuss well ahead of time with officials of the Treasury Board, and the members of our Minister's department, a plan which can be used as a guide for those annual votes. If we were strictly on a yearly basis without any indication of what the Government might be ready to do the following year, it would be difficult to operate, but if the Government gives us an indication of what they are willing to consider for the years to come and we start with the implementation of such a plan, keeping in mind that there might be modifications from year to year as we submit our estimates, I think that we can make it work.

Senator BRUNT: If you were on a five year operating budget you could make no changes once that is set up.

Mr. OUIMET: That is correct. On the strictly money basis, the amount of money the C.B.C. would get on a five year plan, contrary to five one year plans, is determined entirely on the generosity or lack of generosity of the Government.

Senator MACDONALD: It is just an annual grant. You are not bound by the budget. You have to come each year for a grant for the five-year plan?

Mr. OUIMET: That is correct. I was suggesting—at least this is my understanding of it—that the proposed legislation consists of a change from yearly votes to a five year plan, which would be used as a guide. If we have that, I think we can operate.

Senator MACDONALD: Why did the Fowler Commission recommend the five year period for the operating and a year for the capital, do you know?

Mr. OUIMET: No I do not, Senator Macdonald.

Senator MACDONALD: The Minister said he thought the officials of C.B.C. would like the five year operating.

Mr. OUIMET: Let me be quite honest with you: if we could have a five year plan definite, and a generous one—

Senator BRUNT: Generous is the important part.

Mr. OUIMET: This would enable us to give the public the service which is being requested of us and at the same time would make it much easier for our long-term planning. On the other hand there is certainly some merit to the argument that once you have a plan, it might not be such a generous one.

Senator CONNOLLY (Ottawa West): The Government of course has its great responsibility as to whether or not the expenditures at the levels that you might like might not be proper expenditures in the light of existing conditions.

Mr. OUMET: I certainly agree with that, but when I am speaking of generosity I am thinking of generosity not to the corporation itself but simply of the provision of means which the corporation needs to provide a service which the public seems to be asking for in a very articulate way, directly to us in terms of extended service, in terms of coverage, or extended service in terms of hours of operation or improvement in programs.

SENATOR BRADLEY: Surely, under responsible Government, if the Government is to provide the money I think they should know what they are providing it for.

The CHAIRMAN: I do not think we should examine Mr. Ouimet now because the Minister can only remain with us for a short time.

SENATOR MACDONALD: I quite agree.

THE CHAIRMAN: Are there any questions to be asked on the Minister's general statement on part II or should we now proceed to specific questions?

SENATOR MACDONALD: If I might relate another section to the one we have just been discussing. In view of the fact we have agreed on maintaining the independence of the C.B.C. and due to the fact that I thought the annual budget for programming might tend to give the public the impression that the independence of the C.B.C. was being undermined, could we refer to section 22 where it is pointed out that there shall be a corporation to be known as the Canadian Broadcasting Corporation consisting of a President, a Vice-President and nine other directors to be appointed by the Governor in Council. Subsection 2 of section 22 provides that the President and Vice-President shall be appointed to hold office during pleasure for a period of seven years. Now, all the other officers and directors in both Parts of the Bill hold office during good behaviour. I am not saying that the Government will necessarily dismiss the President or Vice-President at the whim of the Government, but I think there is a feeling throughout the country that this is a method by which the Government can have a closer control over the President and Vice-President which they otherwise would not have, and it occurred to me that the President and Vice-President could also hold office during good behaviour in the same way as Mr. Dunton held office, and I cannot see that that would weaken this bill in any way. On the other hand I think it would tend to instill confidence in the radio listeners and television viewers all over Canada if the Government did not have these two officers under their thumb. I do not think it would weaken the bill in any way. It worked very well with Mr. Dunton and I had hoped that the Minister could give consideration to making a change in that respect. I would like him to give consideration to it and not turn it down too quickly.

Hon. Mr. NOWLAN: It is not for me to turn it down. It is now before the Senate.

SENATOR MACDONALD: We are anxious to work with the Minister.

Hon. Mr. NOWLAN: I can only give you the reasoning which went into that section and leave it to you gentlemen to decide on the merits of it. The analogy to Mr. Dunton is not quite correct because Mr. Dunton was Chairman of the Board of Governors of the C.B.C. and was not the manager of the C.B.C. The Chairman of the Board of Broadcast Governors would be more analogous with Mr. Dunton. Now, the Chairman of the Board of Broadcast Governors is appointed for good behaviour. It is true that the President and Vice-President here are at pleasure for seven years, a rather perhaps dubious phrase, and the thinking behind that is simply this: there was some question as to the corporate structure of the C.B.C., whether we were simply going to have executive officers who would constitute the corporation or whether we were going to have what finally developed, a Board of Directors of the cor-

poration. If we had decided on executive officers, the Manager and Assistant Manager and so forth would obviously be at pleasure, or should be, because it is a matter of efficiency. They carry out the executive work and if it should develop that any trouble arises or inefficiency develops or that they are not doing their job, I think, like any other manager of a corporation, they would be subject to dismissal. So we say that actually the President and Vice-President here are going to be executive officers of the corporation, the General Manager and Assistant Manager and so on, and it was felt therefore that there should be some control over them in the carrying out of their executive work, so that phrase was put in, seven years. If the Government had any intention of putting pressure on them without cause we would simply have inserted the words "at pleasure" without the seven years, but here you have a combination of seven years and "during pleasure". There is thus the escape valve there that they can be removed at pleasure, but I can assure you the only reason for which they would be removed would be in a case of inefficiency.

SENATOR KINLEY: You could not dismiss one of them as a director. Both hold positions as directors. The bill reads, "the President and Vice-President and nine other directors", so he is a director and holds his position as a director during good behaviour.

Senator MACDONALD: Well, if he was dismissed.

Senator WALL: Mr. Minister, I fail to see the distinction between the power of the Government to dismiss the President or the Vice-President for lack of good behaviour, and what would be for inefficiency. How do you define good behaviour? Good behaviour would be inefficiency to perform their duties as they should, would it not?

Hon. Mr. NOWLAN: There are various Crown Corporations which have this provision in their statute, and this was inserted there as a method of dealing with executive officers.

Senator CONNOLLY (*Ottawa West*): Are most Crown Corporations set up this way?

Hon. Mr. NOWLAN: Not most of them but several of them are.

I had a list—I regret I haven't it before me—but I think Mr. Thorson could give you the names of corporations that have that provision.

Senator CONNOLLY (*Ottawa West*): I think what Senator Macdonald says has some merit. When you have a public-owned corporation like this, people will feel that if a person is not satisfactory to a political master, his job might be in jeopardy.

Hon. Mr. NOWLAN: That is right.

Senator CONNOLLY (*Ottawa West*): What the minister has said about the right to dismiss for inefficiency or for some reason of that character, strikes me as being a pretty forceful argument.

Senator MACDONALD: But if he can dismiss for pleasure, it means he can dismiss without cause. I can't conceive of a qualified citizen accepting a position of this type where he would have to give up his other work, come to Ottawa and establish a home, and be employed during pleasure. I think you will agree with me "during pleasure" means that he can be dismissed without cause.

Senator BRUNT: Yes, but no Government has ever dismissed a person without cause.

Senator CONNOLLY (*Ottawa West*): That puts an onus on the Government.

Hon. Mr. NOWLAN: The seven-year qualification there makes it a little heavier.

Senator MACDONALD: He can be dismissed without cause.

Senator CONNOLLY (*Ottawa West*): The Government might have difficulty getting the right type of man for this position.

Hon. Mr. NOWLAN: That is right.

The CHAIRMAN: Supposing the Government wished to appoint Mr. Jones as President of the C.B.C., and he is a very desirable man. Mr. Jones says, "I will come, but I must have a contract for five years at a salary of X dollars." Can the Government give him a contract for five years if his appointment is simply during pleasure? Would not a five-year contract be inconsistent with an appointment during pleasure under this legislation?

Senator BRUNT: It would have to be made subject to pleasure.

The CHAIRMAN: Yes. Would not that be difficult?

Hon. Mr. NOWLAN: It would be difficult. I suppose if the Government wants to get rid of somebody there are ways and means of doing it, regardless of what is provided for. There is distinctive precedent for this in the first chairman.

Senator LAMBERT: Are there not two sides to this matter? There is the point of view of the minister and the Government, and the point of view of the chairman of the C.B.C.? For instance, we have a chairman of the central Bank of Canada, and if he does not agree with the Minister of Finance he is free to resign. It is not a case of being fired. Would not a similar condition prevail in connection with C.B.C., if there is a difference in point of view?

The CHAIRMAN: Is the Chairman of the Bank of Canada appointed during pleasure?

Senator MACDONALD: He is not appointed during pleasure.

Senator CONNOLLY (*Ottawa West*): The Chairman raised the further point: you have two conditions in the appointment, and one may be inconsistent with the other. Perhaps the minister should discuss that.

Senator WALL: Mr. Chairman, I hate to press this, but what does "good behaviour" means? I think that definition is crucial.

The CHAIRMAN: You will find, Senator Wall, that is covered in subsection 4 of section 22 that a man holding office during good behaviour can only be removed by the Governor General on an address of the Senate and the House of Commons. So, it is the Senate and House of Commons who have to determine what is good behaviour.

Senator BRUNT: Mr. Chairman, I do not like to get away from this section, but the minister is going to have to leave us shortly, and section 14 is one that should be commented on by him. Could we move over to that section now?

Senator MACDONALD: I think we appreciate the attitude the minister has taken: he has left this more or less with us.

The CHAIRMAN: Mr. Minister, could you give us your views on section 14 in the light of the facts that came out after you left us yesterday morning, with respect to the non-Canadian holdings of some very important broadcasting companies?

Hon. Mr. NOWLAN: As I said, Mr. Chairman, I have had only a very casual discussion with the officials, and I am not familiar with the whole background of your discussion yesterday morning. I understand your discussion dealt principally with the fact that certain stations are in existence today which might not be able to qualify under this section.

The CHAIRMAN: Yes. To take the particular case we were discussing, the Canadian Marconi Company; it has for the past 30 years or more owned a broadcasting station in Montreal, and has applied for a television permit. That company is controlled through another Canadian company by an English

corporation which owns 50.6 through this other Canadian company of its shares. If section 14 goes through, the result would be that in its present form not only could the Canadian Marconi Company not continue with its application for television license, but when it comes to renewing its broadcasting licence, it would be in difficulty.

The same position faces some other companies—Senator Brunt will deal with those.

Hon. Mr. NOWLAN: I understand there are four or five companies to which the section might apply.

I do not think I have to spell out to you gentlemen the reason for this section. We did not want to put negatives in there to show discrimination or anything of that kind, and so we make a positive statement as to Canadian interest. I don't think it necessary to elaborate on that point further: we just don't want to see, for instance, a Cuban station or something like that.

The CHAIRMAN: We agree with your general principle.

Hon. Mr. NOWLAN: But I never thought of it apply to existing stations. Indeed, we have no intention of applying it to stations which have been authorized heretofore. Mr. Thorson and I had a few minutes together this morning, and we drafted what might be a satisfactory amendment. But I give you assurance that there is no intention of this section affecting present stations in any way at all. Perhaps Mr. Thorson could read the amendment to you.

Mr. THORSON: The amendment we had in mind—and I am sorry I do not have it in typewritten form—would be somewhat as follows: "That bill C-55, an Act respecting Broadcasting, we amended by adding immediately after line 4 on page 7 the following words—

The CHAIRMAN: That is at the end of section 14?

Mr. THORSON: That is correct.

"(2) The Governor in Council may exempt from the operation of this section any person who, upon the coming into force of this act, was the holder of a valid and subsisting licence, subject to such terms and conditions as the Governor in Council may prescribe . . ."

Senator BRUNT: Should you not put in the word "corporation"?

Mr. THORSON: No "person" includes a corporation.

Hon. Mr. NOWLAN: That would protect existing stations, and the Governor in Council could deal with future cases as they arise. For instance, we would want to make sure that they could not transfer their interests to a foreign country. In that way, we would protect the existing stations without spelling out all the details.

Senator CONNOLLY (*Ottawa West*): In other words, the policy outlined in section 14 will apply to future applications?

Hon. Mr. NOWLAN: Subject to this amendment, with the terms and conditions.

The CHAIRMAN: But the onus will be on these corporations to apply to the Governor in Council—that is the existing corporations?

Hon. Mr. NOWLAN: No. I can give you absolute assurance, as far as existing corporations are concerned, they will not be required to do so.

Senator BRUNT: They will be looked after and protected.

Hon. Mr. NOWLAN: Yes.

Senator MACDONALD: That is all right for now, but what about five years hence?

Hon. Mr. NOWLAN: That is why we have "terms and conditions" in there. We do not know what the situation will be five years hence. We want to avoid the control of Canadian radio getting into the hands of corporations which are non-Canadian.

The CHAIRMAN: Would Mr. Thorson read the amendment again?

Hon. Mr. NOWLAN: This amendment is only roughly scribbled out, and this committee can make any changes it wishes within the general framework. You know what our policy is, and I am sure you will all agree with it 100 per cent. It is to protect Canadian radio, to make sure that it is Canadian, and yet to safeguard against existing stations, and have an adjustable arrangement for the future.

The CHAIRMAN: Will you read that again?

Mr. THORSON: The new subsection 2 would be somewhat as follows:

The Governor in Council may exempt from the operation of this section any person who, upon the coming into force of this act, was the holder of a valid and subsisting licence, subject to such terms and conditions as the Governor in Council may prescribe.

The reference to "any person who upon the coming into force of this act was the holder of a valid and subsisting licence" is, of course, to protect persons who today are licencees.

The CHAIRMAN: I think we are agreed on the principle. The Minister has made this statement; and perhaps we can polish up the amendment, if it needs to be polished up, later on.

Hon. Mr. NOWLAN: I can assure you that the Governor in Council will give exemption permits to all existing stations. We never had any intention of doing otherwise.

Senator BRUNT: That is satisfactory.

Senator MACDONALD: I was wondering if we could ask any more questions while the Minister is here.

Mr. FINLAYSON: Providing that a person is a corporation, it seems to me to cover the point; because we have two points: one was to protect existing licences for the foreseeable future, and also to preserve our right to apply for further licences. As I understand the language, these two points seem to be met. If they are met, it is very satisfactory.

The CHAIRMAN: That puts on you the onus to apply to the Governor in Council from section 14, and you have the Minister's assurance that the Government does not intend to interfere with the present rights of existing stations.

Mr. FINLAYSON: As I understand it, under existing circumstances we apply to the Minister of Transport formally for a licence, that goes to the C.B.C., or now to the new Board of Broadcast Governors for consideration. Would this mean that we would have to make another application to the Governor in Council or will this process be automatic?

The CHAIRMAN: I take it that it would not be necessary to make a separate application.

Mr. FINLAYSON: We would presumably in this application make reference to this section so that our peculiar situation will be keyed in. If that is clearly understood it would be entirely satisfactory in our situation.

Senator BRUNT: I think the Minister has been more than fair. I am quite satisfied. It has straightened this situation out.

Senator CONNOLLY (*Ottawa West*): Are there any other representatives who might be caught on section 14, in a list?

Hon. Mr. NOWLAN: I think we have a list of all these, and my undertaking applies to all of them, whether they are represented here or not.

The CHAIRMAN: Mr. Minister, I see it is 11 o'clock, and I do not want to keep you here.

Hon. Mr. NOWLAN: It is much more pleasant here, I may say.

The CHAIRMAN: May I repeat on behalf of the committee how grateful we are to you for having come here and given us this time. I do not think we will need you again.

Hon. Mr. NOWLAN: Well, if you do, I shall be very glad to meet you again.

Mr. FINLAYSON: I also would like to express to him our gratitude for his consideration.

The CHAIRMAN: Gentlemen, does anybody wish to ask any further questions of Mr. Ouimet? I suggest that when we have finished with Mr. Ouimet we have no other witness and perhaps we should begin to take the bill clause by clause, so that any amendments that are suggested to any of the sections can be dealt with when we deal with the matter in that way.

Senator MACDONALD: I wonder if it would not be advisable to try to discuss section 22, regarding the appointments of the president and vice-president "during pleasure". The Minister, I understood, did not disagree with our suggestion; he said he would leave it to see if we could improve that section.

The CHAIRMAN: I am in the hands of the committee. Does the committee wish to deal first with section 22?

Senator CONNOLLY (*Ottawa West*): I think it would be a good thing if we could have from Mr. Thorson, if he has them, the names of the Crown companies to which this clause applies. Do you have the names of the Crown companies where the chief officers are appointed during pleasure?

Mr. THORSON: I do not have a list now. I might point out that I am not the draughtsman of this bill. But there are some Crown corporations where the directors are appointed during pleasure. The Central Mortgage and Housing Corporation is an example.

Senator CONNOLLY (*Ottawa West*): Do you know what the term of the appointment is?

Mr. THORSON: No. I think it is stated to be—again, I would like to check—"during pleasure" without qualification as to duration.

Senator CONNOLLY (*Ottawa West*): Do you know of any? Polymer, for example?

Mr. THORSON: I would want to check.

Senator MACDONALD: I would not think that a corporation like Polymer would be comparable to this. Why would it not be satisfactory to have a clause in this bill similar to the clause in the present C.B.C. act representing the appointment of Mr. Dunton? This is chapter 32, an Act respecting Broadcasting; interpretation clause 3. The Chairman—that is Mr. Dunton—holds office during good behaviour for a period of 10 years from the time of his designation as chairman, and the other Governors hold office during good behaviour for a period of 3 years; but the chairman and other Governors may be relieved for cause at any time by the Governor in Council. I think that that would be a great improvement over this.

Senator BRUNT: Here is the situation. What would you do if the president became insane? If you put "during pleasure" he would be there for 7 years.

Senator MACDONALD: That is "cause".

Senator BRUNT: Let us deal with the present section, the way it is worded. You could not have him removed if you took out the words "during pleasure".

Senator HAYDEN: There is no suggestion of taking them out unless something in place of them is put in.

Senator MACDONALD: I have not had any great time to consider this, but I was suggesting that the wording of this bill with regard to the appointment of the president and vice-president should be similar to the wording in the present C.B.C. act.

The CHAIRMAN: In other words, in line 6, page 9, you would substitute the words "good behaviour" for the word "pleasure". Is that it?

Senator MACDONALD: Yes.

The CHAIRMAN: And you would thereby bring the President and Vice-President of the C.B.C. into line with the other members of the directorate, and with the Chairman and the Board of Broadcast Governors, who all hold office during good behaviour under section 3 of the bill?

Senator MACDONALD: Yes.

Senator CONNOLLY (*Ottawa West*): That would mean, then, that section 22(4) would come into play and these two executive officers could not be dismissed other than on an address of the Senate and House of Commons?

The CHAIRMAN: Yes. If we amend section 22(2) it would involve removing some words in subsection (4). You would take out the words "a director appointed to hold office during good behaviour". It would then read: "A director ceases to be a director of the Corporation upon attaining the age of 70 years and may be removed at any time by the Governor General on address of the Senate and House of Commons."

Senator CONNOLLY (*Ottawa West*): You would still have the joint address?

The CHAIRMAN: Yes.

Senator HAYDEN: It would be a rather involved procedure in order to get rid of an incumbent who is not carrying his load.

The CHAIRMAN: Yes.

Senator CONNOLLY (*Ottawa West*): I wonder if Senator Macdonald could take more time on this.

Senator MACDONALD: If I may interrupt, I would suggest that he could be removed for cause at any time by the Governor in Council.

Senator HAYDEN: This is a Crown company. It is really an agency or arm of the Government carrying on a business. I would hate to have to go through this procedure in my own business in order to get rid of some person who is not carrying his weight. There are two sides to this question.

Senator CONNOLLY (*Ottawa West*): What would be the position of a man who was dismissed when holding a seven-year appointment? He might feel he was unjustly dismissed and he might have an action in damages.

Senator MACDONALD: The point you mentioned previously—and I think the Chairman mentioned it too—is that it would be very difficult to get a man of any standing in the community, who has a position at the present time, to come down here and take a position during pleasure. In a case of that kind he could be dismissed without cause.

Senator CONNOLLY (*Ottawa West*): I don't know.

Senator MACDONALD: Oh, yes, during pleasure he can be dismissed without cause. I think it should be definitely provided in here that it has to be with cause.

Senator CONNOLLY (*Ottawa West*): If a person who has been appointed for seven years is dismissed, even if it reads "during pleasure", he might have a pretty good claim.

Senator ASELTINE: Isn't this entirely different from ordinary Crown corporations that are carrying the load themselves, making a profit and not coming to the Government every year for money? This seems to me to be something entirely different and the Government should have more control over it than they would have in the case of, say, the C.N.R. or Polymer or some similar corporation that is supposed to be carrying on without Government assistance each year.

Senator HAYDEN: You could justify a difference in language in the present statute because it is a combination of things. It is a regulatory body as well as one carrying on the business of broadcasting. Here you are dealing with an organization carrying on the business of broadcasting only, and, strictly, as a Government agency, a Crown company. So why shouldn't there be just as an immediate control there as you would have between, say, the Government and employees in the civil service?

The CHAIRMAN: Of course, what we are really worrying about at the backs of our minds is whether the wording should permit a political control of the President and Vice-President.

Senator KINLEY: Is it really politics, after all? There is a tremendous public interest in this thing and if you get a man who is not doing his duty I don't think the Government should be given the privilege to say "We have nothing to do with him." I think they should have that burden and observe it. I believe in democracy, as you do, and when we talk about politics, well, it is the science of government, and why shouldn't there be politics?

Senator McDONALD (*Kings*): You don't want the impression to go out to the people, as unfortunately many of them have it today, that C.B.C. and radio and television services are going to be interfered with for political reasons.

The CHAIRMAN: Yes.

Senator KINLEY: You are getting on a lower level now.

The CHAIRMAN: Isn't that in itself some form of protection against what they might suspect could happen? Supposing the Government did appoint a man, and he must be a good man, as President of the Canadian Broadcasting Corporation, and then they were to dismiss him without cause or for some trifling reason connected with political motives. I think the reaction from the country would be such that no Government would dare do that.

Senator MACDONALD: There is a suspicion, as Senator McDonald has said in the country today that the Government is getting political control over the C.B.C. I think it would tend to re-establish confidence in the public mind if we could get away from these words "during pleasure" and still allow the President and the Vice-President to be removed for cause at any time by the Governor in Council. Under the present act the minister, some minister, can fire the President and Vice-President without going to the Government or getting the consent of the other members of the Cabinet. That does not seem to be proper. We would be in a much stronger position if he had to be dismissed by the Governor in Council.

Senator ASELTINE: Didn't the minister assure us that would not happen?

Senator MACDONALD: I know but this is a bill and the person who is minister now may not be the minister next week. I think this is a great weakness in the bill and I believe we can strengthen the bill considerably without any strenuous objection on the part of the minister, by changing the bill in the way I have suggested.

Senator HAYDEN: Would it do anything to strengthen the section if you provided that the exercise of this "during pleasure" was to be by the Governor in Council?

Senator MACDONALD: Yes; it is for cause.

Senator HAYDEN: I am just saying that this "during pleasure" should be exercisable only by the Governor in Council rather than by the minister, if you are fearful of that.

The CHAIRMAN: My mind was running along the same line. The words "during pleasure" are the words that stick in our minds. Suppose you worded it in this way: "to hold office for a period of seven years subject to prior removal for cause by the Governor in Council." How would that be?

Senator HAYDEN: The words "for cause" bother me as much as the words "during pleasure".

Senator ASELTINE: Same here.

Senator HAYDEN: Why should the Government, on a matter of policy, have to give a cause for the removal of the President?

Senator MACDONALD: They do for the removal of all the other directors.

Senator KINLEY: They can only demote them.

Senator MACDONALD: The thing that strikes me in connection with this bill is that the President and Vice-President can be dismissed at any time without cause but all the other directors hold office during good behaviour and cannot be removed except by the Governor General on address by the Senate and the House of Commons. Now, there is not that difference.

Senator HAYDEN: Yes, there is. The directors are supposed to give a country wide representation; that is supposed to be a protection for the public operation of this business, and therefore just because they may hold a different view or express a viewpoint the Government doesn't like should not cause them to be subject to removal. That is why they have the stipulation for appointment during good behaviour. But the president and vice-president are there from day to day and running and operating this business, and there has to be a more immediate direction.

Senator MACDONALD: All right; and under the present arrangement if they have a difference with the Minister they can go out—like that.

Senator HAYDEN: That has happened in the past.

Senator MACDONALD: I know, but that is not right, that is improper. I also go back to the point that you would not get the proper people to accept appointment on those conditions. What was the proposal you had, Mr. Chairman?

The CHAIRMAN: Well, my proposal was to take out the words "during pleasure", and to insert at the end of that line 6 "for a period of seven years, subject to prior removal for cause by the Governor General in Council". Of course, I would like to hear from the Department of Justice.

Mr. THORSON: I think you are coming back to the concept of "good behaviour", Mr. Chairman, and would suggest that if you are going in that direction, it would be simpler to make the substitution that you originally suggested, namely in subsection 2 to stipulate that they shall be appointed to hold office during good behaviour. Then you would go down to subsection 4 and delete the words "and a director appointed to hold office during good behaviour", so that it will read, "A director ceases to be a director of the Corporation upon attaining the age of seventy years, and may be removed at any time . . ." et cetera.

Senator HAYDEN: It seems to me that would be a better way.

The CHAIRMAN: Yes, I think perhaps it would. It seems to me that we should look at it this way, that if you are making this amendment, on the one hand, we are perhaps removing from the minds of certain members of the public the idea that this section would permit political interference of

the president and vice-president; on the other hand, of course, there might be a possible operating difficulty if the president or vice-president turned out to be unsatisfactory during his seven years and the Government could not remove him except on a joint address. Of those two points I would think I would favour changing the bill so as to make it quite clear that there is no political interference of the C.B.C., and take the chance that there might perhaps be some trouble that an officer might prove unsatisfactory. After all, as the Minister has said, the Government has the means to make it uncomfortable for any such officer, if it wanted to, and he would have to get out anyway, even if he was entitled to his seven years. As I took it, the Minister does not take a very strong view on the matter, but is rather leaving the matter to us.

Senator HAYDEN: It is rather an involved process for the removal of an officer like a president or a vice-president, a joint address.

The CHAIRMAN: Quite so.

Senator CONNOLLY (*Ottawa West*): The proposal is, as I understand it, that in so far as the president and vice-president are concerned a joint address would not be necessary.

The CHAIRMAN: Oh, yes.

Senator CONNOLLY (*Ottawa West*): Well, I don't think that puts any Government into a straight jacket.

Senator HAYDEN: No.

Senator MACDONALD: No, I wouldn't agree with that at all. It is not necessary to have that. Under the present act the chairman and the other governors may be removed for cause at any time by the Governor in Council.

Senator HAYDEN: I would think the president and vice-president should be appointed to hold office during good behaviour, subject to removal at any time by the Governor in Council.

Senator MACDONALD: That would suit me.

Senator HAYDEN: And then if the other directors were appointed to hold office during good behaviour, to be removed under the conditions set forth in paragraph 4.

The CHAIRMAN: Perhaps subsection 2 of section 22 might read, "The president and vice-president shall be appointed to hold office during good behaviour for a period of seven years"; then "subject to removal—"

Senator MACDONALD: For cause at any time.

Senator HAYDEN: I was not going to say "for cause", but "subject to removal".

Senator MACDONALD: I think it should be "for cause".

Senator HAYDEN: No; "during good behaviour for a period of seven years, subject to removal by the Governor in Council at any time".

The CHAIRMAN: That would mean that the Government could not dismiss the president or the vice-president without cause, they would have to show bad behaviour.

Senator HAYDEN: That is right.

The CHAIRMAN: Does that meet with approval?

Mr. THORSON: You will then, of course, have two different methods of removal.

The CHAIRMAN: You have that, anyway.

Mr. THORSON: No, just the one now, removal on address of the Senate and House of Commons.

The CHAIRMAN: You have "during pleasure" now.

Mr. THORSON: Oh, yes, I agree with that.

The CHAIRMAN: You are not changing that?

Mr. THORSON: You would have two methods according to this proposal of dismissal for cause; there would be that distinction.

Senator MACDONALD: That is right.

Mr. THORSON: And the directors, on the other hand...

Senator HAYDEN: I think it should be faster, in the case of a president and a vice-president.

Mr. THORSON: I should like to suggest that if you are changing words, not to make the reference to dismissal for cause by the Governor in Council in subsection 2, otherwise you produce confusion in subsection 4 as to which directors you are talking about, where you speak of removing them on address of the Senate and House of Commons.

Senator HAYDEN: Yes.

The CHAIRMAN: Well, is this the way the committee wishes it? The first two lines of subsection 2: "The president and vice-president shall be appointed to hold office during good behaviour for a period of seven years, subject to removal at any time by the Governor in Council".

Senator MACDONALD: No, leave out the part about "subject to".

The CHAIRMAN: Then all we do in the subsection is to remove the word "pleasure" and substitute the words "good behaviour"?

Senator MACDONALD: Then how do you amend subsection 4?

Mr. THORSON: Well, if the committee wishes to make this change, perhaps subsection 4 could be amended somewhat as follows:

A director ceases to be a director of the corporation upon attaining the age of seventy-five years, and may be removed at any time by the Governor in Council on address of the Senate and House of Commons, in the case of the president or vice-president, "by the Governor in Council for cause".

Senator HAYDEN: I don't like adding the words "for cause".

Mr. THORSON: Well, I think if you speak of good behaviour it is implicit that the removal must be for a cause, such as malfeasance in office. Otherwise it leaves open the question of the grounds on which a person may be removed having been appointed during good behaviour.

Senator CONNOLLY (*Ottawa West*): If he is appointed during good behaviour and is going to be dismissed, and power is given to the Governor in Council to dismiss him, then isn't he dismissed presumably for cause, and that is implied, and therefore you would not need the words?

Mr. THORSON: Perhaps, Senator Connolly, that is correct, but there is still a possibility of confusion as to what kind of a creature you have created if you stipulate that he may be removed at any time by the Governor in Council.

Senator HAYDEN: Except that you have the same situation in relation to a director. In subsection 4 you have a director appointed to hold office during good behaviour who may be removed at any time—it does not say "for cause".

Mr. THORSON: But it says "on address of the Senate and the House of Commons". That is a recognized form.

The CHAIRMAN: You suggest that the Senate and the House of Commons would not act without cause, Senator Hayden?

Mr. THORSON: That is the language, at any rate, used. It has a clear meaning, I think.

Senator CONNOLLY (*Ottawa West*): Is it not implied that the Government would not act without cause? I am not arguing for this Government or any other Government.

Senator MACDONALD: If he is appointed during good behaviour, then it follows that he cannot be dismissed without cause. I think you would agree with me on that.

Senator CONNOLLY (*Ottawa West*): We might not finish this bill this morning, and I would suggest we might leave it.

Senator ASELTINE: I think the Minister should be consulted about this first.

Senator MACDONALD: I do not think he would want to be consulted again on this matter. He had an open mind on it and it occurred to me that he wants to get away from any political implications and wants it set forth quite clearly in the bill that the C.B.C. is completely independent of the Government.

Senator ASELTINE: The Minister said he would be glad to come back at any time. I do not think we should go too far with this before we consult him again.

Senator MACDONALD: Why do we not propose an amendment and let him see it instead of bringing him back?

Senator ASELTINE: We have not got any amendment yet.

The CHAIRMAN: Is this the committee's mind about this, dealing with page 9, section 22, subsection 2 line 6, that we remove the word "pleasure" and substitute the words "good behaviour", and in subsection 4 we add to line 22 the wording which Mr. Thorson suggested. Mr. Thorson would you read that again.

Mr. THORSON: Yes, Mr. Chairman. Commencing with the comma in line 19 just continue on with these words, "and may be removed at any time by the Governor General on address of the Senate and House of Commons or, in the case of the President or Vice-President, by the Governor General."

The CHAIRMAN: The only point there is whether we insert the words "for cause". What is the mind of the committee on that?

Senator HAYDEN: Mr. Chairman, it seems to me that the President and Vice-President are so intimately tied into the operations that making it more difficult to remove them is not providing good machinery for the operation of the C.B.C. on a businesslike basis.

The CHAIRMAN: You oppose the amendment, Senator Hayden, do you? You feel the clause should stand as it is?

Senator HAYDEN: I think so.

The CHAIRMAN: Has the committee got in mind the two alternative suggestions as to whether the clause should stay as it is or whether it should be amended along the lines we have just discussed?

Senator MACDONALD: The difficulty is if we leave this clause the way it is the President and Vice-President are under the direct control of the Minister in charge of this corporation, which, I am satisfied, is a mistake. I think that in a bill of this type where the President or Vice-President are heading an organization which has such a close relationship with the public generally—

Senator McDONALD (*Kings*): It affects so many people.

Senator MACDONALD: It affects the whole population of Canada.

Senator KINLEY: Well, I would say that that works both ways.

Senator McDONALD: In view of that I feel he should be away from the control of one Minister.

Senator HAYDEN: Then make it, by Governor in Council.

Senator MACDONALD: That is what I wanted to do.

Senator HAYDEN: Well I would suggest to leave in "during pleasure" and "removed by Governor in Council".

Mr. THORSON: That follows, Senator Hayden. If the appointment is during pleasure it would call for removal by the Governor in Council.

Senator HORNER: Mr. Chairman, I realize that the discussion on this bill is providing a field day for the men of the legal profession here, but for the life of me I do not see why this angle is being discussed at all. Senator Macdonald pointed out that the public are certainly interested. Yes, they are interested in digging down into their pockets and furnishing money for this corporation and surely if I were the Minister I would not like the responsibility of having to decide whether to dismiss the President and the Vice-President. But, we might as well be realistic about it, because no corporation could exist for any length of time unless you have control of that nature. The C.B.C. happens to be a branch of the Government, and let us be realistic about that too, and I think it would only clutter up the bill to change it and I would suggest to let it stand the way it is and I think it will work out all right.

Senator McDONALD: (*Kings*): A provision of that nature in the bill might prevent us from getting the proper men to take the position of President and Vice-President; it may be difficult to secure top flight officials.

Senator KINLEY: Mr. Chairman, the captain of a ship who does something wrong has to answer for it; an investigation is held and if he is at fault he not only loses his job, but his certificate and employment are taken away from him. It is my view that you have got to have efficiency on the job, and the direction and management of a corporation have more to do with that than the men, and if you have a bad manager you will never have a good business. We want good managers, but to my mind you are making a mistake in making everybody too secure in their jobs as long as there is no bad behaviour on their part, and I am against that.

Senator MACDONALD: But, Senator Kinley, the captain of a ship is not dismissed without cause.

Senator KINLEY: He can be dismissed without cause. If he cannot make the ship pay he is dismissed.

Senator MACDONALD: Well, that is a cause. But here we are singling out two officers of this organization and saying that they can be fired without cause. I say that is not right. The public wants to be satisfied and after all we are dealing with the public. It is all right to say we do not care about the public but you must care about the public.

Senator KINLEY: Everybody cares about the public.

Senator MACDONALD: Certainly. The public must have confidence in the C.B.C. and they must have confidence that the C.B.C. is not under the control of the Government. Leave that clause in here, that these officers hold their appointments during pleasure, and the public will never be satisfied that the C.B.C. is not an arm of the Government, and I do not think that anybody wants that. Now we can overcome that quite simply by doing away with the words "during pleasure" and inserting the words "during good behaviour."

Senator BRUNT: Of course, during good behaviour is included in during pleasure.

Senator MACDONALD: No it is not. Well, if it is why not change the others to "during pleasure"? If an appointment is held during pleasure the person holding it can be removed without cause, and as soon as you do that the public gets the impression—whether I am legally correct or not in saying that—the Minister can dismiss them. Well, I am not going to oppose the opinion given by the representative from the Department of Justice, but I would say that when a man is appointed during pleasure the Minister merely dismisses

him and then probably reports to the Governor in Council. Now if you change these words to "during good behaviour" in the way that the Chairman has suggested...

Senator CONNOLLY (*Ottawa West*): Does the theory of Cabinet solidarity come in here—if the Minister acts he acts for the Cabinet?

Senator MACDONALD: Yes, but if he is dismissed by the Minister, it is done by him and then the Cabinet always backs up what he does. But if it is on good behaviour he would take the proposal to the Cabinet and have it discussed by the Cabinet.

Senator CONNOLLY (*Ottawa West*): Mr. Thorson says, as I understood him, that that is implied in the section now, namely that a dismissal would only be by the Governor in Council. Is that right?

Mr. THORSON: That is correct.

Senator MACDONALD: But not at a cabinet meeting. That is done by a subcommittee and goes through automatically.

Some SENATORS: No, no.

Senator CONNOLLY (*Ottawa West*): Maybe the machinery is there to do it that way...

Senator MACDONALD: The machinery is quite different. But an Order in Council is passed on behalf of the entire cabinet.

Senator HAYDEN: Yes, it has to be on the recommendation of the cabinet.

Senator MACDONALD: If it is during pleasure, it is simply on the recommendation of the minister without any discussion; if a man is appointed on good behaviour, the cabinet considers the whole case, and he is in a much stronger position.

Senator CONNOLLY (*Ottawa West*): I recognize the force of Senator Macdonald's argument, but there is another side to it. I would not want to see this section voted on now; I would like to think about it.

Senator KINLEY: After all, Mr. Chairman, the Government is only in power during the pleasure of the members of the House of Commons.

Senator CONNOLLY (*Ottawa West*): Are all civil servants appointed during pleasure?

Senator BRUNT: They are appointed during pleasure.

Senator CONNOLLY (*Ottawa West*): Including deputy ministers?

Mr. THORSON: Yes, that is correct.

Senator MACDONALD: In this case every one appointed under this bill is under good behaviour, and there are 26 of them.

Senator CONNOLLY (*Ottawa West*): It seems to me the scheme of this is that, heretofore the Board of Governors of C.B.C. were appointed during good behaviour, and were removable for cause. Now, what they have done is gone further in the appointment of the Board of Broadcast Governors, and they are appointing during good behaviour for a period of time. This makes the appointment, which is semi-judicial in that the board is a regulatory body, more permanent and more untouchable. Then, coming to the operating end of C.B.C., provision has been made for appointment during pleasure, and because of inefficiency or some other reason, a man who is not satisfactory could be removed. In those circumstances they would be able to act more expeditiously.

It may seem that the Liberals are having a fight here, but I think there is something to be said for the efficiency of the C.B.C. The Government of the day—whatever Government it may be—should be able to say this president or this vice-president is not performing the way he should, and he should be removed. The only objection is that political considerations might be the guiding consideration in the event of a dismissal. Perhaps that is a chance we have to take, but I am not prepared to say at the moment.

SENATOR WALL: Mr. Chairman, could I ask, for the purpose of clarification, how would the Government or the Governor in Council be hamstrung, so to speak, in removing a president or a vice-president if this amendment did go through and they were appointed during good behaviour, and were removable as is suggested by subsection 4? What would make the position of the Government to remove a president less effective?

The CHAIRMAN: I think it would merely make the formality for such removing a little more formidable. It would have to be done by the Governor General in Council.

SENATOR WALL: But they could still do it.

The CHAIRMAN: They could still do it, of course.

SENATOR MACDONALD: There would be no delay, and the bill would be greatly strengthened.

The CHAIRMAN: Has the committee reached the stage where we can consider and vote upon the proposed amendment? There is as yet no formal amendment before me.

SENATOR MACDONALD: State the amendment.

The CHAIRMAN: The amendment would be twofold: it would first remove the word "pleasure" from line 6 at page 9 and substitute therefor the words "good behaviour"; it would amend subsection 4 to read:

"A director ceases to be a director of the corporation upon attaining the age of 70 years, and may be removed at any time by the Governor General on Address of the Senate and House of Commons or, in the case of the President or Vice-President, by the Governor in Council."

We have not as yet added the words "for cause".

SENATOR BRUNT: Something should be determined there.

The CHAIRMAN: For cause.

SENATOR MACDONALD: I would leave out "for cause" and rely on "good behaviour".

SENATOR HAYDEN: It is implicit anyway.

SENATOR GOVIN: I move that amendment, Mr. Chairman.

The CHAIRMAN: I shall read the amendment again. (amendment re-read).

SENATOR KINLEY: A vote against the amendment is a vote that the clause stand?

The CHAIRMAN: That is right.

SENATOR MACDONALD: Do we understand it clearly, or should we let it stand and not take a vote now?

SENATOR BRUNT: Frankly, I think the amendment should be submitted to the minister.

SENATOR CONNOLLY (*Ottawa-West*): I don't know that that is the governing consideration. My own feeling is that I would like to think about it before voting on it.

SENATOR HAYDEN: I move the section stand.

...Section 22 stands.

The CHAIRMAN: I suggest we might make our best progress by considering the bill clause by clause, unless someone wishes to ask questions of Mr. Ouimet.

SENATOR BRUNT: Mr. Chairman, I would like to ask Mr. Ouimet or Mr. Thorson if they know of any objection to amending clause 23 which reads:

23 (1) The head office of the Corporation shall be at Ottawa.

I would like to see added the words, "or such other place designated by the Governor in Council." As I understand it by the bill the only way which the head office can be changed is by statute, is that not correct?

Mr. THORSON: That is correct.

SENATOR BRUNT: I would like to see some flexibility there. Don't think that I am suggesting that the head office be moved from Ottawa.

SENATOR ASELTINE: You want it in Toronto?

SENATOR BRUNT: No, I don't want it in Toronto or in Montreal, but I want some flexibility there. May I hear from Mr. Ouimet on that point.

Mr. OUIMET: All I can say on this is that we have no intention of changing the location of the head office, so that it is purely a question of making it more flexible for the future.

Senator BRUNT: That is right.

Mr. OUIMET: I do not think the corporation would have any possible objection to a greater amount of flexibility.

Senator MACDONALD: I think it would be dangerous to amend the bill in this respect. This is a very important feature of the bill, that the head office of this organization is in the city of Ottawa, and if there is a change made it is a major change and, in my opinion, should first be brought to the attention of Parliament.

Senator BRUNT: I was just trying to make it more flexible.

The CHAIRMAN: Is it not possible that, for instance, the head office might be moved to the Printing Bureau in Hull?

Senator HAYDEN: You think there is room for it there?

Senator KINLEY: In the cellar.

The CHAIRMAN: Any other questions to Mr. Ouimet before we consider the bill clause by clause?

Senator ASELTINE: Let us begin.

On Section 1,—Short title.

Senator MACDONALD: Under the old act the wording is "Canadian Broadcasting Act." They have left out the word "Canadian" here.

The CHAIRMAN: Do you wish to insert the word "Dominion", senator?

Senator MACDONALD: No; I just wondered why "Canadian" had been left out.

Senator BRADLEY: It is "Canadian" automatically.

Senator MACDONALD: If "Canadian" was in before. I was wondering whether some privately-operated company might be able to get the word "Canadian" in its name.

Mr. THORSON: I have a note that was left to me by the draughtsman of this bill, commenting on this particular point. Perhaps you would be interested.

The CHAIRMAN: Yes.

Mr. THORSON: I am quoting now from a memorandum of the assistant Deputy Minister of Justice:

On clause 1 the question was raised why the word "Canadian" has been left out of the Act. This was done for two reasons. First, to distinguish it from the old Act; and secondly, to make it easier to find the Act in the index to the statutes. A reader is more likely to look under the word "broadcasting" than under the word "Canadian".

There are now quite a number of "Canadian" acts, but the tendency is to omit this in the case of statutes that are likely to be searched for under some other title. The Conference of Commissioners on Uniformity of Legislation has urged that where possible the name of the political jurisdiction or the word "Government" should be avoided as the first word of a title.

The CHAIRMAN: Does that satisfy the committee?

Section 1 agreed to.

On Section 2: Interpretation.

Section 2 agreed to.

On Section 3,—Board established.

Senator MACDONALD: We spoke of this: we brought this clause to the attention of the Minister and he had no objection to an amendment here. This clause provides for the setting up of a board of 15, consisting of three full-time members and 12 part-time members, and the duties are set forth as to two of the full-time members: one would be chairman and the other the vice-chairman of the board: but there is nothing said with respect to the duties of the third full-time member.

The CHAIRMAN: I think your comment should come on section 5, senator, the duties of the chairman and vice-chairman.

Senator MACDONALD: I see. There is another clause in here, subsection 6 of section 3, which reads:

(6) A person is not eligible to be appointed or to continue as a member of the Board if he is not a Canadian citizen, or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, he is engaged in the business of broadcasting or has any pecuniary or proprietary interest in a broadcasting station or in the manufacture or distribution of radio apparatus.

I was just wondering if the governors and the directors of the C.B.C. could become members. I won't press that point. Often a newspaper owns a radio or television station: in that case would a director of the newspaper company be eligible to be a member of this board?

Senator BRUNT: No, he could not possibly be. He should not be.

Senator CONNOLLY (*Ottawa West*): The words "directly or indirectly" are used there.

Senator WALL: Does this mean that if I am a shareholder of the Southam corporation—I believe they have radio stations—neither I nor any shareholder would be eligible?

Senator HAYDEN: That is right.

Senator WALL: Or even a shareholder in a county paper?

Senator MACDONALD: You would not be eligible if you had shares in the Southam Press.

Senator HAYDEN: If a newspaper operated radio stations you would not be eligible. But you can dispose of your shares.

Senator CONNOLLY (*Ottawa West*): It is a semi-judicial body; and I suppose you make this type of subscription for a judge, don't you?

Section 3 agreed to.

On section 4—Head Office and meetings.

The CHAIRMAN: Do you wish to insist on an amendment?

Senator BRUNT: No.

Section 4 agreed to.

On Section 5—Chairman and vice-chairman.

Senator MACDONALD: As I pointed out under a previous clause, there is provision for three full-time members, one of whom would be the chairman and another vice-chairman of the board, but there is nothing said as to what the duties of the third full-time member would be; and I must say that the Minister, when he was speaking to us the other day in this room, was not too clear in respect to that.

Senator ASELTINE: If both the chairman and vice-chairman were away, one man would not be carrying on the business.

Senator MACDONALD: You will notice that subsection 3 says "the Chairman and Vice-Chairman".

Clause 1 says: "(1) The Chairman is the chief executive officer of the Board, and has supervision over and direction of the work and the staff of the Board." And the next subsection: "(2) If the Chairman is absent or is unable to act or the office is vacant, the Vice-Chairman has and may exercise all the powers and functions of the Chairman." What I was going to suggest is that if the Chairman and Vice-Chairman are absent or unable to act or their offices are vacant, the third full-time member has and may exercise all the powers and functions of the Chairman.

Senator BRUNT: You would have to amend subsection (3) also.

The CHAIRMAN: As a matter of fact, when you consider it, subsection (3) can only deal with the third member because the subsection only deals with the case when the Chairman and Vice-Chairman are absent, and the only person who can then act is the third member.

Senator MACDONALD: No.

Senator BRUNT: Mr. Chairman, I think the Board includes the entire Board of Directors.

The CHAIRMAN: I beg your pardon.

Senator MACDONALD: When you have a third full-time member he should be the one who should automatically act as Chairman in the absence of the other two.

Senator ASELTINE: Didn't the Minister say that would automatically happen?

Senator MACDONALD: No.

Senator BRUNT: May I read what the Minister said? It appears at page 17:

Hon. Mr. NOWLAN: Well I had hoped that he would, and after all if we choose the right type of people here I think we will achieve that. I thought we should not go any further down the line and tell them what they should do in the event that the Chairman and Vice-Chairman were away. I think it almost certain that the third member would be chosen in the event that the Chairman and Vice-Chairman were away sick, ill or dead but we did not spell that out. Now that is a detail that would be advisable to consider, but we left it to the board to make that choice in the not very frequent occasions when such an event happened.

Senator MACDONALD: I think he suggested that it might be advisable to do it, did he not?

Senator HAYDEN: I should point out section 3(a), which we passed, provides that "a full-time member shall devote the whole of his time to the performance of his duties under this Part." Then you have no definition of the duties of the third full-time member of the Board at all, so I suppose he just sits.

The CHAIRMAN: What we could do, of course, would be to insert a new subsection (3) in section 5 and say that if the Chairman and Vice-Chairman are absent the third permanent member of the Board has and may exercise all the powers and functions of the Chairman. Then the present subsection (3) could be renumbered as subsection (4), to provide that the Board may authorize one or more of its members to act as Chairman for the time being in the event that the Chairman and Vice-Chairman and third permanent member of the Board are absent, and so on.

Senator BRUNT: You would have to amend both sections then?

The CHAIRMAN: Yes. We would have to insert a new subsection (3) and amend the present subsection (3) and renumber it as subsection (4).

Senator BRUNT: I think we could leave the entire section as it is.

Senator MACDONALD: No, I don't think so. It might cause some confusion as to who should act as Chairman. Under the bill there is no provision for it.

Senator BRUNT: Yes, there is.

Senator HAYDEN: In the ordinary way the Governor in Council designates one of the full-time members as the Chairman, and designates another full-time member as the Vice-Chairman, and then, subject to that, the control is in the hands of the Board of Directors to pick somebody.

Senator MACDONALD: Here you have a third full-time member who is familiar with the work and he should be the second Vice-Chairman. If it is left this way, every time they have a meeting there may be a dispute as to who should be the Chairman in the absence of the regular Chairman and the Vice-Chairman.

Senator HAYDEN: The Board just passes a resolution.

Senator MACDONALD: I know, but there may be a dispute about it. Somebody will have to say "Who will be Chairman?". Why not spell it out in the bill.

Senator KINLEY: It says here, "The Board may authorize one or more of its members to act as Chairman for the time being in the event that the Chairman and Vice-Chairman are absent or unable to act or the offices are vacant." It doesn't mention a third man at all.

Senator MACDONALD: No.

Senator KINLEY: They could appoint anyone. That is what we do in the Senate.

Senator BRUNT: Then don't you move an amendment and we will dispose of it, Senator Macdonald?

Senator MACDONALD: I am not going to move an amendment if there does not appear to be unanimity but it would seem to be much more orderly if it were spelled out.

Senator TAYLOR: If there is a third full-time member would he not be chosen as Chairman of the Board in the absence of the regular Chairman and Vice-Chairman?

The CHAIRMAN: I suppose he would, Senator Taylor.

Senator MACDONALD: I suppose so too, but!

The CHAIRMAN: We haven't got an amendment to section 5. Does anybody propose one? Shall section 5 carry?

Section 5 agreed to.

On section 6: Remuneration.

The CHAIRMAN: This provides for a fee of \$100 per day, and expenses, for those members who are not permanent members. I must say that this is perfectly reasonable.

Section 6 agreed to.

On Section 7: Staff.

Section 7 agreed to.

On Section 8. Superannuation.

Section 8 agreed to.

On Section 9: Executive Committee.

Section 9 agreed to.

On Section 10: Objects and Purposes.

The CHAIRMAN: This is an important section.

Senator CONNOLLY (*Ottawa West*): I wonder whether some of the officials might say what is a public broadcasting station and what is a private broadcasting station?

The CHAIRMAN: Could Mr. Ouimet enlighten us on this?

Mr. OUIMET: The use of the words "public" and "private" in the past has been to distinguish between the C.B.C. stations, which are publicly-owned, and the privately-owned stations.

Senator CONNOLLY (*Ottawa West*): Should the words "publicly-owned" and "privately-owned" be substituted?

Senator BRUNT: It would make it a little clearer.

Senator HAYDEN: Yes, because if you have a broadcasting company whose shares are widely held by members of the public, it is what we would call a public company.

Mr. THORSON: That is true but that is a different use of the words. I believe this is an expression that appears in the Radio Act, and in the regulations under the Radio Act. The words "private broadcasting station" have a well-accepted meaning.

The CHAIRMAN: You say that these expressions are defined in the Radio Act?

Mr. THORSON: The expressions are used, I believe, in the Radio Act.

Senator CONNOLLY (*Ottawa West*): Are they defined there or just used in this way, Mr. Thorson?

Mr. THORSON: May I check on that?

Senator CONNOLLY (*Ottawa West*): I wouldn't want to hold the committee up on this.

The CHAIRMAN: Shall we let section 10 stand for the moment?

Hon. SENATORS: Agreed.

Section 10 stands.

On Section 11: Regulations.

Section 11 agreed to.

On Section 12: Licences.

Section 12 agreed to.

On Section 13: Networks.

Senator MACDONALD: I think we should read this section very carefully.

The CHAIRMAN: Then we will deal with it by subsections. Subsection (1) reads:

If pursuant to section 12 the Board recommends that a licence be issued, it may also recommend that the licence be issued subject to the condition that the licensee shall operate the broadcasting station to which the licence relates as part of a network operated by the Corporation, and, in such case, if the licence is issued, it shall be issued subject to such condition.

Subsection (1) agreed to.

On subsection (2): Subsequent Affiliation.

Subsection (2) agreed to.

Senator MACDONALD: Excuse me but I am not clear as to subsection (1). Under that section can a licence be issued for a network connected with an American network?

Mr. OUIMET: There is nothing that says that authority could not be given for such a situation.

Senator MACDONALD: Such as in the case of a permanent licence to hook up in the U.S. network?

Mr. OUIMET: It simply does not state that affiliation with an American network would be excluded.

Senator BRUNT: Are there not some affiliations at the present time?

Mr. OUIMET: I believe there are five stations now in Canada which are affiliated with American networks. They were stations already affiliated before the Canadian Broadcasting Act was promulgated.

Senator Connolly (*Ottawa West*): Well, do you remember a few years ago there was a football game on the west coast, which at least everybody wanted to see, and there was a hookup through the States so that the people in eastern Canada could see it. Would that still be possible under this arrangement?

Mr. OUIMET: Yes, it would be.

Senator CONNOLLY (*Ottawa West*): Is that a connection with an American network?

Mr. OUIMET: I don't remember the exact case, but there have been other cases in the past when this has been allowed.

Senator BRUNT: In any event, an application would have to be made, permission obtained before you could do it?

Mr. OUIMET: That is correct.

Senator CONNOLLY (*Ottawa West*): There is no danger that the Canadians would lose the World Series if this was allowed?

Mr. OUIMET: There is nothing in section 13, as far as I know, that would create this danger.

Senator CONNOLLY (*Ottawa West*): We would just have to make sure that the time of the session of Parliament did not conflict!

On subsection (3)—Revocation or amendment of affiliation.

Subsection (3) agreed to.

On subsection (4)—Affiliation with other networks and temporary affiliation with any network.

The CHAIRMAN: This of course is a subsection which imports the important principle that there might be another network of broadcasting stations in this country other than the C.B.C.; that is one of the principles on which this bill operates.

Senator HAYDEN: There might be a network, in addition to the C.B.C., you mean?

The CHAIRMAN: Yes, in addition.

Subsection (4) agreed to.

On subsection (5)—Operation of networks.

The CHAIRMAN: The same comment applies to this subsection. That involves that before there is any other network than the C.B.C., the corporation and other interested licencees have to be given an opportunity of being heard at a public hearing before the Board.

Subsection (5) agreed to.

Section 13 agreed to.

On Section 14—Applicant to be Canadian citizen, etc.

The CHAIRMAN: We have the amendment to this section, have we not?

Senator ASELTINE: We have a rough amendment.

Mr. THORSON: I have it here, but not typed out. Do you wish me to read it?

The CHAIRMAN: Yes, read it, please.

Mr. THORSON: I will read it, and then it will be typed in formal style. The motion would be—

The CHAIRMAN: No, we just want the amendment to section 14, by adding certain words. The present section 14 will become subsection 1, and then the new subsection 2, reads what?

Mr. THORSON: "The Governor in Council may exempt from the operation of this section any person who, upon the coming into force of this act, was the holder of a valid and subsisting licence, subject to such terms and conditions as the Governor in Council may prescribe."

The CHAIRMAN: And you say that under the definition section a "person" includes a corporation?

Mr. THORSON: That is correct.

Senator HAYDEN: That only deals with one of the points raised by Mr. Finlayson. The qualification for enjoying exemption is that you hold a valid and subsisting licence at the time this statute comes into force. Well, then any person who is applying for a licence to operate a broadcasting station after the statute comes into force would not enjoy the same benefit.

The CHAIRMAN: No.

Senator BRUNT: But does this cover Mr. Finlayson's case where he applies for a TV licence?

The CHAIRMAN: Oh, yes, because he has a valid and subsisting broadcasting licence.

Senator HAYDEN: What does "valid and subsisting licence" mean?

Mr. THORSON: The expression "licence" is defined.

The CHAIRMAN: Under section 2(d), "licence" means a licence issued under the Radio Act to establish a broadcasting station.

Senator CONNOLLY (*Ottawa West*): That is either for television or radio, is it?

The CHAIRMAN: It just says a broadcasting station; and under section 2(b):

"broadcasting" means the dissemination of any form of radioelectric communication, including radio telegraph, radiotelephone, the wireless transmission of writing, signs, signals, pictures and sounds of all kinds by means of Hertzian waves, etc.

Senator ASELTINE: I think Mr. Finlayson said this covered his case.

Senator BRUNT: I want to make sure this protects the station in Montreal if they apply for a TV licence.

Senator CONNOLLY (*Ottawa West*): Or any other existing station?

Senator BRUNT: That is right; CFRB, or anywhere.

Senator CONNOLLY (*Ottawa West*): I was wondering about the words "subject to such terms and conditions as the Governor in Council may prescribe". Does that mean that these stations will be subject to certain regulations or certain circumstances that will not apply to the ordinary person covered by section 14? I mean, would there be room to interpret that last clause as meaning that certain rules apply to the station to be covered by subsection 1 of section 14, and then a new set of rules which could be arbitrarily drawn up which would apply to these other few stations?

Senator BRUNT: Well, I presume the Government does want to have some control over it, and if they did not add those words, Senator Connolly, it would just be automatic.

The CHAIRMAN: We have the Minister's assurance that with respect to all these present stations that are under section 14, he will favourably receive their applications and has no intention of depriving them of their rights. I am quite willing to accept his statement.

Senator BRUNT: The Minister has been most co-operative in correcting this situation.

Senator KINLEY: It means that in the prescription there will be no stations that are not 75 per cent controlled by Canadians?

The CHAIRMAN: No new stations.

Senator KINLEY: How about a company changing hands?

The CHAIRMAN: Well, that might open the door to some such regulations as the Governor might prescribe.

Mr. OUMET: Under the present act any changes in ownership have to be approved on the recommendation of the C.B.C. to the Department of Transport.

Senator MACDONALD: It means that if a company lists its stock on the stock exchange then three-quarters of the shares will have to be held in Canada.

The CHAIRMAN: That is, a new company.

Senator MACDONALD: Yes.

Senator KINLEY: And it has got to be continually controlled from Canada.

Senator MACDONALD: Yes, that is right.

The CHAIRMAN: Any new corporation is now forewarned of that provision.

Senator CONNOLLY (*Ottawa West*): Suppose that radio station C.F.C.F. in Montreal wanted to establish stations in other cities.

Senator BRUNT: They have licences.

Senator CONNOLLY (*Ottawa West*): Who owns the licence, the company or the station?

Mr. OUMET: The company holds the licence.

Senator CONNOLLY (*Ottawa West*): Not the station?

Mr. OUMET: I see what you mean. I think I would like to ask Mr. Keddy who was Secretary of our Board until fairly recently. He might be able to give additional information on this.

Mr. KEDDY: As I understand it, Mr. Chairman, the licence is issued to the company and it becomes the licensee company and it is authorized to operate the station named in the licence.

Senator HAYDEN: Licensee is defined as meaning a person licenced under the Radio Act to establish a broadcasting station.

Senator CONNOLLY (*Ottawa West*): If that were the case then the licensee in this case would be the company, and if the company wanted to establish a station elsewhere it could qualify for a licence under this.

Senator BRUNT: That is right.

The CHAIRMAN: Is the committee ready to vote on the amendment? Those in favour. Those against.

I declare the amendment agreed to.

Senator CONNOLLY (*Ottawa West*): We did agree that this was hastily drawn and you might want to revise it, Mr. Chairman. Does that affect us?

The CHAIRMAN: Section 14 you mean?

Senator CONNOLLY (*Ottawa West*): Do you not remember that he said it was put forward tentatively?

Senator HAYDEN: Mr. Thorson has presented this and I am satisfied to take his form of words.

The CHAIRMAN: Yes, it does create a difficulty for any future broadcasting station that is publicly owned and whose shares are publicly traded, for they can never tell from day to day whether three-quarters of their shares are owned by Canadians or not.

I do not think we should try to legislate about that now.

Senator BRUNT: I do not think so.

On section 15—Suspension of Licence.

Section 15 agreed to.

On section 16—Operation of station as part of a network.

Section 16 agreed to.

On section 17—Political Programs.

The CHAIRMAN: I see subsection (1) provides that no licensee shall broadcast in dramatized form any program, advertisement or announcement of a partisan political character. That prevents any of you gentlemen from acting up on the radio during elections.

Senator Connolly (*Ottawa West*): Who will be the judge?

Senator HAYDEN: The significant word there is "partisan", Mr. Chairman. It can be political as long as it is not partisan.

Section 17 agreed to.

On section 18—Punishment.

Section 18 agreed to.

On section 19—Report to Parliament.

Section 19 agreed to.

On section 20—Expenditures.

Section 20 agreed to.

Senator BRUNT: That means we have carried Part I with the one amendment, Mr. Chairman?

The CHAIRMAN: We have held over section 10.

Senator CONNOLLY (*Ottawa West*): I am satisfied with that for the moment.

The CHAIRMAN: That was just the question of a definition of public and private broadcasting stations. Are you satisfied, Senator Connolly?

Senator CONNOLLY (*Ottawa West*): I am satisfied, if the committee is.

The CHAIRMAN: Shall section 10 carry?

Section 10 agreed to.

The CHAIRMAN: Now we come to Part II, Canadian Broadcasting Corporation.

On section 21—Interpretation.

Section 21 agreed to.

On section 22—Corporation Established.

Senator HAYDEN: That is the section that is standing.

The CHAIRMAN: Yes.

Senator HAYDEN: Do you want to deal with that now, Mr. Chairman?

Senator MACDONALD: I would like it to stand.

Senator BRUNT: Do you want the entire section to stand, Senator Macdonald?

Senator MACDONALD: We might as well have the entire section stand.

Senator KINLEY: It says in subsection (5) of section 22 that a person cannot be appointed or continue as a director of a corporation if he is in the business of broadcasting or has any interest in the manufacture or distribution of radio apparatus. Now, Mr. Chairman, there must be thousands of people in that category in Canada. That affects nearly every merchant.

The CHAIRMAN: The whole of that section is standing for the time being.

Senator HAYDEN: Would Mr. Ouimet care to express any view on why the eligibility clause reaches out to sweep in any person engaged in the manufacture or distribution of radio apparatus? Even the repair man would not be eligible.

Mr. OUIMET: It is because the C.B.C. is a very large purchaser of electronic equipment and it would be embarrassing if there was someone on the Board who was a director or shareholder of a company with which we do business.

The CHAIRMAN: Is there a similar section in the present act, Mr. Ouimet?

Mr. OUIMET: Yes.

The CHAIRMAN: You are not making any change then?

Mr. OUIMET: Not in this part of it though there may be changes of wording, or of language.

Senator HAYDEN: I am satisfied.

Section 22 stands.

Section 23 agreed to.

On section 24—President and Vice-President.

Section 24 agreed to.

On section 25—Remuneration.

Section 25 agreed to.

On section 26—Staff.

Section 26 agreed to.

On section 27—Agent of Her Majesty.

The CHAIRMAN: Is there any change there Mr. Ouimet?

Mr. OUIMET: The C.B.C. is at the moment an agent of Her Majesty.

The CHAIRMAN: There is no substantive change here.

Senator CONNOLLY (*Ottawa West*): It is no longer necessary to get a fiat to sue the C.B.C. in Exchequer Court?

Mr. OUIMET: No.

Section 27 agreed to.

On section 28—Executive Committee.

Senator MACDONALD: Is there any similar section in the present act?

Mr. OUIMET: Yes, there is; at the moment it is done by by-law. The Executive Committee is appointed by by-law.

The CHAIRMAN: And now you are making it statutory.

Senator MACDONALD: The executive committee has very wide powers.

Mr. OUIMET: In the present act section 12(1) provides:

The Corporation may make such by-laws as may be necessary,

(b) to provide for an executive committee of the Board of Governors to exercise such powers as the by-laws may specify.

Senator MACDONALD: Will they specify such wide powers as are set forth in section 28?

Senator BRUNT: We will have to look at the by-laws.

Mr. OUIMET: It does not restrict the delegation of powers in the act. The by-laws could delegate as much responsibility as the board might decide.

Senator CONNOLLY (*Ottawa West*): But where it specifically says they may delegate to them all or any of those powers, what would happen in the event of a decision made by the executive committee whereby the directors found later that they were not in accordance with the decision of the executive committee.

The CHAIRMAN: I think Mr. Thorson gave us an opinion on that yesterday. He said what they implied was that the Board of Directors, to whom the executive committee directed its minutes, and with which the Board of Directors disagreed, it could over-ride the executive committee. Is that what you told us?

Mr. THORSON: I don't believe I made that comment, Mr. Chairman.

Mr. OUIMET: I believe it would be very easy for the board, upon hearing the minutes of the meeting of the executive committee, to remove all delegation that they might have made to that committee.

Senator HAYDEN: Quite true, but the other point is that the executive committee, having been established and having acted under the delegated authority, could the full board subsequently refuse to ratify or revoke what the committee had done—not to handcuff them for the future, but in respect of what they have already done? I do not think they could.

Senator MACDONALD: I doubt it very much.

Senator CONNOLLY (*Ottawa West*): And in that event, what about the rights of any third party that might be established?

Mr. THORSON: That would depend on whether third parties had been effected; otherwise it will just be an internal matter within the board.

Senator HAYDEN: Just a game of checkers within the Board?

Senator MACDONALD: If the executive committee, which has full power, had entered into a contract, then the full board could not revoke that contract.

The CHAIRMAN: I suppose not.

Senator HAYDEN: Has Mr. Thorson any comment on the use of the word "all"? The words are, "delegate to it all or any of its powers..." I am wondering what happens to you, having delegated all authority.

Mr. THORSON: Of course you could revoke the delegation .

Senator HAYDEN: Surely there must be some limitation?

Mr. THORSON: It would be subject to the limitation that you couldn't delegate all your power and authority . . .

Senator HAYDEN: But it says so.

Mr. THORSON: . . .including the right to revoke the delegation.

Senator HAYDEN: It says delegate all its power under this part.

Mr. THORSON: In the first place, it is permissive; and secondly, I think you would have to read it as containing an implied provision that they could revoke any such delegation.

Senator HAYDEN: In other words, that they couldn't commit suicide?

Mr. THORSON: Yes.

Senator CONNOLLY (*Ottawa West*): If they can delegate all those powers, can they also delegate the power to delegate?

Mr. THORSON: I would think that would not be implied in such a delegation of power, otherwise the board would cease to exist.

Senator HAYDEN: There is the famous expression, *delegatus non potest delegare*.

Senator MACDONALD: It gives the executive committee very wide powers, but I doubt if we can do much about it. How many members of the executive committee are there?

The CHAIRMAN: It does not specify in this section. In the first section of the bill dealing with the Board of Broadcast Governors, it specifies the executive committee shall be seven, and that that board shall meet six times a year. There is no such provision with regard to C.B.C., as to how many times a year or if at all the board will meet.

Senator HAYDEN: They are carrying on a business, and they will meet when they need to. They should have that freedom.

Senator MACDONALD: I would think the other organization should have the same freedom.

Senator HAYDEN: They will have six meetings.

Senator MACDONALD: Under this bill C.B.C. can still delegate all its powers to an executive committee, and an executive committee can under the bill carry on the whole business of C.B.C. There is nothing to prevent it from doing so.

The CHAIRMAN: For an indefinite time.

Senator WALL: May I ask whether this delegation would be by by-law or resolution?

Senator HAYDEN: I would say it can be by resolution.

Senator MACDONALD: I don't understand why the number of the executive committee are not spelled out in some detail under this bill, and I do not understand why there is no meeting—

Senator HAYDEN: One would think there should be a minimum number of meetings during the year.

Senator BRUNT: What does the present act say about number of meetings?

Mr. OUIMET: I believe the present act is silent, but we will check on that point. I should direct the attention of the committee to section 31 of the proposed act, where all such matters would be dealt with by by-laws. It reads, "The corporation may make by-laws respecting the calling of meetings of the corporation, the conduct of business," and so on.

Senator HAYDEN: I do think we should require them to meet at least once a year.

Mr. OUIMET: I believe this is implied, as we have to submit a report once a year.

Senator MACDONALD: The executive committee has power to submit that report.

Mr. OUIMET: Yes, I believe so, in accordance with the wording of the act.

May I suggest to you there would be difficulty in the wording if an attempt was made to change clause 28. Even if you were to remove "all" and left in "or any of its powers", the word "or any" would include "all" powers.

Senator HAYDEN: What you are saying is that you have a surplus of words there. You have "to it all or" when all you need is "any of its powers".

Senator ASELTINE: I would not want to make an amendment to that section.

Senator HAYDEN: I was just pursuing Mr. Ouimet's argument.

Senator MACDONALD: I think there should be some provision with respect to the meetings held by this body, as there is with the other body.

Senator BRUNT: It has never been done in the past.

Senator WALL: Why should the other Board of Governors be required to hold a definite number of meetings?

Senator BRUNT: The Board of Broadcast Governors are not operating a business like the C.B.C. Board is.

Senator HAYDEN: Certainly under this bill as drawn, there will have to be a first meeting to organize and appoint directors. Then they will lay out their whole scheme of operation and by-laws. If they want to do any delegating to the executive committee, they are set up. We start them off with a first meeting.

The CHAIRMAN: There is this feature, the directors get a fee of \$100 for every meeting attended. It is to be assumed that they will provide for occasional meetings.

Senator HAYDEN: I would think so. The importance of the job itself is such that I think they will insist on meeting from time to time to hear what is going on, if for nothing else.

Senator MACDONALD: I quite agree, but notwithstanding that, I cannot understand why in the first part of the bill it sets forth that the head office shall be at Ottawa, that the board shall meet at least six times in each year,

that the members of the Board of Governors shall get an indemnity for each meeting—so we can assume there will be meetings—then by subclauses (3) and (4) of clause 4 it is required that nine members shall constitute a quorum of the board, and that a vacancy on the board does not impair the right of the remainder of the membership to act. By subclause (5) the board may make by-laws respecting the calling of meetings and the conduct of business. What rather confuses me is why that is all spelled out in the first Part, and no reference is made to it in the second.

Senator HAYDEN: I think there is an explanation. I think the explanation is that Part II, under the outline of organization, is more in line with what you would find in an ordinary commercial company that you would incorporate under the provision of the Companies Act. You put in the by-laws how the directors meet, and such things; that is intrinsic organization. But this other body under Part I is a regulatory body, a public body, and therefore you must outline very clearly and specifically how they are to proceed so that everything is clearly before the public, and there is a ritual you must follow. There is a clear distinction between the two.

Senator BURCHILL: May I ask a lawyer a question? In your opinion does section 28 do everything that Senator Hayden has suggested a private company does in the matter of by-laws?

Senator HAYDEN: Under section 28? I would say that in any of the larger companies, where they have a provision for an executive committee, the substance of authority is contained in the Companies Act, which permits the establishment of an executive committee, which may be done by by-law. Then the company enacts the by-law setting out the terms under which the committee may be formed. But you do not put the provision for an executive committee in your charter.

Senator BURCHILL: Does this section 28 do all that?

Senator HAYDEN: Yes.

The CHAIRMAN: The only distinction, Senator Burchill, would be that in the case of a private corporation there are some things that an executive committee cannot do, such as allot stock or vote to wind up the corporation. Neither of these is applicable in this particular case.

Senator BRUNT: The bill to amend the West Coast Act provides for an executive committee.

The CHAIRMAN: Yes. It is common practice.

Senator BURCHILL: I agree, but in any company I have had anything to do with the duties and powers of the executive committee are outlined and specified in the by-laws.

Senator HAYDEN: That is right.

The CHAIRMAN: That is what will be provided for by the corporation by resolution under section 28. The corporation has powers to appoint an executive committee with such powers as the resolution shall designate.

Senator MACDONALD: What surprises me is that these provisions are not contained in the first Part. As Senator Hayden says, these provisions are usually in the by-laws. But in the first Part they are set out in quite considerable detail.

Senator HAYDEN: I suggested the reason, too.

Senator MACDONALD: I think probably the reason could be applied to the second Part. It would be equally strong if applied to the second Part and, probably, not applied to the first Part. I did not raise this point for the purpose of amending section 28, but merely to bring to the attention of the committee the difference in these two Parts. I thought I might get an explanation, but I can't say I have received an explanation.

The CHAIRMAN: I think Senator Hayden's explanation is the probable reason,—that the Board of Governors is a regulatory body, and the C.B.C. is a managing commercial body,—to put it that way.

Senator MACDONALD: Would you not think that a managing commercial body should be required to meet, if they are all managers, more often than the managing body of a regulatory board? I would think it is just as essential, if not more so, that the management committee should be required to meet frequently. I am satisfied that they will meet; I have no doubt that they will meet; but why, in the first Part, they have to meet, and in the second Part you just assume they will meet, and also in the second Part you give them such wide powers, with this whole board of 11, to delegate its powers to a committee of three, and they carry on all the business, and the other 8 have nothing to do.

Senator BRUNT: Do you want it amended?

Senator MACDONALD: I do not want it amended.

Senator HAYDEN: There is nothing in the law of Ontario or, I presume, of Quebec which requires a board of directors to meet so many times a year. That is a matter of internal regulations.

Senator MACDONALD: I agree with you, but I cannot understand why it was done in the first Part and not in the second Part.

Senator HAYDEN: Well, I offered an explanation which, apparently, is not acceptable.

The CHAIRMAN: Shall 28 carry? These are substantially as in the present act, except that the regulatory feature removed. Is that correct?

Mr. THORSON: That is correct.

Senator BURCHILL: A word on supervision of broadcasting programs. I realize that a large number of them are provided by corporations and so on, but it seems to me that in the great majority of them there is an awful lot of pictures that one would not want children and youths to see. Is there any way of controlling that at all?

Mr. OUMET: There is not only a way of controlling it, but I thought we did control it. You would have to be more specific, senator, for me to be helpful on this. I would have to know what particular picture you have in mind.

Senator BURCHILL: I have not any. But every time I turn on a picture, a gun goes off.

Senator BRUNT: Westerns.

Senator BURCHILL: They are all westerns.

Mr. OUMET: I think the question you have raised is a controversial one, whether it is good or not for children to see certain western pictures. There may be some that go too far, but there are some that are acceptable, I am sure. This is quite a controversial question, and a difficult one to really air satisfactorily at a meeting such as this, although I would be very happy some time to have the privilege of discussing it with you.

Senator BURCHILL: Does the corporation have control over all this?

Mr. OUMET: The corporation has control over all the programs it originates itself. On the other hand, when we import programs made in the United States and take an American network feed—we have control over the series in the sense that we reviewed it at the beginning of the series but we have no control over the individual episodes, of any one series, except that, if something turns out to be really bad in the course of the series we could then take action.

Senator BRUNT: You could cut it off.

Mr. OUMET: We could cut it off. We have commercial contracts, but there is a clause in our commercial contracts which gives us the right to cut out of the series and substitute another program.

Senator KINLEY: I listened to the radio this morning. The commentator was a news broadcaster giving an account of the amendments to the Estates Act, and I think he went along like this: He says, "You know, if the Senate finally comes to life there could be quite a good row over this." In effect that is what he said. He stressed the one amendment and he referred to the fact that Mr. Fleming gave reasons why it was not acceptable in the House of Commons, but the commentator never mentioned three or four other amendments that were accepted in the other house.

Senator BRUNT: And amendments made by the Senate.

Senator KINLEY: Yes. The House only turned down one of our amendments but this commentator ignored this fact. He said that if the Senate comes to life there will be a nice row over it.

Senator HAYDEN: Obviously he wasn't awake himself.

Senator KINLEY: He was awake but he wasn't fair.

The CHAIRMAN: Does the section carry?

Senator MACDONALD: Somebody objected to western movies on TV? I saw Senator Aseltine on television the other day and I think that would be considered a western picture.

Section 28 agreed to.

On Section 29: Objects and Powers.

Section 29 agreed to.

On Section 30. Acquisition and Disposition of Property.

Section 30 agreed to.

On Section 31: By-laws.

Section 31 agreed to.

On Section 32: Expropriation.

Section 32 agreed to.

On Section 33: Financial Provisions.

Section 33 agreed to.

On Section 34: C.B.C. to be proprietary corporation.

Section 34 agreed to.

On Section 35: Annual Budgets.

Senator MACDONALD: All I have to say in connection with this is that this section implements the Fowler Report just in reverse.

Senator BRUNT: I think everybody is agreed on that.

Section 35 agreed to.

On Section 36: Report to Parliament.

Section 36 agreed to.

On Section 37: Regulations Continued.

The CHAIRMAN: This is under Part III of the bill.

Section 37 agreed to.

On Section 38: Continuation of C.B.C.

Senator WALL: Does that mean that the present Board is going to be continued?

The CHAIRMAN: No, it simply refers to the Corporation, the entity.

Section 38 agreed to.

On Section 39: Payment to Receiver General.

Section 39 agreed to.

On Section 40: Networks.

Section 40 agreed to.

On Section 41: Repeal.

Section 41 agreed to.

On Section 42: Commencement.

Section 42 agreed to.

The CHAIRMAN: Well, honourable senators, that leaves us with section 22 only outstanding. What is the wish of the committee with respect to meeting to deal with this section?

Senator ASELTINE: I believe Mr. Nowlan would be available tomorrow morning.

The committee adjourned.

Upon resuming at 6 p.m.

The CHAIRMAN: Honourable senators, we have a quorum. The section that we had agreed to was section 14(2), the wording of which, as suggested by Mr. Thorson, is as follows:

(2) The Governor General may exempt from the operation of this section, upon such terms and conditions as the Governor in Council may prescribe, any person who, at the time of the coming into force of this Act, was the holder of a licence and was not a person described in paragraph (a) or (b) of subsection (1).

Mr. THORSON: Those last words are the words now added; they have reference to a situation whereby a person who now complies with the requirements of section 14 ceases to comply sometime in the future. For example, a Canadian citizen acquires at some future date a different nationality, and then makes application to become a licensee. It is to eliminate that, but otherwise it has the effect indicated this morning.

The CHAIRMAN: Would you repeat that explanation, Mr. Thorson? I am not clear about it myself, and I do not think the committee is.

Mr. THORSON: Let us take an example of a Canadian citizen today, who would of course comply with the present section 14. Let us suppose five years from now he becomes a citizen of another country, say of the United States. You do not want that person to qualify under the new provision being added. That is to make it clear that the exemption provision will extend only to those persons who today, that is to say at the time of coming into force of the act, were the holders of licences and were not persons described in paragraph (a) or (b) of subsection 1.

Senator BRUNT: As long as that person stays in the status quo he is today, he is all right?

Mr. THORSON: That is right.

Senator VIEN: I am not so sure.

The CHAIRMAN: Neither am I.

Senator BRUNT: I want to be sure that the present holders of licences are protected.

Mr. THORSON: Oh, definitely.

Senator BRUNT: And that they will have the right to apply for any additional licence in the future.

Mr. THORSON: Well, as I understand it, the problem is to protect those persons who would not otherwise qualify under the existing language of the section, because they do not fulfil the requirements set out in clause 14 of the bill.

Senator VIEN: The language of the amendment does not seem to be very clear on that point. I do not understand why you add the words, "and was not a person described in paragraph (a) (b) of subsection 1.

Mr. THORSON: If he was a person described in paragraph (a) or (b) of subsection 1 there would be no point in giving him a special exemption.

Senator HAYDEN: He has a right, he does not need it.

Senator BRUNT: He is protected now.

Senator VIEN: Then why do you use these words? Are they not surplusage?

Mr. THORSON: To ensure that there will be no exemption given to persons who today qualify under the words of clause 14 but who tomorrow do not qualify. This amendment is to protect those people who do not qualify under the existing words today but who are presently licence holders.

The CHAIRMAN: I think that is all right, do you agree Senator Hayden?

Senator HAYDEN: Yes, and I move its adoption.

The CHAIRMAN: Does it meet with the committee's approval?

Senator BRUNT: Are we to substitute that in place of the previous amendment?

The CHAIRMAN: All it does is to add these qualifying words and it is perhaps clearer.

Amendment agreed to.

On section 22—Corporation Established.

The CHAIRMAN: The suggestion was made that in section 22 amendments be made to subsections 2 and 4, that the words "during pleasure" in the second line of subsection 2 should be replaced by the words "during good behaviour". That is on line 6, dealing with the President and Vice-President of the Canadian Broadcasting Corporation.

The amendment to subsection 4 was that the subsection should read as follows: "A director ceases to be a director of the corporation upon attaining the age of 70 years and may be removed at any time by the Governor General on address of the Senate and House of Commons or in the case of the President and the Vice-President by the Governor in Council."

Was that not the wording?

Mr. THORSON: Mr. Chairman, if it is the pleasure of the committee to adopt this motion I suggest something along the following lines.

The CHAIRMAN: The first suggestion is to amend subsection (2) is as I have indicated. "To hold office during good behaviour for a period of seven years".

And subsection 4 will read as follows: "A director ceases to be a director of the corporation upon attaining the age of 70 years, and may be removed at any time, in the case of the President or Vice-President, by the Governor in Council for cause, and, in any other case, by the Governor General on address of the Senate and House of Commons.

Senator HAYDEN: That makes good sense.

Senator MACDONALD: That is all right.

Senator CONNOLLY (*Ottawa West*): That is neat draftsmanship.

Senator MACDONALD: I will move the amendment, Mr. Chairman.

Senator HAYDEN: I second it.

Senator ASELTINE: What does Mr. Thorson say about the amendment?

Senator BRUNT: It is his amendment.

Mr. THORSON: I presume you wouldn't want me to comment on it?

Senator BRUNT: You drafted it.

Mr. THORSON: Yes.

The CHAIRMAN: You approve of the drafting, do you?

Mr. THORSON: Yes.

The CHAIRMAN: Any discussion on it?

Senator HORNER: What is the effect of it?

The CHAIRMAN: What it means in effect is this: the Governors of C.B.C. are divided into two classes from the point of view of removal; one of the ordinary directors can only be removed if he fails in good behaviour by a joint address of the Senate and House of Commons, but the President and Vice-President can be removed for cause by the Governor in Council.

Senator VIEN: Is it stated, for cause?

The CHAIRMAN: Yes, for cause.

That is to say, it is easier to dismiss the President or Vice-President of the corporation than it is to dismiss one of the other directors, because the other directors can only be dismissed for failure in good behaviour upon an address to the Governor General by both houses; but the President or Vice-President can be removed for cause by the Governor in Council.

Senator METHOT: What is the difference between being removed for cause, holding office during pleasure, and holding office during good behaviour? I understand that a man may have good behaviour but be a bad administrator. But to remove by cause by the Governor in Council, does that mean the Governor in Council has to give a cause or reason?

Senator BRUNT: No; it is provided by the person removed—he does something.

Senator METHOT: Is there any obligation on the Governor in Council when he is removing someone to state the reason for it?

Senator MACDONALD: I would not think so.

Senator METHOT: It would be worse for the man being removed if a reason had to be given.

Senator HAYDEN: Then he would resign; it is a big stick.

Senator VIEN: The senator is correct, in that if the Governor in Council is not obliged to state a cause, then it amounts to the same thing as during pleasure. In other words, there is no difference between holding office during pleasure and removal for bad behaviour if there is no obligation to specify the cause.

Senator BRUNT: I think we should accept this amendment in its present form.

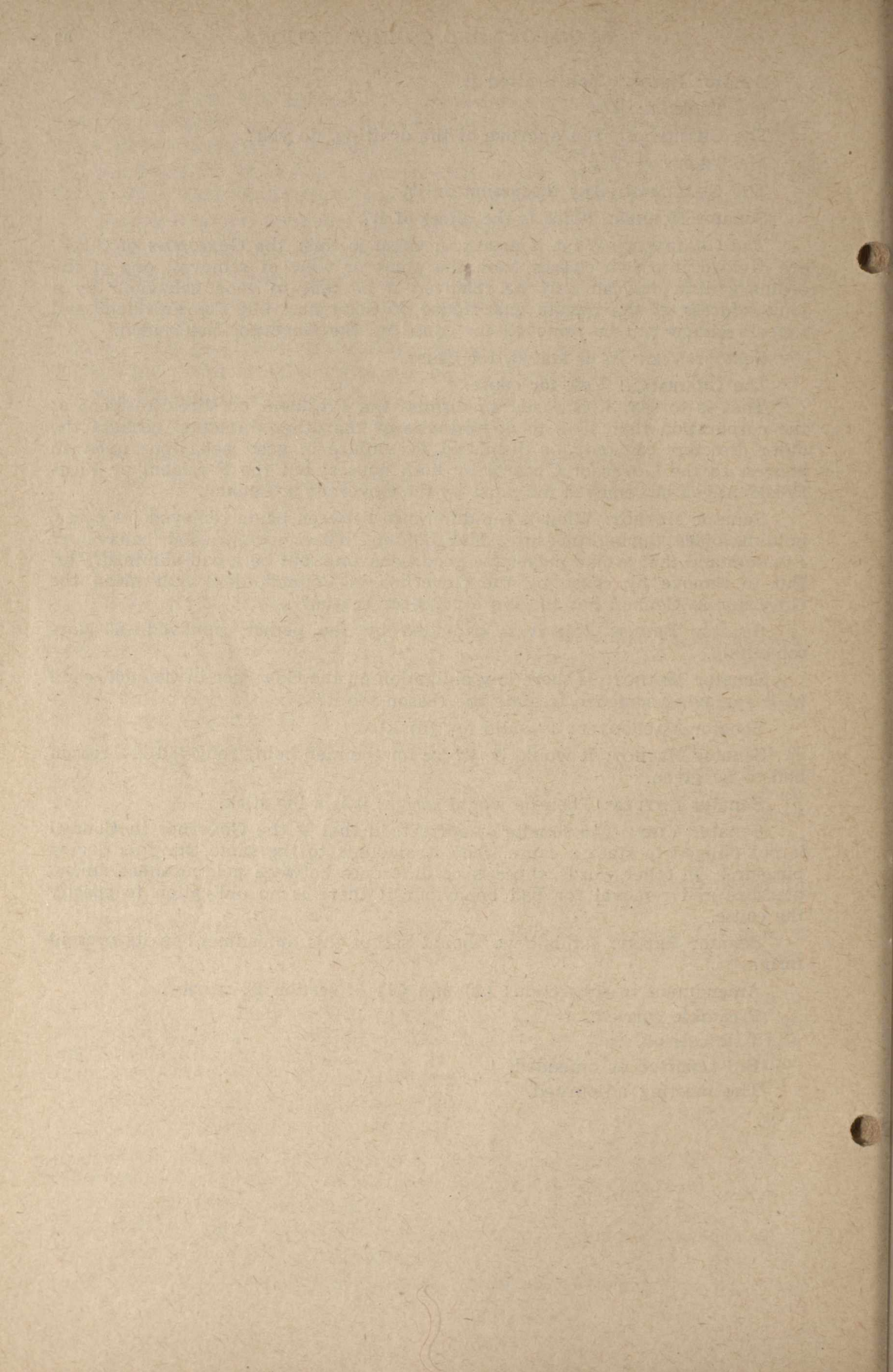
Amendment to subsections (2) and (4) of section 22 carried.

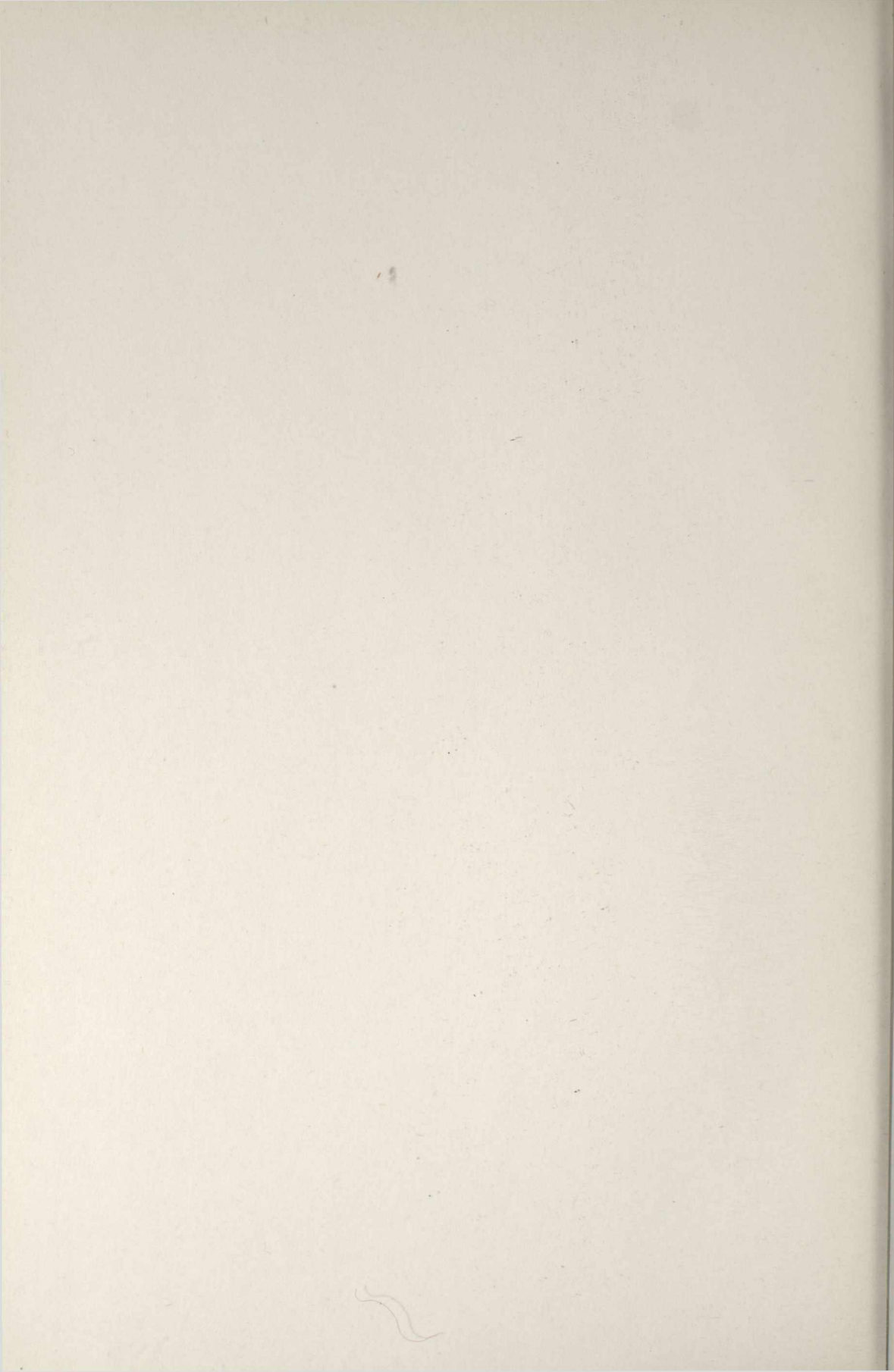
Preamble carried.

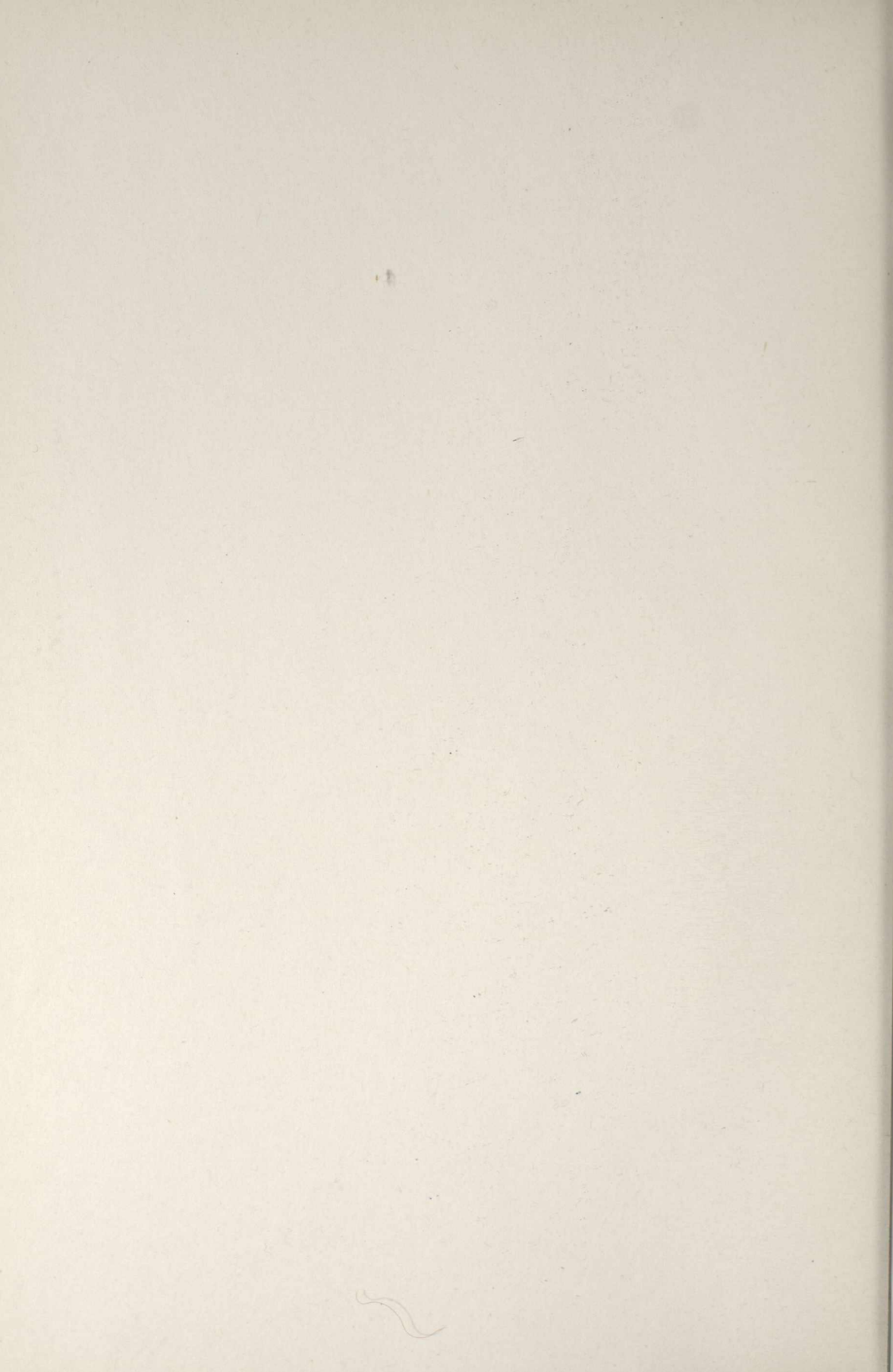
Title carried.

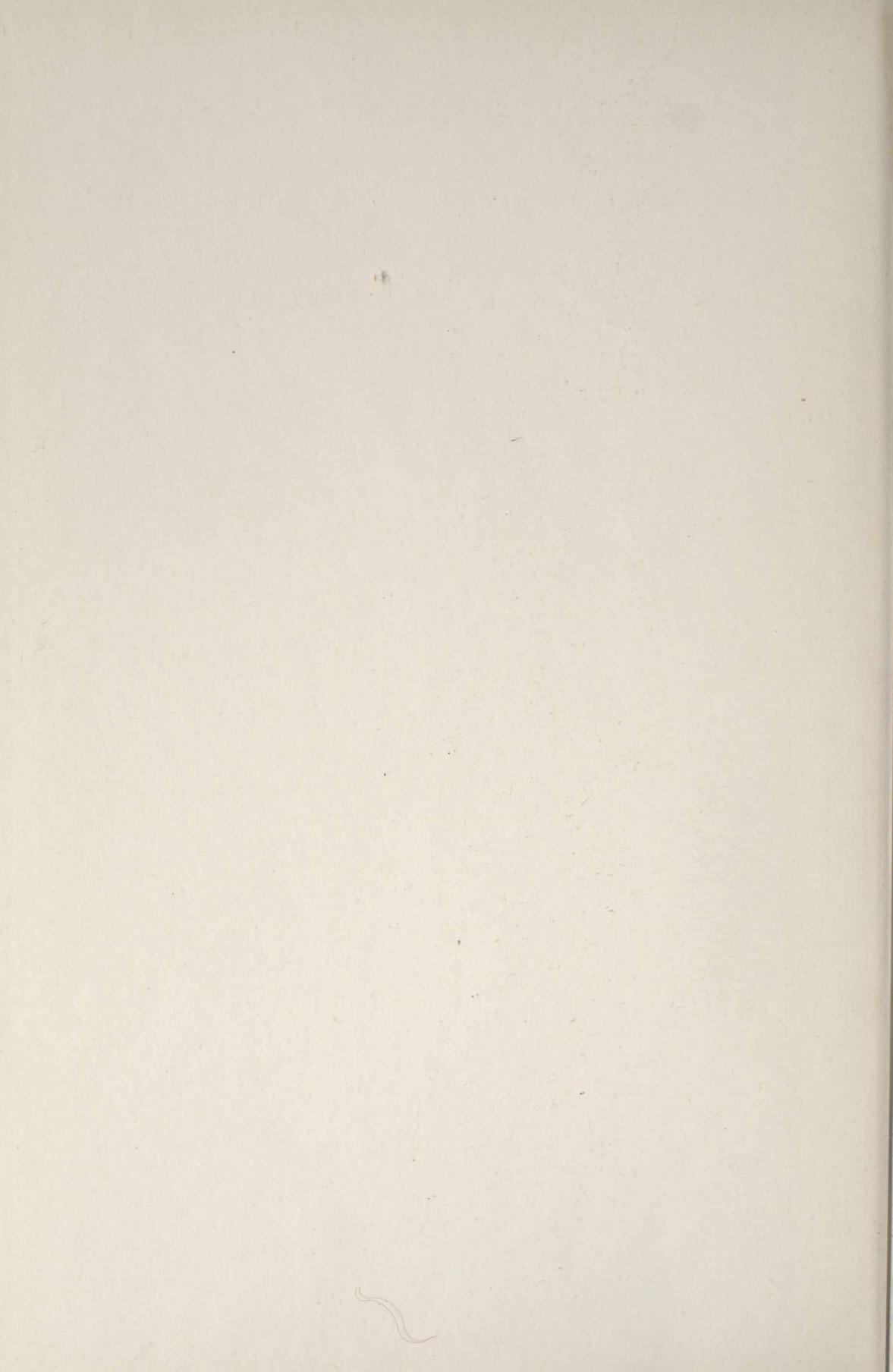
Bill reported as amended.

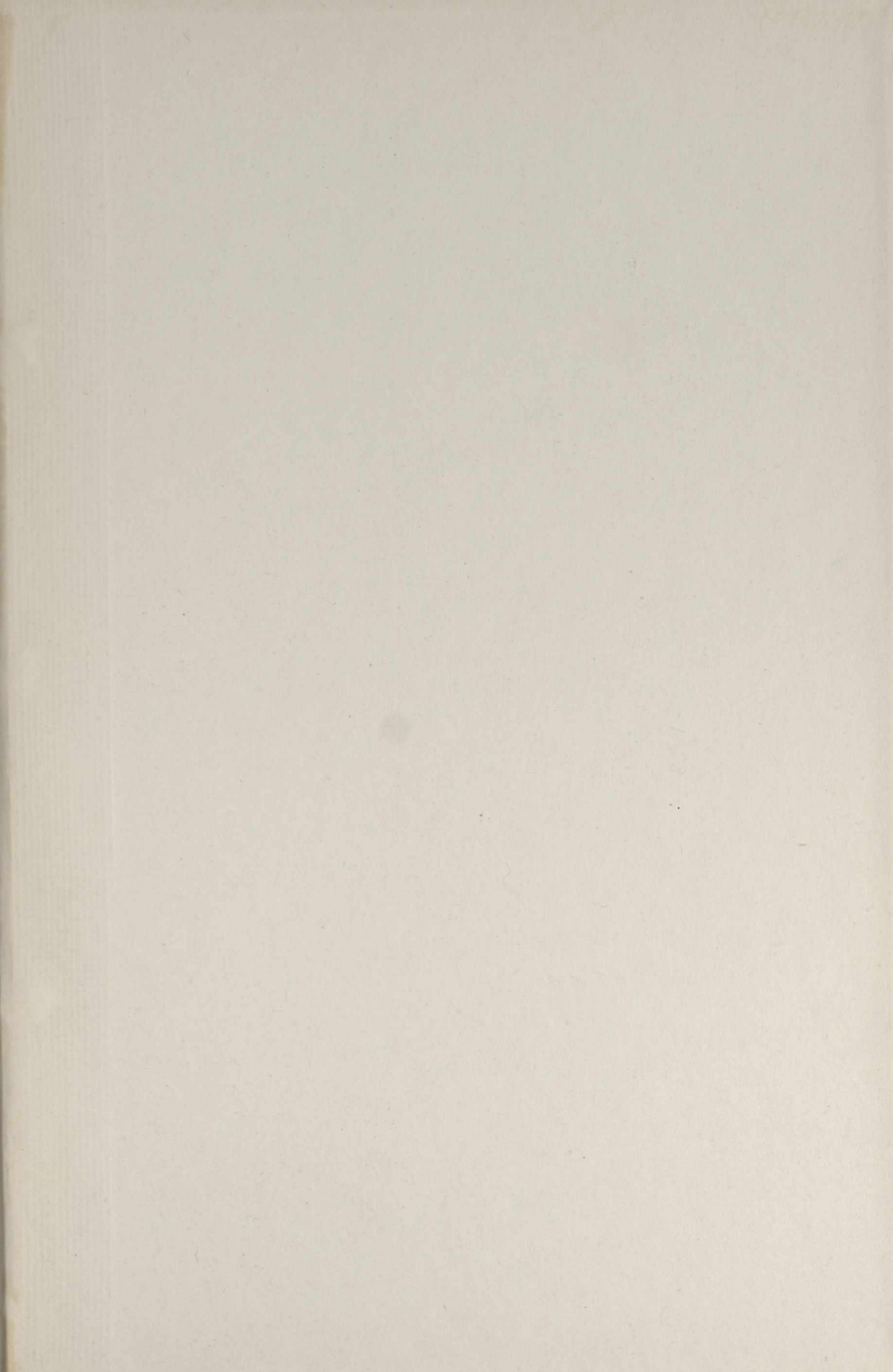
The meeting adjourned.











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