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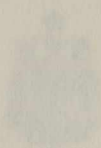
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Second Session—Twenty-ninth Parliament

1969

# THE SENATE OF CANADA

PROCEEDINGS  
OF THE  
STANDING SENATE COMMITTEE  
ON

## TRANSPORT AND COMMUNICATIONS

The Honourable J. CAMPBELL HAIN, Acting Chairman

No. 1

Complete Proceedings on Bills S-17 and S-18

Included respectively

"An Act to incorporate ICG Transportation Limited"; and  
"Canadian National Railways Financing and Operation Act, 1969"

THURSDAY, DECEMBER 18th, 1969

### WITNESSES

ICG Transpacific Limited: Robert G. Gordon, Chairman, Inver City Gas Limited and Alex Evanson, Legal Counsel—Canadian National Railways: R. T. Vaughan, Q.C., Vice-President and Secretary; G. M. Cooper, General Solicitor and W. G. Clowrie, Co-ordinator of Capital Budgets and Finance; R. T. Vaughan, Q.C., Attorney; H. D. Loring, Assistant Vice-President—Finance and D. G. Macdonald, Chief of Budgets and Cost Control—Finance.

REPORTS OF THE COMMITTEE





Second Session—Twenty-eighth Parliament

1969

# THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

## TRANSPORT AND COMMUNICATIONS

The Honourable J. CAMPBELL HAIG, *Acting Chairman*

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No. 1

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*Complete Proceedings on Bills S-17 and C-7,*

intituled respectively:

“An Act to incorporate ICG Transmission Limited”; and  
“Canadian National Railways Financing and Guarantee Act, 1969”.

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THURSDAY, DECEMBER 18th, 1969

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WITNESSES:

*ICG Transmission Limited*: Robert G. Graham, Chairman, Inter City Gas Limited and Alan Sweatman, Legal Counsel. *Canadian National Railways*: R. T. Vaughan, Q.C., Vice-President and Secretary; G. M. Cooper, General Solicitor and W. G. Cleevely, Co-ordinator of Capital Budgets. *Air Canada*: R. T. Vaughan, Q.C., Secretary; H. D. Laing, Assistant Vice-President—Finance and D. F. Atkinson, Chief of Budgets and Cost Controls—Finance.

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REPORTS OF THE COMMITTEE



Second Session—Twenty-eighth Parliament

1969

# THE SENATE OF CANADA

## PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

STANDING SENATE COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable J. Campbell Haig, *Acting Chairman*

The Honourable Senators:

Aseltine	Hollett	Molson
Blois	Isnor	Nichol
Bourget	Kinley	O'Leary ( <i>Carleton</i> )
Burchill	Kinnear	Pearson
Connolly ( <i>Halifax</i>	Langlois	Petten
North)	Macdonald ( <i>Cape</i>	Rattenbury
Denis	Breton)	Robichaud
*Flynn	*Martin	Smith
Fournier ( <i>Madawaska-</i>	McElman	Sparrow
<i>Restigouche</i> )	McGrand	Welch—28
Haig	Michaud	
Hayden		

\*Ex Officio member

(Quorum 7)

WITNESSES:

ICC Transmission Limited; Robert G. Graham, Chairman, Inter City Gas Limited and Alan Sweetman, Legal Counsel, Canadian National Railways; R. T. Vaughan, Q.C., Vice-President and Secretary; G. M. Cooper, General Solicitor and W. G. Cleavelly, Co-ordinator of Capital Budgets, Air Canada; R. T. Vaughan, Q.C., Secretary; H. D. Lank, Assistant Vice-President—Finance and D. E. Atkinson, Chief of Budgets and Cost Controls—Finance.

REPORTS OF THE COMMITTEE



# MINUTES OF PROCEEDINGS

THURSDAY, December 18, 1969.

## ORDERS OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate, December 17, 1969:

“Pursuant to the Order of the Day, the Honourable Senator Everett moved, seconded by the Honourable Senator Croll, that the Bill S-17, intituled: “An Act to incorporate ICG Transmission Limited”, be read the second time.

After 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 Everett moved, seconded by the Honourable Senator Croll, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

The question being put on the motion, it was—  
Resolved in the affirmative.”

“Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Sparrow, seconded by the Honourable Senator Duggan, for the second reading of the Bill C-7, intituled: “An Act to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways System and Air Canada for the period from the 1st day of January, 1969, to the 30th day of June, 1970, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company and certain debentures to be issued by Air Canada”.

After 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 Laird moved, seconded by the Honourable Senator Kickham, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

The question being put on the motion, it was—  
Resolved in the affirmative.”

ROBERT FORTIER,  
*Clerk of the Senate.*

ORDERS OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate, December 17,

1900:

"Pursuant to the Order of the Day, the Honourable Senator Everett moved, seconded by the Honourable Senator Croll, that the Bill S-14, entitled: "An Act to incorporate ICG Transmission Limited," be read the second time.

After 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 Everett moved, seconded by the Honourable Senator Croll, that the Bill be referred to the Standing Senate Committee on Transport and Communications.  
The question being put on the motion, it was—  
Resolved in the affirmative.

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Sparrow, seconded by the Honourable Senator Duggan, for the second reading of the Bill C-7, entitled: "An Act to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railway System and for Canada for the period from the 1st day of January, 1900, to the 31st day of June, 1900, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company and certain debentures to be issued by the Canada."

After 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 Laird moved, seconded by the Honourable Senator Kitchin, that the Bill be referred to the Standing Senate Committee on Transport and Communications.  
The question being put on the motion, it was—  
Resolved in the affirmative.

ROBERT FORTIER,  
Clerk of the Senate.

# MINUTES OF PROCEEDINGS

THURSDAY, December 18, 1969.

Pursuant to notice the Standing Senate Committee on Transport and Communications met this date at 11.00 a.m. to examine:

Bill S-17, "An Act to incorporate ICG Transmission Limited".

*Present:* The Honourable Senators Aseltine, Blois, Fournier (*Madawaska-Restigouche*), Haig, Kinnear, Michaud, Pearson and Robichand.—(8)

*Present, but not of the Committee:* The Honourable Senators Argue, Connolly (*Ottawa West*), Grosart, Everett, McDonald and Laird.—(6)

Upon motion it was Resolved that the Honourable Senator Haig be elected *Acting Chairman*.

*Resolved:*—That 800 copies in English and 300 copies in French be printed of these proceedings.

The following witnesses were heard:

*I.C.G. Transmission Limited:*

Robert G. Graham, Chairman,  
Inter City Gas Limited.  
Alan Sweatman,  
Legal Counsel.

Upon motion it was Resolved to report the said Bill without amendment.

At 11.25 a.m. the Committee proceeded to the next order of business.

11:25 a.m.

The Committee proceeded to the examination of Bill C-7, "Canadian National Railways Financing and Guarantee Act, 1969".

The following witnesses were heard:

*Canadian National Railways:*

R. T. Vaughn, Q.C.,  
Vice President and Secretary.  
G. M. Cooper,  
General Solicitor.  
W. G. Cleeveley,  
Co-Ordinator of Capital Budgets.

*Air Canada:*

R. T. Vaughn, Q.C., Secretary.  
H. D. Laing, Assistant Vice President, Finance.  
D. F. Atkinson, Chief of Budgets and Cost Controls, Finance.

Upon motion it was Resolved to report the said Bill without amendment.

At 1:10 p.m. the Committee adjourned.

ATTEST:

Frank A. Jackson,  
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, December 18, 1969.

REPORTS OF THE COMMITTEE

THURSDAY, December 18th, 1969.

The Standing Senate Committee on Transport and Communications to which was referred the Bill S-17, intituled: "An Act to incorporate ICG Transmission Limited", has in obedience to the order of reference of December 17th, 1969, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

J. CAMPBELL HAIG,  
*Acting Chairman.*

THURSDAY, December 18th, 1969.

The Standing Senate Committee on Transport and Communications to which was referred the Bill C-7, intituled: "An Act to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways System and Air Canada for the period from the 1st day of January, 1969, to the 30th day of June, 1970, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company and certain debentures to be issued by Air Canada", has in obedience to the order of reference of December 17th, 1969, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

J. CAMPBELL HAIG,  
*Acting Chairman.*

Canadian National Railways:  
H. T. Vaughn, O.C.,  
Vice President and Secretary,  
G. M. Cooper,  
General Solicitor,  
W. G. Chesley,  
Co-Ordinator of Capital Budgets.

Frank A. Jackson,  
Clerk of the Committee.

## THE SENATE

### THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

#### EVIDENCE

Thursday, December 18, 1969

The Standing Senate Committee on Transport and Communications to which was referred Bill S-17, to incorporate ICG Transmission Limited, and Bill C-7, to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways System and Air Canada for the period from the 1st day of January, 1969, to the 30th day of June, 1970, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company and certain debentures to be issued by Air Canada, met this day at 11 a.m. to give consideration to the bills.

**Senator J. Campbell Haig** (*Acting Chairman*) in the Chair.

**The Acting Chairman:** It is proposed that we deal first with Bill S-17 to incorporate ICG Transmission Limited. Who is appearing for the incorporators?

**Senator Everett:** Mr. Robert Grant Graham, the Chairman of Inter City Gas Limited, and Mr. Alan Sweatman, legal counsel.

**The Acting Chairman:** Would those two gentlemen come forward, please?

**Mr. Alan Sweatman, Legal Counsel, ICG Transmission Limited:** Mr. Chairman and gentlemen, the purpose of this bill is to incorporate a transmission pipeline company for a project to take gas from a point just west of Falcon Lake in Manitoba, down to Sprague, into Minnesota, along the border and back to Fort Frances and International Falls.

The parent company of ICG Transmission Limited is Inter City Gas Limited, which is a Manitoba company serving many of the Manitoba rural communities and also serving a number of communities in Minnesota. We operate in the United States and in Canada. Inter City Gas Limited is a Canadian company and is almost entirely Canadian owned.

The project is for approximately 160 miles of pipe line. The parent company has a contract with Boise Cascade Corporation to supply all the requirements of Fort Frances and International Falls. The Boise Cascade Company is planning a new mill at Fort Frances which will be dependent upon natural gas for its prime fuel supply. That mill is scheduled to come into production on November 1, 1970. If the bill is passed, an application will be made—and, in fact, one has already been made—to the National Energy Board, which will hear the application as soon as the company is in existence, for approval of the project for the export of the gas and for its importation back into Canada for Fort Frances.

I think that is about all I have to say on the bill.

**Senator Fournier (Madawaska-Restigouche):** You propose the incorporation of ICG Transmission Limited in this bill. Does the bill confine you to the transportation of gas only, or at a later date do you want to transport gasoline or electricity?

**Mr. Sweatman:** No, this project will only transport gas.

**Senator Fournier (Madawaska-Restigouche):** Is it specified in your bill?

**Mr. Sweatman:** I think it says in the bill that we can transmit gas and related hydro carbons; but, in fact, we are only going to transmit gas, and will take it from the main trunk line of Trans-Canada Pipe Line and will carry it through to Fort Frances.

**Senator Fournier (Madawaska-Restigouche):** Is there any company supplying gas in that region at the moment?

**Mr. Sweatman:** No.

**Senator Fournier (Madawaska Restigouche):** You are a new company in a new region?

**Mr. Sweatman:** This will be an entirely new project to that region. In fact, there is no way Fort Frances is likely to get gas unless it is through this project.

**Senator McDonald:** Your project probably would supply gas to the city of Fort Frances as well?

**Mr. Sweatman:** Yes, we will supply to the two cities, International Falls and Fort Frances.

**Senator Pearson:** How many miles of pipe line do you have in Manitoba now?

**Mr. Robert Grant Graham, Chairman of Inter City Gas Limited:** We serve about 40 communities in Manitoba with transmission line connecting those communities with the Trans-Canada Pipe Line, and we have distribution systems within the communities. In terms of mileage, it would be hundreds of miles of pipeline.

**Senator Pearson:** Where is the original connection with the Trans-Canada Pipe Line?

**Mr. Graham:** It is at a point approximately half way between Winnipeg and Kenora with Trans-Canada Pipe Line, and the line goes down around Lake of the Woods.

**Senator Pearson:** You have to buy your right-of-way?

**Mr. Graham:** Yes.

**Senator Pearson:** There is no other pipe line through that way at all?

**Mr. Graham:** No. Really, the only way natural gas can get to the Rainy River area of Ontario is by this route. The Laurentian shield blocks it otherwise.

**Senator Fournier (Madawaska Restigouche):** Do you make distribution of gas to domestic users, or are you just in the business of transportation?

**Mr. Sweatman:** We also distribute gas to domestic consumers, and we will with this project too.

**Senator Grosart:** Why is it necessary to ask for incorporation by special act of Parliament?

**Mr. Graham:** There is a bill before the house, Bill C-4, I believe it is, to amend the Canada Corporations Act, and if that bill were made law we would not have to proceed

by way of special act, because that bill will permit the incorporation of a company with the powers we seek by Letters Patent instead of by special act. However, I am informed that it is doubtful that that bill will become law in time for us to get our National Energy Board application heard and dealt with and in time for construction to go ahead. If you take up to the November 1 date I mentioned, which is when Boice Cascade intends to have its new mill in operation, through the summer, when construction has to go forward, you really end up with quite a tight schedule in terms of the necessary approvals—the National Energy Board approval and the Federal Power Commission approval. If we wait for Bill C-4 and it stays in committee too long, or stays anywhere too long, we will not be able to get our project built in time. We therefore decided we had better seize the bull by the horns, so to speak, and try to get a special act through as quickly as possible so that the project would not be held up.

**Senator Pearson:** Are you in competition with another pipeline coming from the south, an American pipeline?

**Mr. Sweatman:** No, there is no competition for this project at this stage.

**Senator Fournier (Madawaska Restigouche):** How much money is involved in this project, roughly?

**Mr. Sweatman:** In total, roughly \$7.3 million. About \$4 million for the main line itself.

**Senator Grosart:** Does the explanation you have given of the decision to proceed by statutory incorporation also explain why the Senate has been asked to expedite this bill?

**Mr. Sweatman:** Yes, it does.

**Senator Grosart:** Is there anything you would care to add to what you have already said? In this instance, the Senate has set aside some long-standing rules to convenience you. Will you assure us that this was necessary, because we do not like setting aside our rules.

**Mr. Sweatman:** Honourable senators, may I express my appreciation of what you have done in that regard. I might add that John Reid is sponsoring the bill for us in the House of Commons. Mr. Graham and I were there last week to see Mr. Reid and Senator Everett, to explain the urgency of the matter. Mr. Reid said that if we could get the bill through the Senate this week, he was most optimistic

that he could get it on the order paper—I think that was the way he put it—before the house adjourns for the Christmas recess, in which case he felt he could get it through the house before the Estimates were dealt with. I understood him to say that if he could not do that before the Estimates were dealt with, it could be delayed in the house as well. His feeling and advice, with which Senator Everett agreed, was that if we could move things quickly in the Senate it would probably mean getting the bill through the house in time to get it before the National Energy Board. That board, by the way, is now sitting, although it is adjourned for Christmas. It is hearing the competing applications of Trans-Canada Pipe Lines, Northern Natural and others. They are aware of our project. We have intervened in that proceeding in order to keep the project before the National Energy Board, who are mindful of the quantities of gas needed. We would hope to bring the project back before the National Energy Board before the present hearings are completed, which I guess would be somewhere in February, and that would be desirable.

**Senator Grosart:** The kind of assurance I was looking for was not related to the legislative process but rather to your own operational timetable.

**Mr. Sweatman:** The other key area in our operational timetable relates to pipe orders, and financing of course. We have to go firm very shortly, and pipe is presently set aside. This is the deadline. We can probably move it forward a little bit, but it is around the end of January or some time in February.

**Senator Grosart:** How does this relate to the start time of your whole project? In other words, could you have started earlier?

**Mr. Sweatman:** No. We have to start in May. Actually, we hope to get some work done before the frost is out of the ground. Some of the country through which this line runs is marshy, almost musky.

**Senator Everett:** I think the question Senator Grosart is asking is: did you commence your proceedings as early as was humanly possible after you signed the contract? In other words, has any delay been caused by you?

**Mr. Sweatman:** No, not at all. We started at the very first opportunity, from the time we signed the contract with Boise Cascade; we

immediately took steps to apply for the incorporation of this company.

**Senator Grosart:** So you have moved as expeditiously as possible?

**Mr. Sweatman:** Without question, senator. Even for a lawyer we have moved pretty quickly.

**Senator Aseltine:** Have you a map showing the location of the proposed transmission line?

**Mr. Sweatman:** Yes, sir.

**Senator Aseltine:** Could you explain it?

**Mr. Sweatman:** Yes, I can. It is rather a small scale map.

**Senator Fournier (Madawaska-Restigouche):** Where is the American border?

**Mr. Sweatman:** You see the American border and the Lake of the Woods, with the Northwest Angle, as it is called. This line will run from the main transmission line. You see Trans-Canada Pipe Lines running across the top, the dark blue line.

**Senator Aseltine:** Where is Winnipeg?

**Mr. Sweatman:** Winnipeg is not on the map. It is about fifty miles away.

**Mr. Graham:** Forty miles.

**Mr. Sweatman:** You see Falcon Lake and Whitemouth Lake. We cannot run directly across this country because it is almost impossible for a pipe line, it is marshy and boggy.

**Senator Aseltine:** I have fished in that lake.

**Mr. Sweatman:** I fish in that lake too, sir. The line will come over here, all in Manitoba. It will leave Canada near Sprague, Manitoba, and will serve a new plant there producing chipboard. Then it will go into Minnesota and serve some of the American communities, such as Warroad and Beaudette, and run along south of the Lake of the Woods area. Then it will cross back into Canada, again at International Falls. It will come across the river and serve all these communities along the route, terminating at Fort Frances. You see the Lake of the Woods and the Rainy River country at the extreme end of the map. Would you like to have the map?

**Senator Grosart:** Yes, it should be in our record. What do you see as the economic and

other benefits to Canada from this operation in terms of, say, balance of payments, export sales and so on?

**Mr. Graham:** The basic reason for this fine is to serve the Boise Cascade Corporation, who have a large complex in International Falls and Fort Frances. They run it as one unit, even though that community straddles the border. They have plans for expansion, and particularly wish to build at Fort Frances. The economics of this construction and the benefits to the Canadian economy therefrom are dependent on getting natural gas there. This is one of their prerequisites. In addition, of the 160 miles of pipe line, 60 miles go through Manitoba and 56 go through the Rainy River district of Ontario and serve the Rainy River and the area along the river. This will be the only way this area of Canada could have a natural gas service available to it. It requires the interdependence of the American market and the Canadian market to get it there. I think this is the key thing.

**Senator Grosart:** How many Canadian customers do you anticipate?

**Mr. Graham:** The population of Fort Frances is approximately 10,000 to 11,000. The Rainy River district, including the other small communities, would be perhaps another 3,000 at this time.

We would be making natural gas available to all these people, if they wished to use it, of course. In the long-term, there is a potential in this area for mineral development. Our same company, the Canadian company, serves the northern part of Minnesota with American gas, actually coming up from Texas, and we serve the Mesabi iron range, where they have a great amount of low-grade taconite iron ore being smelted at the present time. They have a very large industrial development in that area. The United States Steel Corporation alone has a \$450 million plant that has been built in the last four years in this area. That is only 16 miles to the south. It has been suggested by some that the same geology exists in the Rainy River area of Ontario and that if natural gas was a prerequisite for the development of the low-grade taconite iron ore in the Mesabi range, then it follows that it would be the same prerequisite for such a development in the Rainy River district, should it occur.

**Senator Grosart:** You are speaking of the Canadian side now?

**Mr. Graham:** Yes, sir, and our line does run on the Canadian side. You will notice from the map that it crosses back into Canada. It could have gone on the other side of the river, but we crossed it back into Canada.

**Senator Grosart:** What will be your anticipated immediate sales of Canadian natural gas?

**Mr. Graham:** At retail our revenue will be in the order of \$5.3 million per annum.

**Senator Grosart:** American dollars?

**Mr. Graham:** That is Canadian dollars, sir.

**Senator Grosart:** But the money will be American dollars that you are earning.

**Mr. Graham:** The gas that we sell on the United States side will be in American dollars and the gas that we sell on the Canadian side will be in Canadian dollars.

**Senator Grosart:** So you will be earning American dollars for the balance of payments.

**Mr. Graham:** Yes.

**Senator Everett:** You are a public company, are you?

**Mr. Graham:** Yes, sir.

**Senator Everett:** Substantially controlled by Canadians?

**Mr. Graham:** Almost 100 per cent. It is 99.7 per cent.

**Senator Everett:** With Canadian ownership.

**Mr. Graham:** It is Canadian-owned on the Toronto Stock Exchange.

**The Acting Chairman:** If there are no further questions, do you wish to move that the bill be reported without amendment?

**Senator Blois:** I move that we report the bill without amendment.

**The Acting Chairman:** Is it agreed?

**Hon. Senators:** Agreed.

**The Acting Chairman:** Thank you very much, gentlemen.

Honourable senators, we will now discuss Bill C-7, to authorize the provision of moneys to meet capital expenditures of the C.N.R. and Air Canada. Mr. Vaughan will introduce himself and his associates.



**Mr. R. T. Vaughan, Q.C., Vice-President and Secretary, Canadian National Railways, and Secretary, Air Canada:** Thank you very much, Mr. Chairman, and good morning, senators. May I say that we welcome this opportunity to appear before you once again. I have with me this morning Mr. G. H. Cooper, who is the General Solicitor of C.N.R., and Mr. W. G. Cleveley, Co-ordinator of Capital Budgets, C.N.R., and I represent both C.N.R. and Air Canada. I am Secretary of the Air Canada company as well, although I have with me from Air Canada Mr. Duncan Laing, Assistant Vice-President (Finance), and Mr. Dale Atkinson, Chief of Budgets and Cost Controls (Finance).

Mr. Chairman, our practice in the past has been that the General Solicitor would give to the senators a brief outline and explanation of the bill clause by clause. We have prepared a document here for that purpose, and with your permission we will proceed in that fashion, if that meets your wish.

**Senator Pearson:** Do I understand that you represent the Canadian National Railways as well as Air Canada, Mr. Vaughan?

**Mr. Vaughan:** Yes, I am Vice-President of Canadian National Railways, but I have a duality which is rather an odd complex, because I am Secretary of the company of Air Canada through its traditional relationship. So I am chief witness for C.N.R.

**The Acting Chairman:** Mr. Cooper, the General Solicitor of the company, will now proceed with his statement.

**Mr. G. M. Cooper, General Solicitor, Canadian National Railways:** Mr. Chairman, honourable senators, Bill C-7, the Canadian National Railways Financing and Guarantee Act, 1969, deals with a number of financial matters related to Canadian National Railways and to Air Canada with respect to the calendar year 1969 and the first half of 1970. Its provisions follow the form and principles of the corresponding 1968 Act, subject to the obvious need to change amounts and dates and with a limited number of minor changes of working.

Speaking generally the main purposes of the bill are as follows:

(i) to provide statutory authority in respect of capital expenditures and capital commitments by CN during 1969 and the first six months of 1970;

(ii) provisions related to the sources of moneys required to meet such expenditures;

(iii) provision for Government loans to Air Canada and/or Government guarantees of obligations to be issued by Air Canada; and

(iv) the provision of moneys needed to meet any seasonal or annual income deficiencies of either Canadian National or Air Canada.

We have ordinarily gone through the bill clause by clause, and if it is the wish of the committee I propose to repeat that procedure.

**Senator Laird:** Mr. Chairman, I am not a member of the committee but I did sponsor the bill in the house. We had a certain amount of detailed discussion in the chamber so I wonder if it is now necessary to go through it clause by clause. I wonder if it would perhaps be better to go directly to questions because I know there will be a number of questions asked.

**The Chairman:** I am in the hands of the committee in this matter and we will carry out the procedures decided by the committee.

**Senator Fournier (Madawaska-Restigouche):** Mr. Chairman, I should say that I very much deplore such a bill involving such an amount of money coming to the house at this late date. I know it is not your fault, or anybody's fault for that matter, but it is an unfortunate situation. We will not have time to deal with the bill as I should like to see it dealt with. We will not have time to ask questions because the answers will be too long. We are speaking here of sums of money amounting to something like \$200 million and I am not at all happy with the whole picture. We should take about three days to review this matter completely so as to get a good understanding of the whole situation. Perhaps we can do that next year. I hope so.

**Senator Grosart:** On that point, Mr. Chairman, it is difficult to ask the obvious questions of the representatives of the CNR and Air Canada and therefore I will limit my questioning to the non-political aspect. Why was this bill not introduced before this time? I am not asking that on the basis of political considerations; I am asking it simply insofar as it applies to the railways. Is there any reason why a bill dealing with 1969 expenditures should be before Parliament on December 18?

**Mr. Vaughan:** You wish me to comment on that? As you know, this is a Government bill and it is listed in the name of the Minister of Finance. Now, CNR do not regulate the time schedule...

**Senator Grosart:** I am sorry, Mr. Vaughan, but I am asking from the point of view of the company. I am not asking you to comment on Government action.

**Mr. Vaughan:** But I should say that to complete my answer. We do not list the priorities of legislation. As I mentioned to you last year when I was here, and the year before and the year before that again, this bill is the annual financing enabling legislation.

**Senator Aseltine:** After the money is all spent.

**Mr. Vaughan:** I would like to comment on that point again. I would point out, since you raise that point, that there was an erroneous statement in the Canadian Press the other day to the effect that this bill provides for \$366 million worth of borrowing. It does no such thing. What it does is pursuant to the various statutes that surround Canadian National Railways. The budgetary process of the company is taking place for 1970 within the company now, that is for the 1970 operating and capital budgets. After that is distilled within the company, it goes to the board of directors of the company and the board examines the budget proposals in great detail. The next step then is to transmit it to the Ministers of Transport and Finance. There is then a further searching examination done at the official level as between the company, the Treasury Board, and the Departments of Finance and Transport. Following that and pursuant to the Financial Administration Act, there is an order in council passed approving the budget and that order in council is tabled in the house pursuant to normal procedure. After that the budget is translated into an annual piece of legislation like this.

Now the \$200 million referred to in here on the Canadian National side does not involve any borrowing at all. No borrowing is involved in the sense of your voting taxpayers' money. This is the money that is self-generated within the company through its depreciation procedures, so it is not public borrowing. It is not an appropriation. All that is happening is pursuant to normal corporate practice.

**Senator Grosart:** But it is an authorization from Parliament to spend the money you are asking for?

**Mr. Vaughan:** I am telling you about the legal position surrounding the procedure involved in this legislation.

**Senator Grosart:** But you are inviting debate by saying it is not public money. If you want to avoid debate, you should not make debatable statements.

**Mr. Vaughan:** I want to put it in the right perspective. Certainly the people of Canada and the Government of Canada own Canadian National and to that extent it is a public asset.

**Senator Grosart:** But you are required to get parliamentary authorization.

**Mr. Vaughan:** That is why we are here. But, senator, you asked me to explain what we thought of the procedures involved. I started to explain what they were and I want to make it clear that we are quite ready to come here at any time the legislation is before the House of Commons or before this house to explain it.

**Senator Robichaud:** We should recognize of course that this bill was introduced in the House of Commons in October, 1969.

**Senator McDonald (Moosomin):** What time of the year was it that the order in council was passed authorizing the expenditures?

**Mr. Vaughan:** Usually it is in the spring, April, May—around that time. That is the general practice.

**Senator McDonald (Moosomin):** Would I be correct in assuming that this legislation would be prepared immediately following that?

**Mr. Vaughan:** It would be the practice, seeing it is the same as last year's legislation except for different figures, for the drafting to begin about the time the order in council is being submitted.

**Senator McDonald (Moosomin):** In actual practice, the bill could come before Parliament about June?

**Mr. Vaughan:** Yes, it could.

I hope you will bear with me. I do not want to get involved in, as Senator Grosart said, any answers that may be interpreted, as any feelings we have one way or another about it.

What I want to do on this particular point is really just give you the facts. Another factor I should mention is that I think the reason the bill is out of phase, so to speak, is that three or four years ago there was a double bill that covered two years—some senators here may remember that—and one year went by without a financing and guarantee bill.

**Senator Grosart:** That has happened twice, has it not?

**Mr. Vaughan:** Later they decided to do it twice and put it together like that, so it is out of phase.

**Senator Grosart:** Could I ask you this question, as you referred to the order in council: What does the order in council do, in view of the fact you are asking for authorization to spend?

**Mr. Vaughan:** The order in council is pursuant to the Financial Administration Act, section 80, and is also pursuant to the Canadian National Railways Act, and both those statutes say that the budgets shall be submitted to the minister and that the minister shall annually lay before Parliament the budgets of the C.N.R. So that order in council merely says the governor in council is at that time pleased to approve the budgets of Canadian National Railways pursuant to section 80 and other relevant sections of the Canadian National Railways Act. A legal interpretation of that that we have would be that with the passage of that order in council we are permitted and authorized to proceed with the business of the company.

**Senator Grosart:** Do you interpret it as saying you are authorized to spend the money?

**Mr. Vaughan:** Oh yes.

**Senator Grosart:** Then why do you come here asking Parliament to authorize it, if you are already authorized? I am not being critical; I am trying to find out what we are being asked to do.

**Mr. Cooper:** Actually, the bill covers a number of things. Three things we must come to Parliament for, which are covered by this bill, are Canadian National's authority to borrow, to the extent that there are borrowing powers in the bill, either from the Minister of Finance or, with Government guarantee, from the public. We come to Parliament for that. Secondly, there is Air Canada's corresponding

ability to borrow from the Minister of Finance or, with Government approval, from the public.

There are two sections which cover the third provision, the Minister of Finance's authority to make temporary loans, in one case to Canadian National and in the other case to Air Canada, respecting interim or annual deficits.

**Senator Grosart:** Are you referring now to clauses 11 and 12?

**Mr. Cooper:** Yes, those would be the ones.

In the first case, Canadian National's borrowing, I was referring to section 3(2), and that is the authority to borrow. This is at the bottom of page 2 of the bill. And similar to that is section 4(1), which has to do with the issue of the securities related to the borrowing from the public. Then section 9, I think it is, is the alternative authority to lend to the company. Those are all related to Canadian National borrowings. In respect of Air Canada, section 7, you might say, covers the same ground; and, as you point out, sections 11 and 12 relate to advances to C.N. and Air Canada.

Incidental to our borrowing power and, I think, perhaps partly for the sake of completeness and partly to afford an express link between C.N.'s borrowing power and the expenditures to which that relates, the financing act has always included the corresponding provision now in section 3(1) which gives parliamentary authority for the expenditures which are authorized and which, as Mr. Vaughan has pointed out, were previously authorized by order in council pursuant to the Financial Administration Act and the Canadian National Railways Act.

The bill also covers three other matters which require parliamentary authority—I think that is section 14—the Minister of Finance's authority to purchase preferred shares of Canadian National; again, the extension of the moratorium which relates to an application of C.N. which the minister holds under the capital revision of 1952; and the appointment of auditors which, by the Canadian National Railways Act, must be done by Parliament.

So, for these seven reasons, really, we are before you today.

**Senator Grosart:** In these amounts which add up to about \$500 million, are there any you feel you do not need parliamentary

authorization for? You seem to relate the requirement of parliamentary authorization to borrowing and certain types of things such as the moratorium, and so on.

**Mr. Cooper:** I think as a lawyer I would say we have sufficient authority to proceed and make the expenditures when the approval provided for in the two acts mentioned has been given by the governor in council.

**Senator Grosart:** Take the figure of \$113 million mentioned in clause 3(1)(c), are you saying you do not need parliamentary authorization to make those capital expenditures?

**Mr. Vaughan:** I said this was the practice that has been going on for 20 years.

**Senator Grosart:** But this may be what we are objecting to here today.

**Mr. Vaughan:** Firstly, he gave a legal opinion that pursuant to the order in council the use of the money within the company would be permitted. The other seven things he mentioned we would not have authority to do.

**Senator Grosart:** This does not answer my question, and I am starting with one figure. Does the system or the company—both terms are used here—or Air Canada believe it is necessary to ask Parliament to authorize the capital expenditures in section 3(1)(a) of \$201 million? I do not suggest you give a "Yes" or "No" answer, but something that would bear a reasonable resemblance to that would, I think, be helpful to the committee.

**Mr. Vaughan:** I think I would like to take that matter under advisement. We would not come here if we did not feel the legislation was necessary, and the Government would not put the legislation on the order paper if it did not think it was necessary.

**Senator Grosart:** Some of us would not agree with that latter statement.

**Mr. Vaughan:** Well, I am talking about Bill C-7.

**Senator Grosart:** What we are trying to find out is whether it is necessary. We are a committee required to report back to the Senate on whether this bill should be passed. If you say it is not necessary to get the authorization of Parliament, then we should report this back, but you are going through the motions because you have been going through them for twenty years.

**Mr. Vaughan:** We could say in answer to that that there are certain features retained in this legislation that we think we have enough legal authority to proceed with. There are other phases in the legislation that it is necessary Parliament do by way of legislation.

**Senator Grosart:** I am speaking of only one figure, the figure of \$201 million to start with. Would you please tell me whether it is necessary to get Parliamentary authorization before you spend the money? Later I will ask if you have spent the money.

**Mr. Vaughan:** I can only say that has been the practice and we are following the practice.

**Senator Pearson:** Does this not come under a special act of Parliament that forces you to come to the Government for this money. The money is actually generated in the Company.

**Mr. Vaughan:** Yes.

**Senator Pearson:** You do not have to borrow money?

**Mr. Vaughan:** No.

**Senator Pearson:** But according to the act of parliament you have to proceed in this manner.

**Mr. Vaughan:** What I am saying is that pursuant to the two statutes I mentioned, the Financial Administration Act and the Canadian National Railways Act, this is the procedure and practice that has been followed by successive administrations.

**Senator Pearson:** But it could be changed.

**Mr. Vaughan:** It could be changed.

**Senator Grosart:** And it may be wrong.

**Mr. Vaughan:** It may be wrong.

**Senator Grosart:** It may be necessary.

**Mr. Vaughan:** If anybody wishes us to sit down and discuss the revision of this statute, I would welcome the opportunity.

**Senator Grosart:** This is the opportunity. This is the committee of the Senate that is required to report to the Senate on this bill clause by clause.

**Mr. Vaughan:** Yes, and this is what we came prepared to do today. If I had thought

my mission here today was other than to explain the bill and answer questions about it...

**Senator Grosart:** That is exactly what your mission is, to explain the bill and answer questions. Now, I do not understand what you are objecting to.

**Mr. Vaughan:** You are asking me now to give a detailed and considered opinion on how much of this particular piece of legislation can be changed. That is a matter that the legal experts of the Department of Justice, the Department of Finance, the Treasury Board and ourselves would have to sit down and discuss. If we then had a proposal to bring forward, it would go to the Government, and the Government would then bring it forward.

**Senator Grosart:** Excuse me, but this has been going on for twenty years and we are merely asking you: do you need our authorization to spend this money?

**Mr. Vaughan:** In accordance with the practice, senator, the answer is, yes.

**Senator Grosart:** Now, have you spent any of this money without the authorization of Parliament?

**Mr. Vaughan:** The authorizations are covered in the two phases, as we stated.

**Senator Grosart:** I say: without the authorization of Parliament have you spent any money?

**Mr. Vaughan:** Well, senator...

**Senator Grosart:** Just a minute, please. You said a moment ago that you are now convinced that according to practice the authorization of Parliament is necessary. I am now asking you: if that is so, has any of this money been spent without the authorization of Parliament?

**Mr. Vaughan:** Well, senator, you really took me a long way from what my position was.

**Senator Grosart:** *Hansard* will record what you said.

**Mr. Vaughan:** I told you that the practice had evolved under all administrations, every successive administration of this Parliament, to proceed in this fashion.

**Senator Grosart:** That is the worst answer in the world.

**Mr. Vaughan:** I beg your pardon.

**Senator Grosart:** That is the worst answer in the world. We are here to see if what has been going on for twenty years makes sense.

**Mr. Vaughan:** If you ask whether the matter is capable of improvement, my answer is yes.

**Senator Grosart:** Fine.

**Mr. Vaughan:** If you ask: has the Canadian National Railways spent any money that it was unauthorized to spend, my answer is no.

**Senator Fournier (Madawaska-Restigouche):** We get right back to the question of time, which we have not got now.

**Senator Grosart:** That is so, we have not got enough time today. Perhaps I could ask you to make that answer a little more explicit, Mr. Vaughan. Have you spent any money that required the authorization of Parliament? Have you spent it? That is in the past tense, because your wording here is in the past tense. The wording is:

for the purpose of discharging obligations that were incurred by the National Company prior to that year and have become due and payable.

**Mr. Vaughan:** No, we have not. I do not want to get into a word match with you, and I am really trying to give you sincere and honest answers.

**Senator Grosart:** I know you are.

**Mr. Vaughan:** When you ask whether the authorization of Parliament was necessary, there are some moneys here where it is not. I mentioned the order in council. That order in council is pursuant to a statute of Parliament, the Financial Administration Act. That is my answer of that particular phase.

**Senator Grosart:** Does it authorize you to spend money?

**Mr. Vaughan:** Yes, sir.

**Senator Grosart:** I am asking you.

**Mr. Vaughan:** Yes, it does.

**Senator Grosart:** The statute authorizes you to spend the money?

**Mr. Vaughan:** That is correct.

**Senator Grosart:** When the budget of the C.N.R. has been approved?

**Mr. Vaughan:** Approved by the order in council.

**Senator Grosart:** The statute says you may spend that.

**The Acting Chairman:** No, the order in council says they may spend it.

**Senator Grosart:** Which is it? Is it the statute or the order in council?

**Mr. Vaughan:** It is the order in council that approves the budget.

**Senator Grosart:** It approves the budget, but it does not authorize you to spend the money.

**Mr. Vaughan:** What else would you read from that? If it approves a budget, the budget is approved.

**Senator Grosart:** If it does, why do you come here for the authorization of Parliament. If you have the authorization, why are you coming here? There must be an answer to that.

**Senator Robichaud:** Because it is so provided in the Act, the Financial Administration Act.

**Mr. Vaughan:** That is right.

**Senator Grosart:** I do not accept that answer.

**Senator Robichaud:** Well, that is what it is. It is a fact.

**Senator Grosart:** I have read the Financial Administration Act and it is not my recollection that that act says an order in council authorizes you to spend money, and that subsequent to that you must get the authorization from Parliament. I just do not accept that the Financial Administration Act says that, and I have read it many times.

**Senator Pearson:** Does not an order in council have to be approved under the Parliament Act?

**Mr. Vaughan:** Well, the governor in council.

**Senator Grosart:** No, it does not have to be approved. There is a committee of the other place now sitting on that whole question.

**Senator Fournier (Madawaska-Restigouche):** Mr. Chairman, nobody has the answer to that.

**Senator Grosart:** Let us face it, you do not have the answer.

**Senator Fournier (Madawaska-Restigouche):** I suggest that we proceed for the time being. We are not getting anywhere on this. Nobody has the answer to that question at this moment.

**Senator Grosart:** No.

**Senator McDonald (Moosomin):** Mr. Chairman, I do not think we can leave this committee with the statements that have been made. I have had no legal training, but as I understood the position of Canadian National Railways with regard to financing, you can prepare your budget for the consent of Parliament. I understand you have told us today, and on other occasions, that once an order in council is passed you have authority to spend this money, but the Financial Administration Act says that you must come to Parliament with this bill. Once an order in council is passed, you have the authority to spend this money, but the Financial Administration Act says you must come to Parliament with this bill. So, in other words, the order in council gives the authority to spend the money but acts of Parliament dictate that you come to Parliament with this legislation.

**Mr. Vaughan:** That is right.

**Senator McDonald (Moosomin):** That is it, you see.

**Senator Grosart:** I just do not accept that as a statement of fact. I want to be shown the clause or have the clause in the Financial Administration Act cited to me. I do not accept that that is the fact.

**Senator Robichaud:** Mr. Chairman, in the Financial Administration Act it is provided that the Canadian National Railways and Air Canada must come before Parliament to have the approval of the moneys which have been spent by order in council according to the act. I think the date specified is before the end of the calendar year.

**Mr. Vaughan:** Yes. I know what is bothering Senator Grosart, and I must say that I have been trying to give you sincere and honest answers.

**Senator Grosart:** I know that.

**Mr. Vaughan:** The act, I say, is capable of improvement, and if any of the departments of the Government wish us to sit down and discuss with them improvements in this statute, we would be only too glad to do so.

Furthermore, in the statute you will notice that it perpetuates certain sections of the Canadian National Railways Capital Revision Act, 1952, which expired in 1961, in that each year through this statute the capital revisions are extended on an annual basis.

Furthermore, in my opening remarks I said that the legislation *in toto* was regarded by the Government through years of practice as necessary in order to bring into one place the complete financial picture of how the C.N.R. was expending its own self-generated money and also the extent of its borrowings. Furthermore, you will notice that it is an enabling piece of legislation in that it gives us an 18-month period. You will notice under those two sections, section 3(1)(b) and section 3(1)(c), that it gives us the power to make commitments for the six months following in the next year. Now, we need that kind of authority in order to proceed with the company. So this legislation, then, goes and picks up the calendar year and gives us a six-month thrust into the following year and then, when next year's budget comes forward in this statute, the six-month part is put into this legislation and then we go forward another 18 months.

This has been deemed by experts of successive administrations as the way of doing it. Anything is capable of improvement, and we wish to have our capital structure looked at and revised and at any time the Government wishes to discuss that with us, we would be glad to do so.

**Senator Grosart:** Mr. Vaughan, I might say that in the Senate yesterday I said some very nice things about the management of the C.N.R. over the last 25 years.

**Mr. Vaughan:** Yes, I appreciate that.

**Senator Grosart:** So I am not being critical of the C.N.R.

**Mr. Vaughan:** I understand.

**Senator Grosart:** I am just trying to find out what I am asked to do today. Would you say that in the authority granted in clause 3(1)(c) was in the similar bill of last year, and therefore might cover the \$201 million that I am talking about? This occurred to me and I thought it might be your answer.

**Mr. Vaughan:** I admit that this is a most complicated piece of legislation. Do you see in section 3(1)(b) of this bill the \$82 million?

**Senator Grosart:** Yes.

**Mr. Vaughan:** In last year's bill in that section it was \$75 million. In this year's section 3(1)(c) there is the figure of \$113 million. In last year's comparable section it was \$90 million. Now, if you move your eye up the page into section 3(1)(a), you will see a table which takes note of the figure in last year's bill of \$75 million. There will be about \$58 million worth of commitments that we made that are now up in those figures, and of the \$90 million there would be about another \$48 million or \$52 million up in those figures, in those various branches through there, plus the equipment. And it is mainly equipment that is up in there consisting of about \$35 million of the \$58 million. So, as the commitment authority is used, then the direction of the statute is to put it up in the budget, and that is how it is done. Does that answer you, sir?

**Senator Grosart:** Are you now saying, Mr. Vaughan, and I think you are, that most of the authority to spend that \$200 million was covered in last year's bill?

**Mr. Vaughan:** Well, no, not most. You see, I say that this is hard to explain.

**Senator Grosart:** For one thing, you are working on a calendar year.

**Mr. Vaughan:** Last year's bill went for 18 months. So in the six months of 1969 we used the commitment authority contained in that bill. That is the reason there is no great pressure to have an order in council passed bang on on January 1, because there is a six-months commitment authority that goes forward. This one takes us through another six months in 1970 and when we come back in next year with the same kind of bill, then it flows back and forth in that way. So that it is really an 18-months enabling financing legislation.

**Senator McDonald (Moosomin):** Mr. Chairman, the six months from last year's bill is picked up in this year's bill. Is that right?

**Mr. Vaughan:** That is right.

**Senator McDonald (Moosomin):** The six-months' expenditure of last year is picked up in this year's bill?

**Mr. Vaughan:** That is right, and they are in our detailed budgets that are up in the \$200 million.

**Senator Fournier (Madawaska-Restigouche):** And you provide for the next six months of next year.

**Mr. Vaughan:** That is right.

**Senator Grosart:** You will understand my position, Mr. Vaughan. Regardless of what anyone may think, we do feel in the Senate that we have some responsibility. When we are asked on the 18th of December to authorize expenditures that have already taken place, we are entitled to know the details and know what has been the authorization for the spending. I hope that you might on reflection, when you have time, resolve this question for us in a memorandum.

**Mr. Vaughan:** Yes, I would be glad to do that. I would like to give a considered answer, because you would recognize that it involves the administration and what their views may be on it. But I would undertake to supply the Senate with a memorandum on this particular situation.

**Senator Grosart:** I am satisfied.

**Senator Fournier (Madawaska-Restigouche):** That is very good.

**Senator Pearson:** And can you suggest improvements to the bill or the act in that memorandum?

**Senator Grosart:** It might be a better way of doing it, after 20 years.

**Mr. Vaughan:** I should like to reserve that answer, but really, this is not my bill.

**Senator Pearson:** It is not your function.

**Mr. Vaughan:** It is not my bill. I merely come as an aid to explain the bill and I really do not want to speak for the Government nor undertake to do anything that would put the Government in a position that there is an undertaking involved. But I will undertake to give you a memorandum explaining the points that arise here this morning. I have no hesitation in saying again that this bill is capable of improvement, because it is a most complicated bill and we in the C.N.R. and Air Canada are quite ready and willing and able to discuss any improvements with the constituted authorities. But for the benefit of the Senate, I will send that memorandum.

**Senator Grosart:** We are not being quite fair to you, and I recognize that, because some of the questions should be answered by

a minister, and in my view the answers should have been given when the bill was introduced. The reason I am insistent on these questions is that when this bill was introduced—and it covers probably \$1 billion in total, some of which is recoverable in Parliament—it was introduced with a seven-minute speech by the assistant to the Minister of Finance. In other words, a total of seven minutes of explanation was given on this bill.

**The Acting Chairman:** Any further questions, honourable senators?

**Senator Fournier (Madawaska-Restigouche):** On this, or on new matters?

**The Acting Chairman:** On this bill.

**Senator Grosart:** Mr. Chairman, I suggest we go through it section by section. I think there is information in there that we should have before asking further questions.

**Mr. Cooper:** Do you wish me to go on with this?

**Senator Grosart:** On a point of order, Mr. Chairman, do you wish us to hold our questions until after the explanation or do you wish us to ask them section by section?

**The Acting Chairman:** Ask them section by section.

**Mr. Cooper:** Sections 1 and 2 are merely the short title and the definition.

**Senator Grosart:** May I interject here for a moment. It has been suggested by parliamentarians that the title of the bill is misleading. I am sure you are aware of that. Have you any comment on that?

**Mr. Vaughan:** What was the question again, please?

**Senator Grosart:** The comment was made in the other place, and in this committee we are entitled to refer to the other place, that the title was misleading in that it did not cover the entire intent of the bill.

**Mr. Vaughan:** The long title, I would submit, is completely clear. But if we carry some of the material from the long title that it has been suggested is missing from the short title, we would end up with two long titles.

**Senator Grosart:** Then in the definition section, number 2, would you explain the necessity for making a distinction as between



the "system" and the "company". I know the difference, but why is it necessary to make it throughout the bill? In some cases authority is given to the system and in other cases authority if given to the company.

**Mr. Vaughan:** To the extent that there is borrowing authority in the bill it relates to the corporate entity, the Canadian National Railways Company. However, the application of the funds covered by section 9 is for the benefit and use of the whole understanding which is carried on by the Canadian National Railway Company and its subsidiaries insofar as it relates to the properties entrusted to it by government. Therefore we have the two concepts; one the identifiable legal company and the second which is generally the whole Canadian National Railways system.

**Senator Grosart:** Do you include Air Canada in the term "system"?

**Mr. Vaughan:** No.

**Senator Grosart:** Although it is in effect a subsidiary.

**Mr. Vaughan:** Yes, I think it would be because of the degree of control.

**Senator Grosart:** But you still do not include Air Canada?

**Mr. Vaughan:** No, Air Canada has separate offices and separate accounts.

**Senator Grosart:** And a separate short title in the bill.

**Mr. Cooper:** Subsection 1 of section 3 covers the Canadian National Railways program for the 18-month period of 1969 through to the first half of 1970. We have already discussed that at some length this morning. I am not sure if you would wish me to read all of it.

Subsection (2) of section 3...

**Senator Fournier (Madawaska-Restigouche):** Before we take subsection (2), can you tell me what you are getting in equipment for \$53 million. Is it locomotives, passenger cars or new trucks?

**Mr. Vaughan:** The answer is that the equipment is all freight equipment and locomotives.

**Senator Grosart:** If I may ask a question there. In subsection (3)(1)(a) there is a \$17 million authorization for capital expenditures

on branch lines. Later you have authority for \$2 million and then elsewhere in the bill a total of \$19 million is referred to. Is this based on time? Does this relate to the time when the expenditures will be made? Will the \$17 million be spent at one stage and the \$2 at another?

**Mr. Cooper:** Authority is given for \$17 million in 1969 and for the \$2 million in the first half of 1970 although there may be some overlap.

**Senator Grosart:** Have these branch lines or are they under construction?

**Mr. Cooper:** They are under construction.

**Mr. Vaughan:** The main one is the Windfall extension which means the construction of a 60-mile line to serve Pan American Petroleum Corporation at Bigstone, Alberta and the Hudson Bay Oil and Gas Company at South Kaybob, Alberta. That is an item of \$11.6 million. There is another small spur line at Nanticoke on the Cayuga subdivision to serve Ontario Hydro and the Steel Company of Canada. That is \$2.9 million. The reason that the branch line is mentioned in other parts of the bill is that we have put in our regular budget, but we also seek authority through this legislation to borrow for branch lines if a case arose where we needed authority. Now, we did not borrow this money for the branch line; it was from self-generated funds, but the reason we like to have the borrowing authority contained each year is that there may be a case in some future year where there will be a branch line of some considerable length, 200 or 300 miles that would require a vast sum of money and rather than try to accommodate that in our budget, we seek the borrowing authority to service that debt.

**Senator Fournier (Madawaska-Restigouche):** You had the same power last year?

**Mr. Cooper:** Yes.

**Senator Fournier (Madawaska-Restigouche):** Did you use it last year?

**Mr. Cooper:** No.

**Senator Connolly (Ottawa West):** You mentioned these branch lines would be constructed for the servicing of certain industries in the private sector. I take it that with each of these organizations you are intending to ser-

vice, you have a contract which ultimately pays out the capital expenditure?

**Mr. Vaughan:** Yes, we deal with the private sector in a business relationship and we would not invest money to this extent unless we had a contract with them, a traffic guarantee we call it. In other words, they would give us 100 per cent, 80 per cent or 90 per cent of the traffic. Then, even if the traffic is not generated, they would pay us any way. This is why we feel we can borrow for this sort of thing so that the company can be properly financed.

**Senator Grosart:** Mr. Vaughan, the question was raised by Senator Bourget in the Senate as to whether there was something that might be interpreted in this bill as a blanket authorization in respect to branch lines which would make it unnecessary in future for the railway company to come to Parliament seeking a private bill in respect to branch lines.

**Mr. Vaughan:** No, under the National Transportation Act, if a line exceeds 20 miles, any railway company has to come to Parliament and seek authority to construct the line. In so far as we are concerned, in the case of any line under 20 miles we would have to seek order in council authority pursuant to our own statute to build a branch line of, say, 12 miles, three miles, one mile. So, this act would not change the requirements under the national Transportation Act.

**Senator Grosart:** But if the branch line was over 20 miles, you would still have to proceed for authorization by special act of Parliament?

**Mr. Vaughan:** Yes, by special act.

**Senator McDonald (Moosomin):** Do you build your own branch lines, or are they built under contract, as a general rule?

**Mr. Vaughan:** As a general rule, the initial clearing and grading would be let out to bid—we would advertise for bids; and the track laying would be done by our own gangs. So, the initial part of the work, the preparation, clearing of bush, preparing of the subgrade and getting it all ready, would be done by private contractors, and then our gangs would come along with the rail and lay it.

**Senator McDonald (Moosomin):** You are probably aware of the remarks made by Senator Argue in the Senate, I believe it was yesterday, with regard to the contracts. He is

not able to be with us this morning because he is at another committee meeting, but he wanted me to ask you, on his behalf, if you are still using the same form of contract you used a year ago.

**Mr. Vaughan:** Yes. He is referring to our general engineering contract, I should imagine. Yes, we are using the same contract.

**Mr. Cooper:** Yes.

**Senator McDonald (Moosomin):** Are you aware of the Second Report of the Standing Committee on Transport and Communications in the other place, in which paragraph 2 states as follows:

That the Canadian National Railways should review its construction contract with a view to adopting some of the reforms contained in the contracts used by the Department of Transport and the Department of Public Works.

Are you aware of this report?

**Mr. Vaughan:** Yes, I am.

**Senator McDonald (Moosomin):** Are you reviewing your form of contract, or is there any consideration being given to reviewing it?

**Mr. Vaughan:** Perhaps for the benefit of the senators I should review the situation. We appeared before a committee in the other place on this specific matter of the Great Slave Lake contracts. We gave a statement there and we answered questions for a day, and I imagine it is printed and available. We thought we presented our case on that situation in a fair and reasonable manner. This report you refer to here now has just come into the house, I believe, this week.

**Senator McDonald (Moosomin):** Yes, only on December 11.

**Mr. Vaughan:** And that is a recommendation by a committee to Parliament, a report of a committee to Parliament. I have no hesitation in saying we would look at any clauses of our contracts and if, in our judgment, some of the clauses of the contracts are not proper, then we would change them. But I do want to say this, that we thought and would still say—and I would say it to Senator Argue, if he were here—that we dealt with those contracts in a prudent and reasonable manner; and, even after the legal process was invoked by them, we engaged an independent person,

Dr. Hardy, to evaluate the claims, and Dr. Hardy, in evaluating the claims, took into consideration these new clauses that exist in these other departments such as you have referred to, in endeavouring to arrive at a recommended settlement of the claims of these contractors. I did not want to raise this subject because Senator Argue was not here, and I do not want to add any more evidence on the matter, except to say that we will take cognizance of the house report and whatever action Parliament wishes to take on that report.

**Senator McDonald (Moosomin):** I am sure that is the answer Senator Argue would seek.

**Mr. Vaughan:** I do want to qualify it though, that by saying we will look at it, it does not say what we are going to do about it.

**Senator McDonald (Moosomin):** Thank you.

**Senator Grosart:** Are we on to clause 3 yet?

**Mr. Cooper:** Subsection 2 is our borrowing authority and it is restricted to borrowing...

**Senator Grosart:** Before we come to that, what is the meaning of the phrase in clause 3(1)(c) "that will come in course of payment"? That is a new accounting or actuarial term to me.

**Mr. Vaughan:** It means we get the bill and we have to pay the money.

**Senator Grosart:** Perhaps in the improvements you make in the bill you will have this put into English.

**Mr. Vaughan:** That is right; it is real ponderous.

**Senator Connolly (Ottawa West):** You do not draft these bills; they are drafted in the Department of Justice, are they not?

**Mr. Cooper:** In the final analysis, Justice wins the argument.

**Senator Connolly (Ottawa West):** They always have.

**Senator Fournier (Madawaska-Restigouche):** Let us proceed.

**Senator Grosart:** They are not notable for the explicitness of their English either.

**Mr. Cooper:** Subsection 2 relates to branch line borrowings.

Subsection 3 requires the annual report of Canadian National to record the amount of borrowings.

**Senator Grosart:** Why is a distinction made between the requirement that the borrowing be in the annual report, but the estimates and the amounts payable under sections 4 and 5 be in the annual budget?

**Mr. Cooper:** Subsection 4, the amounts which we spend in the extended six-month period, this requires them to be, what we call, re-voted in the annual budget, so an amount which was last year in the corresponding section 1(b) and was spent in the six months of this year should be in our 1969 budget. Whereas our annual report would not specifically say that we built a spur at Mile One.

**Senator Grosart:** May I take it you really did not need to say "re-voted in the annual budget"?

**Mr. Cooper:** Subsection 5 requires that amounts which become payable under the capital commitments provisions—that is paragraph (c) of subsection (1)—must be included in the budget for the year in which they will become payable, so that each year's budget must disclose all the capital expenditures that are going to be made in that calendar year, notwithstanding that some of the expenditures will relate back to commitments of prior years. It is full disclosure.

Subsection (6) limits C.N.'s spending authority to the respective purposes of section 3, and expressly provides that expenditures made under the portion of 1968—that is last year's act, which would be paragraph (b) of subsection (1)—will be deemed to be expenditures made under paragraph (a) of this year; that is, you cannot spend it twice.

Section 4 returns from authorized expenditures to sources of funds. Subsection (1) authorizes the issuance of the securities required to support the borrowings referred to in section 3(2). That is our borrowing authority. I was going to say it is related to branch lines, but that is by reason of the text of section 3(2).

**Senator Grosart:** Who are the holders of these notes, trust certificates, bonds, debentures and other securities?

**Mr. Cooper:** In recent years we have not had a public issue, I believe, so our borrowings have been rather under section 9 than section 4.

**Senator Grosart:** But who are the present holders of previous issues, roughly? The public?

**Mr. Cooper:** In the hands of the public? I would not have the bond holders' register.

Subsection (2) of section 4 relates to what has been referred to here as self-generated funds and says:

Amounts provided for depreciation and debt discount amortization shall be applied towards meeting the expenditures authorized by section 3.

That is our major source of capital funds.

Section 4(3) limits the amount of the securities referred to in section 4(1) to \$19 million, which of course is the total of the \$17 million and the \$2 million of branch lines for which borrowing was permitted.

**Senator Grosart:** Why is it necessary to limit you in a separate subsection when your authorization is in effect a limitation? Is there a suspicion that you might go beyond your authorization?

**Mr. Cooper:** I could not say what suspicions lurk in departmental minds, but we have found this section is required year by year.

**Senator Connolly (Ottawa West):** But you are not restricted for the other amounts set out as requirements.

**Mr. Cooper:** Yes, we are, sir. We have no borrowing power in respect of those amounts, but section 3(6) says:

No amounts shall be spent for a purpose mentioned in this section in excess of the aggregate amount authorized by this section in respect of that purpose.

**Senator Connolly (Ottawa West):** That is to say you have expenditures for other than the branches of \$17 million and \$2 million. Will they be met from self-generating funds?

**Mr. Cooper:** Perhaps they will, sir, but they are the only expenditures in respect of which this act gives us borrowing power as well.

**Mr. Vaughan:** Were you here when I mentioned that we like to have this borrowing authority each year?

**Senator Connolly (Ottawa West):** I am sorry, but I would not want you to repeat it.

**Mr. Vaughan:** We have not borrowed for the branch lines for many years, but we want to retain this procedure.

**Senator Connolly (Ottawa West):** I heard that, yes.

**Senator Grosart:** The \$17 million for the branch lines is an authorization to expend?

**Mr. Cooper:** Yes.

**Senator Grosart:** Not to borrow?

**Mr. Cooper:** No. The corresponding authorization to borrow is section 3(2)(a).

Section 5 authorizes the governor in council to guarantee the securities referred to in section 4 should we borrow from the public for these purposes.

Section 6 controls the application of the borrowing.

Those six sections have all related to Canadian National Railways.

Section 7 correspondingly authorizes, in subsection (1), the Minister of Finance to lend money to Air Canada for the stated purpose. Subsection (3) alternatively authorizes the governor in council to guarantee the debentures of Air Canada for the same purposes.

**Senator Grosart:** Is there a change there from the previous situation?

**Mr. Cooper:** This section was in last year's act.

**Mr. Vaughan:** It was new last year.

**Senator Grosart:** But previous to this Air Canada borrowed from the C.N.R.?

**Mr. Cooper:** Yes.

**Senator Grosart:** Is this ever needed? The minister indicated that there might be a significant change here either legislated or contemplated by the act, from Air Canada's power to borrow from Canadian National Railways to a power to borrow from really the Consolidated Revenue Fund and from the public. In other words, I am asking: is this a small step in the direction of a separation of C.N. and Air Canada?

**Mr. Vaughan:** This section was new last year. We spoke about that last year. As the minister has indicated, the affairs of Air Canada and its legislation are being examined. I think he has announced that. The relationship between the two companies is also being examined. Last year a new section covering this was put in.

**Senator Grosart:** I should like to ask, if it is a proper question—and if it is not just shake your head: has the C.N. company or system

made any recommendation to the Government in respect of the future of Air Canada as it relates to C.N.R.? It is obviously a question you do not have to answer.

**Mr. Vaughan:** Well, I do not like to leave a silence as an answer.

**Senator Grosart:** Silence will not be misinterpreted. It is only an indication that I am asking you a policy question.

**Mr. Vaughan:** I do not want you to think there is anything massively secret about this.

**Senator Grosart:** I am not suggesting that at all. My only thought is that it may be a policy question.

**Mr. Vaughan:** Essentially, it is a policy question, but suffice it to say that there are discussions going on with the Minister of Transport and Communications as between the Chairman of the Canadian National and the Chairman of Air Canada, together and with each other.

**Senator Grosart:** I imagine that would be so in view of your own dual position.

**Mr. Vaughan:** Right.

**Senator Grosart:** As President of C.N.R. you would want to know what the Secretary of Air Canada is doing.

**Mr. Vaughan:** Well, I am Vice-President.

**Senator Grosart:** Vice-President. Even a vice-president might want to know what the secretary is doing.

**Mr. Vaughan:** There are discussions going on relative to the statements which the Minister made with respect to the forward course of both companies.

**Senator Grosart:** What is C.N.R.'s total investment in Air Canada?

**Mr. Vaughan:** I believe it is \$392 million. At any rate, it is near \$390 or \$400 million. But let us distinguish this. C.N.R. has \$5 million in stock in Air Canada. The borrowings that Air Canada has made through the vehicle of C.N.R. would be about \$390 million. At any rate, that is close enough.

Air Canada completely services that debt. There is no impingement on the Canadian National Railways accounts because of that. Air Canada provides the interest for that and so there is no burden on the Canadian National as a result of that bond issue there.

**Senator Connolly (Ottawa West):** Has Air Canada ever gone to the public?

**Mr. Vaughan:** No. The legislation as it exists now provides the C.N.R. is the only one that can take down any issue. It also provides that the Government can repatriate the issue to itself, if it wishes.

**Senator Connolly (Ottawa West):** Under subsection (3) of section 7, could Air Canada go to the public?

**Mr. Vaughan:** I thought you were talking about stock issue.

**Senator Connolly (Ottawa West):** No, I was talking about debt.

**Mr. Vaughan:** Yes, that is correct.

**Senator Connolly (Ottawa West):** But they have not done so.

**Mr. Vaughan:** No, but I thought you meant common stock.

**Senator Connolly (Ottawa West):** No, just debt.

**Mr. Vaughan:** That is correct.

**Senator Connolly (Ottawa West):** They could do it and the Government gives authority to guarantee.

**Mr. Vaughan:** Such bonds or loans, yes.

**Mr. Cooper:** In section 7, subsection (4), it limits the extent to which the Minister of Finance can make loans to Air Canada or the Government can guarantee its issues. Subsection (4) and subsection (5) must be read together and *in toto* limit either kind of borrowing to an aggregate of \$165 million.

**Senator Connolly (Ottawa West):** Unless I misunderstand, Air Canada has outstanding indebtedness to the Canadian National of approximately \$380 million. Is this \$165 million authority to borrow additional money?

**Mr. Vaughan:** Yes, sir.

**Senator Connolly (Ottawa West):** During the calendar year?

**Mr. Vaughan:** Additional borrowing, yes.

**Senator Connolly (Ottawa West):** During the currency of this bill.

**Mr. Vaughan:** That is right.

**Senator Connolly (Ottawa West):** Thank you.

**Mr. Cooper:** For the 18-month period. Section 6 is the control over the proceeds of the guaranteed securities, if guaranteed securities are resorted to.

Having in section 5 provided for guarantees of C.N.R.'s issue and in section 7 for guarantees of Air Canada's issues, section 8 then makes provisions respecting the signature and effect of those guarantees.

**Senator Connolly (Ottawa West):** I take it that subsections (6) and (7) of section 7, which deal with the proceeds of borrowings, envisage the proceeds of those borrowings going into the Consolidated Revenue Fund and then, in turn, being parcelled out to Air Canada for their purposes.

**Mr. Cooper:** Yes, although subsection (6) provides the alternative of the Consolidated Revenue Fund or one or more banks designated by the Minister. But, yes, and then drawn out for the purposes for which the borrowings were made.

**Senator Grosart:** To what extent is Air Canada using its own profits to finance its expansion? I believe it has made a profit in 15 of its 18 years. This year it had a return of almost 7 per cent on investment. What happens to those profits?

**Mr. Vaughan:** Mr. Laing may want to answer that. In the annual report there is a retained earnings figure.

**Mr. H. D. Laing, Assistant Vice-President, (Finance), Air Canada:** Page 22 of the annual report shows that all the earnings, senator, are retained for the future expansion of the company, except for a small dividend of 4 per cent.

**Senator Pearson:** What is the interest on debentures?

**Mr. Laing:** The interest on the debentures? Well, the interest on debt in 1968, sir, was \$18½ million.

**Senator Grosart:** What is the present total of the retained surplus?

**Mr. Laing:** At the end of 1968 it was \$19.6 million.

**Senator Connolly (Ottawa West):** Has it been at that level for any length of time?

**Senator Grosart:** It is moving up every year.

**Mr. Laing:** It has been getting progressively larger.

**Mr. Vaughan:** It was, in 1967, \$11,630,000. In 1968 it moved up to \$19,614,000.

**Senator Grosart:** So that the necessity for Air Canada to borrow for capital expenditures is due to the fact that at the present time it is not able to generate enough capital from its own operations to meet its expansion requirements.

**Mr. Laing:** That is correct.

**Senator Grosart:** So you are keeping the \$19 million in reserve.

**Mr. Laing:** We have actually used that, and, in addition to retained earnings, we had to borrow more, sir.

**Senator Grosart:** Your retained earnings are what percentage of your profit, then, roughly?

**Mr. Laing:** What percentage of the profits?

**Senator Grosart:** Yes, the accumulated profits over the years. Your profit over the years has been much more than \$19 million. Your retained surplus, that is.

**Mr. Vaughan:** That would be with the exception of the dividend. They declare a small dividend to the C.N.R. on the \$5 million held in stock.

**Senator Grosart:** You don't pay corporate tax of 50 per cent?

**Mr. Laing:** We are subject to corporate taxes, senator, but we have been offsetting the capital cost allowance and we make provision for it.

**Mr. Vaughan:** As any other corporation would. There is no special treatment in this respect for us as compared to any other company.

**Mr. Laing:** We are providing for it.

**Senator Laird:** What about new aircraft. Have you some coming in?

**Mr. Laing:** Yes, we have, senator. We have three DC-9's coming in 1970, that is in the spring of 1970, and 7 stretched DC-8's.

**Senator Laird:** Are you in the charter business?

**Mr. Laing:** Yes, we are in the charter business. As far as the charter business is concerned, it has cut into the schedule this year. Then we have three Boeing 747's scheduled for delivery in 1971 and the Senate might be interested in knowing that that type of aircraft was in Montreal yesterday.

**Senator Pearson:** Is that the one that stalled in New York?

**Mr. Laing:** No, I don't think it was the one that stalled in New York. Then we have Lockheed 10/11, 10 of them with six scheduled for delivery in 1972, three in 1973 and 1 in 1974.

**Senator Robichaud:** While we are on this subject and New York has been mentioned, has Air Canada any plans to improve its facilities at the airport in New York?

**Mr. Vaughan:** Yes, we have a new terminal building under construction now in joint ownership with BOAC. It is hoped it will be ready in 1970, the spring of 1970, and will be a welcome improvement because it is rather difficult for the airline to service its customers in New York at the present time because the facilities there are rather dismal. When this facility is finished, I think you will be proud of Air Canada in New York.

**Senator Grosart:** Will you have some horizontal escalators?

**Mr. Laing:** I walked through the building last week, senator, and there are escalators all over the place.

**Senator Grosart:** There is a question which I have been asked. When you get these larger aircraft with the larger passenger-carrying capacity, is the loading time going to increase substantially or will you be able to load them in about the same time?

**Mr. Laing:** It will increase I understand but not substantially. There will be more doors to these aircraft for entering them and leaving them. I believe there will be a little longer station-time involved but not longer than that involved in the present DC-8's.

**Senator Grosart:** But it will not be relative to the increase in their load?

**Mr. Laing:** No.

**Mr. Vaughan:** Many airports are already making provisions for the long-bodied aircraft, as they are called, by changing their facilities.

**Mr. Cooper:** Section 9 refers to Canadian National borrowing, in this case from the Minister rather than from the public as was provided for in section 4 with the same limitation as to amounts in section 10.

**Senator Grosart:** Before you leave that, I notice the phrase "as an alternative to public issues". This refers only to debenture borrowing, I gather.

**Mr. Cooper:** As an alternative to the case in section 1. That means we could proceed under section 4. Under section 9 the Minister of Finance might lend us the \$19 million.

**Senator Connolly (Ottawa West):** In other words you have two alternatives. If he can get the money cheaper, then you would probably go to him, but if you go to the market you might have to pay more.

**Senator Grosart:** The phrase "public issues" generally means something other than it means here. However, to make it clear, you say that it means an alternative for loans.

**Mr. Cooper:** Then section 10 refers to the point that Senator Grosart made earlier about the distinction between "company" and "system". If you look at sections 4 and 9 combined you see that the company may borrow and issue securities or seek loans from the Minister while in section 10 the company can make these funds available to the other companies or railways in the system. It is the one entity.

**Senator Grosart:** How many companies are now comprised in the system? It was 78 when you started and I think you are now down to about 30.

**Mr. Vaughan:** On page 32 of the report you find 32 companies listed.

**Senator Connolly (Ottawa West):** Wholly owned subsidiaries?

**Mr. Vaughan:** All or owned through subsidiaries, yes. There may be one or two shares outstanding.

**Senator Connolly (Ottawa West):** But you control them?

**Mr. Vaughan:** Definitely.

**Senator Connolly (Ottawa West):** Have you ever contemplated the establishment of a company to do the financing as a separate exercise? When we had the Investment Companies Act here we had the other railroad

company with us and they talked about their arrangements for financing being done by separate corporate entity.

**Senator Grosart:** They have the Minister of Finance.

**Senator Connolly (Ottawa West):** They had specialized people. I suppose you would probably do this same type of thing, but you would do it by a branch of the executive organization in either of your companies. Is that correct?

**Mr. Vaughan:** Yes, that is the way it would be done. What did you have in mind regarding a separate company to do the financing?

**Senator Connolly (Ottawa West):** When Canadian Pacific Investment were here they talked about the importance of having a sophisticated knowledge of the workings of the financial markets, people with specialized knowledge dealing with the financial problems.

**Mr. Vaughan:** We have a special division that looks after the investment of the pension portfolio, which is a separate division itself. We have a large finance department which is in touch with the market. Canadian National and Air Canada are well regarded in banking circles, not only in this country but elsewhere. Canadian Pacific, I know, have separated all their functions. They have CPI, which is the one you referred to. That is more like a development company which would invest in a project.

**Senator Connolly (Ottawa West):** They told us of the different types of enterprises they might be involved with, such as real estate.

**Mr. Vaughan:** That is right, but that is a matter we are giving some consideration to. We would perhaps have to have some of our acts amended in order to do it, but it is a matter that is under discussion now.

**Mr. Cooper:** Sections 11 and 12 respectively, for Canadian National and Air Canada, permit the Minister of Finance to advance moneys if income deficiencies occur through the year. This is on an 18-month basis.

**Senator Grosart:** I want to congratulate you, Mr. Cooper, on your wording. I much prefer it to the wording in the bill. What you say is:

...the Minister of Finance may advance moneys to cover the deficiency, subject to repayment to the extent possible.

I like that, but I do not like the phrasing of the act, which says in section 11 (2) and also in the corresponding subsection of section 12:

...any insufficiency shall be provided for by subsequent deficit appropriation by Parliament.

I will not ask you to comment on this, but I will make my own comment that I think this is an absolute affront to Parliament for it to be asked to say in advance what will be in any future appropriation act. We work on the principle that no Parliament can bind another Parliament, of course, and there are other reasons. I merely say I like your wording much better. If your wording were in the act, I would not have made the comment.

**Mr. Vaughan:** Of course, in their appropriation acts they do make provision in advance.

**Senator Grosart:** Yes, but in one act we are asking Parliament to say what will be in an appropriation act in the future and to legislate the content of a future appropriation act. This is subject to question, to put it very mildly, as to draftsmanship and as to its propriety within our legislative system.

**Senator Connolly (Ottawa West):** There is this to be said about the phrase, that there is an assurance to the parliamentarian that if there is an insufficiency he will have a chance to examine the reason and to see what the amount is.

**Senator Grosart:** He would have that anyway.

**Mr. Cooper:** Sections 13, 14 and 15 relate to three of the incidental provisions that were mentioned earlier.

Number 13 extends for an additional year the moratorium on the \$100 million obligation held by the minister.

Section 14 extends for a year the Minister of Finance's authority to buy preference shares.

Section 15 appoints the auditors for the CN system for the next following year, 1970.

**The Acting Chairman:** Are there any further questions? Shall I report the bill without amendment?

**Senator Fournier (Madawaska-Restigouche):** I have a question to pose. This has nothing to do with the bill is of personal interest and of interest to the Senate. I am going to make the question very short, because I know the



time is late. I am limiting it to one question. I ask the Canadian National why I cannot get an answer to my notice of inquiry dated December 4.

**Mr. Vaughan:** This is a question on the the order paper of the Senate.

**Senator Fournier (Madawaska-Restigouche):** It is an inquiry from the Senate.

**Mr. Vaughan:** The answer will be coming forward in due course.

**Senator Fournier (Madawaska-Restigouche):** I am not satisfied with that. That is all I have heard in the last three weeks, that it is going to come in due course. You have figures, because you gave them to the Canadian Transport Commission with your application to remove the *Scotian*.

Those are available figures and I want the answer. This is almost a disgrace and an insult to the Senate that members of the Government cannot obtain official figures from a Crown corporation.

**Mr. Vaughan:** If I can make a comment, there is no intent on our part to insult senators. We have a multitude of questions that come forward from both houses. All one has to do is look at the order paper of both houses, to see that. If the honourable senator's question has not been answered yet, I apologize. It will be answered. I do not have the answer with me. If that were the only question we had to deal with, perhaps it would have been dealt with the very next day. But there is a limit to what we can do. We have been up to committees four of five times this year and I was ready to go to a Commons Committee the other day and then immediately yesterday to come here, and I come today.

**Senator Fournier (Madawaska-Restigouche):** I understand all that.

**Mr. Vaughan:** I hope that you will not feel that way. If there is any information that can provide to you, we will be glad to do so.

**Senator Fournier (Madawaska-Restigouche):** I do not want to open a debate and I will say my last word. This is the way I feel, because this was placed on the Orders of the Day on December 4. They are very simple figures, which you have in your book. There is no question about it. I would be interested to know from you when you received it, because we have to put our notices of inquiry to the

minister here. I would be interested to know when you received it.

**Mr. Vaughan:** You put it in on December 4 and this is December 18. I imagine it is transmitted to us in a normal way. I do not know, senator, when we got it. It would come to my office. I am not trying to blame anybody else.

**Senator Fournier (Madawaska-Restigouche):** Do you know that this is going out all over Canada every day? If this question is not answered then that is a reflection on your efficiency.

**Mr. Vaughan:** I am not sure that I follow you.

**Senator Fournier (Madawaska-Restigouche):** Every day this notice of inquiry appears in the *Minutes of the Proceedings of the Senate*. I keep asking why I have not an answer, and this is published all over Canada.

**Mr. Vaughan:** Of course, the company tries to deal with these questions in the best way it can. As I say, as soon as I can I will look up the answer. I am sorry that you feel that way, but there is no intention about it. We have a multitude of questions and motions to deal with.

**Senator Fournier (Madawaska-Restigouche):** I will ask another question. When you made application to the Canadian Transport Commission to remove the *Ocean Limited*, did you get approval?

**Mr. Vaughan:** Under the National Transportation Act and the various regulations we do not have to file an abandonment notice because we are not abandoning the track. We filed with them the changes we are making in the service as of January 7, and that is what you are referring to now, is it not?

**Senator Fournier (Madawaska-Restigouche):** Yes.

**Mr. Vaughan:** Within the regulations we are empowered to change the frequency of trains. It is only when we seek the abandonment of a service that we have to go through the whole costing procedure, and so on.

**Senator Fournier (Madawaska-Restigouche):** I am sure you are aware of all the protestations that you receive from all across the land. This is not an abandonment, but in our eyes it is because you are going to remove a first-class passenger service and replace it by a Budd car service, which is a third-rate

passenger service, and which will not work, as you know very well, because people will not use it. The City of Fredericton, which is the capital of the Province of New Brunswick, will not use it because in order to reach Montreal they will have to stay overnight in Edmundston. We are not very happy about this. You have been telling us all the time that the train was not paying. I have been travelling on this train ever since the first day it operated. I admit there have been times when it has not paid, but there have also been many days when no space was available and you had to add two or three cars.

I want to be open about this. I am saying that you are afraid to answer this notice of inquiry.

**Mr. Vaughan:** Senator, the function of the Canadian National is to operate, on behalf of the Parliament of Canada and the people of Canada, the services that are required. Parliament in its wisdom passed a statute called the National Transportation Act, and in it set up procedures whereby the public interest would be preserved and protected. The Canadian National in dealing with these passenger services in the abandonments it has put forward, and the train changes it has put forward, considers that it is acting in the public interest. We feel we are responding to the public interest by bringing to the attention of the custodian of the public interest what the situation is with respect to these services. If services are not being patronized or used, or are uneconomic, then it should not be our judgment to use the taxpayer's money to continue uneconomic services. But, there is a procedure set up by both Houses of Parliament whereby this can be dealt with.

Now, on the abandonments, the Canadian Transport Commission is the authority. On the changes under the Railway Act, under section 315 of the Railway Act, there is an obligation on the carriers to provide suitable and adequate service. If, in the judgment of others, the commission and the authorities, the public interest is not being met, then they have the jurisdiction to deal with that. But Canadian National feels that it has an obligation to deal with this situation, because we should not perpetuate a money-losing service when it is not our function to disperse or allocate public resources in that fashion. That train you refer to in your territory was put on as a test train, as a test operation. When the company says that the patronage of that

train was insufficient to make that train a paying proposition, the company is telling the truth. The company has no warrant or desire to go and take trains off just for the fun of it.

**Senator Fournier (Madawaska-Restigouche):** Then give us the figures and there will be no more argument about it.

**Mr. Vaughan:** If you want to know I can tell you right now that the changes we are going to make in that service will save nearly \$4 million. What are the figures that you asked for?

**Senator Fournier (Madawaska-Restigouche):** They are in my notice of inquiry of December 4.

**Mr. Vaughan:** May I see the inquiry? I do not know what hinges on it. We are the most regulated organization on the face of this earth. We have more commissions, investigators, regulations and statutes covering us than anybody. We try to deal as a commercial organization. People ask questions about various figures and then attempt to draw a judgment from them without knowing the whole story. From time to time we decline to give certain information in Parliament, because it is not in the best interests of the company to have this information made available to our competitors, and this position has been supported by Parliament. I will be glad to talk to you, senator, about any phase of this and see if we can come to a meeting of minds and satisfy you.

**Senator Fournier (Madawaska-Restigouche):** Just give me the answers to the questions, that is all I want. I need them this afternoon. Call Montreal or your office. You have an \$18 million telecommunications system. Surely you can get the answers by this afternoon. I am going to report to the Senate and ask again where the figures are.

**Mr. Vaughan:** I have other questions outstanding from the House of Commons.

**Senator Fournier (Madawaska-Restigouche):** Yes, the same old ball goes back and forth. I am satisfied, thank you.

**The Acting Chairman:** Senator Pearson moves that Bill C-7 be reported without amendment.

**Hon. Senators:** Agreed.

The committee adjourned.

THE NATIONAL TRANSPORT AND COMMUNICATIONS BOARD

REPORT ON THE ...

1997

MEMBER OF PARLIAMENT ...

MEMBER OF PARLIAMENT ...

MEMBER OF PARLIAMENT ...

## Standing Committee

... will not work. ... people will ... the situation, which is ... of New Bruns- ... in order to ... have to stay ... We are not very happy ... telling us all the ... was not paying. I have ... train over since the ... I admit there have been ... but there have ... when no work was ... had to add two or three ...

... about this. I am saying ... this matter of ...

Mr. Vaughan: ... the function of the Canadian National is to operate, on behalf of the Parliament of Canada and the people of Canada, the services that are required. Parliament in its wisdom passed a statute called the National Transportation Act, and with it all the procedures whereby the public interest would be preserved and protected. The Canadian National is dealing with these passenger services in the standard way that is followed, and the main change it has not forward considers that it is a matter of the public interest. We feel we are responding to the public interest by bringing to the attention of the members of the public interest what the situation is with respect to these services. If services are not being maintained or they are unprofitable, then it should be our judgment to use the taxpayer's money to continue unprofitable services. But, within a procedure set up by both Houses of Parliament whereby this can be dealt with.

Now, as the amendments, the Canadian Transport Commission is the authority. On the changes under the Railway Act, under section 315 of the Railway Act, there is an obligation on the carriers to provide suitable and adequate service. If, in the judgment of either the commission and the authorities, the public interest is not being met, then they have the jurisdiction to deal with that. But the Canadian National feels that it has an obligation to deal with this situation, because we do not perpetuate a money-losing service. It is not our function to disperse or use the public resources in that fashion. That is why I refer to in your territory was put on a test train, as a test operation. When we already try that the patronage of that

train was insufficient to make that train a paying proposition; the company is telling the truth. The company has no warrant or desire to go and take losses off just for the fun of it.

Senator Fournier (Madawaska-Restigouche): Then give us the figures and there will be no more argument about it.

Mr. Vaughan: If you want to know I can tell you right now that the changes we are going to make in that service will save nearly \$4 million. What are the figures that you asked for?

Senator Fournier (Madawaska-Restigouche): They are in my notice of inquiry of December 4.

Mr. Vaughan: May I see the inquiry? I do not know what hangs on it. We are the most regulated organization on the face of this earth. We have more commissions, investigations, regulations and statutes covering us than anybody. We try to deal as a commercial organization. People ask questions about various figures and then attempt to draw a judgment from them without knowing the whole story. From time to time we decline to give certain information in Parliament, because it is not in the best interests of the company to have this information made available to our competitors, and this position has been supported by Parliament. I will be glad to talk to you, senator, about any phase of this and see if we can come to a meeting of minds and satisfy you.

Senator Fournier (Madawaska-Restigouche): Just give me the answers to the questions, that is all I want. I need them this afternoon. Call Montreal or your office. You have an \$18 million telecommunications system. Surely you can get the answers by this afternoon. I am going to report to the Senate and ask again where the figures are.

Mr. Vaughan: I have other questions outstanding from the House of Commons.

Senator Fournier (Madawaska-Restigouche): Yes. He says old ball goes back and forth. I am satisfied, thank you.

The Acting Chairman, Senator Pearson moves that Bill C-7 be reported without amendment.

Hon. Senators: Agreed.

The committee adjourned.



Second Session—Twenty-eighth Parliament

1969-70

# THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

## TRANSPORT AND COMMUNICATIONS

The Honourable H. J. ROBICHAUD, *Acting Chairman*

---

No. 2

---

*Complete Proceedings on Bill C-11,*

*intituled:*

*"An Act to amend the Railway Act".*

---

WEDNESDAY, FEBRUARY 18th, 1970

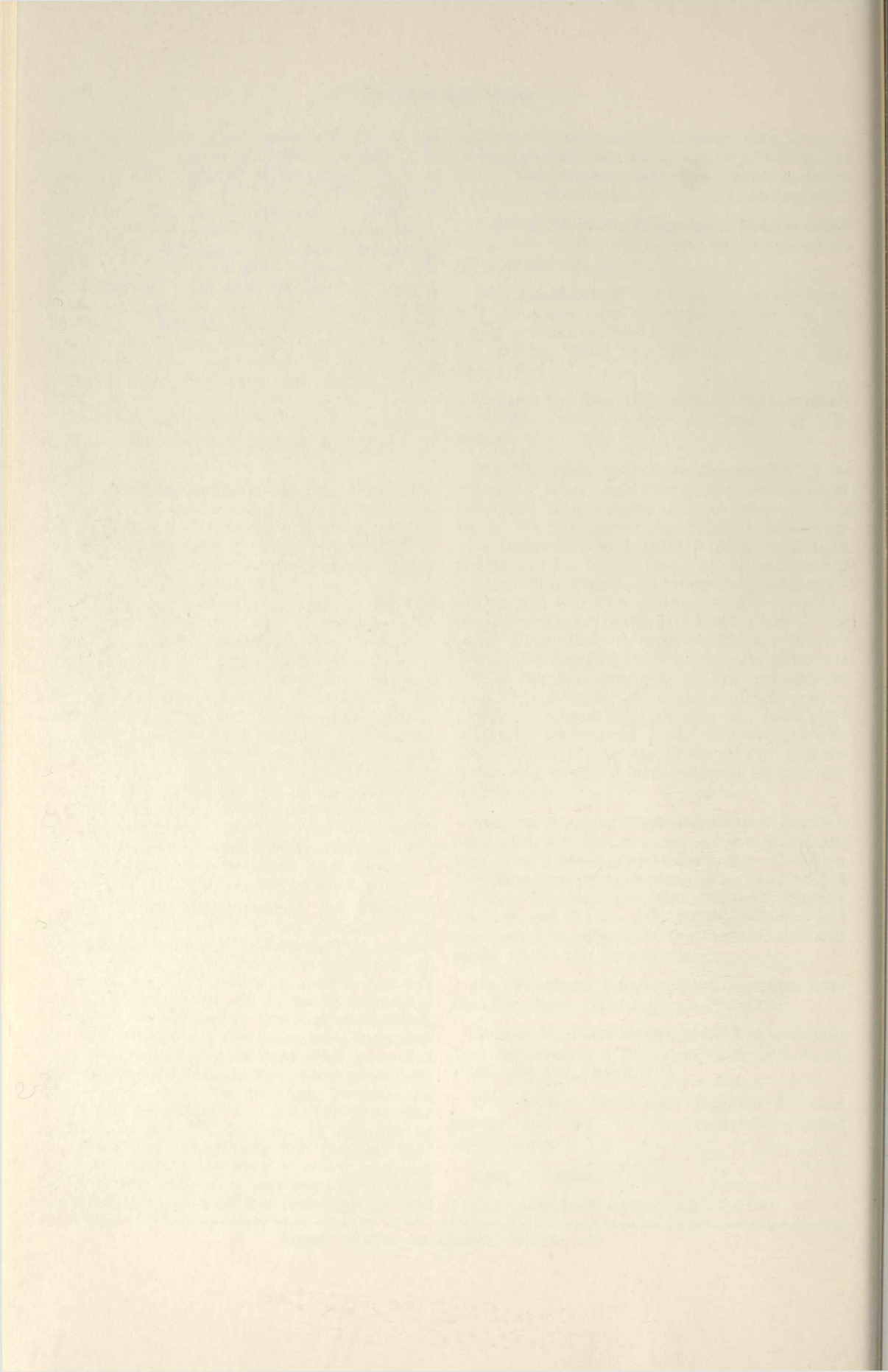
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WITNESS:

Mr. Gilles Bergeron, Assistant Deputy Minister,  
Operations, Department of Communications.

---

REPORT OF THE COMMITTEE





Second Session—Twenty-eighth Parliament

1969-70

# THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

# TRANSPORT AND COMMUNICATIONS

The Honourable H. J. ROBICHAUD, *Acting Chairman*

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*Complete Proceedings on Bill C-11,*

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WEDNESDAY, FEBRUARY 18th, 1970

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WITNESS:

Mr. Gilles Bergeron, Assistant Deputy Minister,  
Operations, Department of Communications.

---

REPORT OF THE COMMITTEE



Second Session—Twenty-eighth Parliament

1989-70

STANDING SENATE COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable H. J. Robichaud, *Acting Chairman*

The Honourable Senators:

Aseltine	Hollett	Molson
Blois	Isnor	Nichol
Bourget	Kinley	O'Leary ( <i>Carleton</i> )
Burchill	Kinnear	Pearson
Connolly ( <i>Halifax</i> <i>North</i> )	Langlois	Petten
Denis	Macdonald ( <i>Cape</i> <i>Breton</i> )	Rattenbury
*Flynn	*Martin	Robichaud
Fournier ( <i>Madawaska-</i> <i>Restigouche</i> )	McElman	Smith
Haig	McGrand	Sparrow
Hayden	Michaud	Welch—28

\*Ex officio member.

(Quorum 7)

Complete Proceedings on Bill C-11

intituled:

"An Act to amend the Railway Act."

WEDNESDAY, FEBRUARY 16th, 1970

WITNESS:

Mr. Gilles Bergeron, Assistant Deputy Minister,  
Operations, Department of Communications.

REPORT OF THE COMMITTEE



MINUTES OF PROCEEDINGS  
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of Senate, February 12, 1970.

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Burchill, seconded by the Honourable Senator Boucher, for the second reading of the Bill C-11, intituled: "An Act to amend the Railway Act".

After 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 Burchill moved, seconded by the Honourable Senator Boucher, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

The question being put on the motion, it was—  
Resolved in the affirmative."

ROBERT FORTIER,  
*Clerk of the Senate.*

Present but not heard:

Mr. Yves Lévesque,  
Executive Assistant.

Upon Motion it was Resolved to report the said Bill without amendment.

At 9:45 a.m. the Committee adjourned.

ATTEST:

*General Lefebvre,  
Clerk of the Committee.*

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of Senate, February 12, 1970.

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Burchill, seconded by the Honourable Senator Bouchart, for the second reading of the Bill C-11, entitled: "An Act to amend the Railway Act".

After 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 Burchill moved, seconded by the Honourable Senator Bouchart, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

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

Mr. M. ROBERT FOXTON  
Chairman of the Senate  
Mr. M. Bouchart  
Mr. M. Burchill

Mr. M. Bouchart  
Mr. M. Burchill  
Mr. M. Bouchart  
Mr. M. Burchill

(7 minutes)

## MINUTES OF PROCEEDINGS

WEDNESDAY, February 18th, 1970.

Pursuant to adjournment and notice the Standing Senate Committee on Transport and Communications met this day at 9.30 a.m.

*Present:* The Honourable Senators Blois, Fournier (*Madawaska-Restigouche*), Hollett, Kinley, McGrand, Pearson and Robichaud. (7)

On Motion of the Honourable Senator Kinley, the Honourable Senator Robichaud was elected *Acting Chairman*.

*Resolved:* That 800 copies in English and 300 copies in French be printed of these proceedings.

Bill C-11, "An Act to amend the Railway Act", was considered.

The following witness was heard:

Mr. Gilles Bergeron,  
Assistant Deputy Minister, Operations,  
Department of Communications.

*Present but not heard:*

Mr. Yves Legris,  
Executive Assistant.

Upon Motion it was *Resolved* to report the said Bill without amendment.

At 9.45 a.m. the Committee adjourned.

**ATTEST:**

Gérard Lemire,  
*Clerk of the Committee.*

REPORT OF THE COMMITTEE

WEDNESDAY, February 18th, 1970.

The Standing Senate Committee on Transport and Communications to which was referred the Bill C-11, intituled: "An Act to amend the Railway Act", has in obedience to the order of reference of February 12th, 1970, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

H. J. Robichaud,  
Acting Chairman.

Resolved: That 800 copies in English and 300 copies in French be printed of these proceedings.

Bill C-11, "An Act to amend the Railway Act", was considered.

The following witness was heard:

Mr. Gilles Bergeron,  
Assistant Deputy Minister, Operations,  
Department of Communications.

Present but not heard:

Mr. Yves Lévesque,  
Executive Assistant.

Upon Motion it was Resolved to report the said Bill without amendment.

At 9:45 a.m. the Committee adjourned.

ATTEST:

Gérard Lemire,  
Clerk of the Committee.

## THE STANDING SENATE COMMITTEE ON TRANSPORT AND COMMUNICATIONS

### EVIDENCE

Wednesday, February 18, 1970

The Standing Senate Committee on Transport and Communications, to which was referred Bill C-11, to amend the Railway Act, met this day at 9.30 a.m. to give consideration to the bill.

**Senator H. J. Robichaud** (*Acting Chairman*) in the Chair.

**The Acting Chairman:** Thank you for the confidence you have placed in me by asking me to act as your chairman this morning. We have before us Bill C-11, an act to amend the Railway Act.

The witnesses this morning will be Mr. Gilles Bergeron, Assistant Deputy Minister, Operations, Department of Communications and his Executive Assistant, Mr. Yves Legris.

I am at your disposal; what is your pleasure? Do you wish to go through this bill clause by clause?

**Senator Fournier** (*Madawaska-Restigouche*): Would one of the witnesses tell us briefly what the effect of this amendment will be? While we are not opposing it, we would like clarification.

**Mr. Gilles Bergeron, Assistant Deputy Minister, Operations, Department of Communications:** There is a clause in the Railway Act which excludes from the purview of the Canadian Transport Commission all regulations or control of private lines when a carrier rents a line to a broadcaster or any organization for its own use on a continuous basis. In so far as time is concerned there is no regulation. Rates are set by contract after mutual agreement. The object of this amendment is to remove this exclusion on the jurisdiction of the Canadian Transport Commission with regard to private lines in order that the Commission will regulate rates, whether on public line or so-called private line service.

The reason for the amendment is that last June CN/CP acquired a majority interest in Computer Sciences Canada, Limited, which is a computer utility firm. This acquisition

caused anxiety amongst other computer utilities, who claimed that CN/CP could use their carrier operation to bring additional advantages to one computer utility firm, namely Computer Sciences Canada, Limited. Under regulation of all private lines we consider that CN/CP will not be in a position to cross-subsidize their computer operation by entering into advantageous contracts for telecommunications lines with this subsidiary. In this bill all we are advocating is the removal of the exception so as to empower the Canadian Transport Commission to control rates on private lines.

**Senator Pearson:** Who was responsible for the cost of construction of these private lines?

**Mr. Bergeron:** They generally run on the same facilities as the public lines. It is just allocation of space on the spectrum.

**Senator Pearson:** On the regular lines?

**Mr. Bergeron:** Yes.

**Senator Pearson:** I thought it was possibly a regular line for one firm only.

**Mr. Bergeron:** No. It may be in some cases that at the end of the line there is an additional spur which is installed to bring in a service, but generally across Canada the main trunks are used for private as well as public lines.

**Senator Isnor:** How many private lines are there, roughly speaking?

**Mr. Bergeron:** I cannot say how many lines, but from the total of the telephone companies regulated by the Canadian Transport Commission, they claim that their private—

**Senator Isnor:** What telephone companies?

**Mr. Bergeron:** Bell Canada and B.C. Telephone Company claim that their private lines account for about 5 to 10 per cent of their total business, whereas for CN/CP the figure is as high as 70 per cent to 75 per cent.

**Senator Isnor:** You are just about giving a monopoly to CN/CP, are you?

**Mr. Bergeron:** No, it is not giving them a monopoly. We are not changing anything in so far as the competitive situation is concerned. All we are saying is that this part of the business, 75 per cent of their total operations for CN/CP, which was previously unregulated, after approval of this bill will be regulated in addition to the remainder of their business.

**Senator Fournier (Madawaska-Restigouche):** Mr. Chairman, does anyone oppose this bill?

**The Acting Chairman:** Not that I am aware of. Mr. Bergeron, is there any opposition to this bill?

**Mr. Bergeron:** No, I do not know of any. At the committee hearing in the House of Commons there were no witnesses apart from the Department of Communications.

**Senator Pearson:** No one in the business is opposing it at all?

**Mr. Bergeron:** No.

**The Acting Chairman:** Is it not a fact that this bill will prevent monopoly? It will be a protection to the general public, due to the fact that the rates will have to be approved by the Canadian Transport Commission.

**Mr. Bergeron:** It will not prevent monopoly. It will enable C.T.C. to regulate an existing quasi-monopoly. There are, in fact, two organizations, Bell Canada and B.C. Telephone Company. The telephone companies do offer private lines in the same area as C.N./C.P. We have only these two organizations offering private lines, and this will enable C.T.C. to regulate such a quasi-monopoly.

**Senator Pearson:** What about the private lines in Manitoba, Saskatchewan and the Alberta government line?

**Mr. Bergeron:** Those are not regulated by the C.T.C. They are regulated by the provincial regulatory authorities.

**Senator Pearson:** What is the difference in B.C.? Is it private?

**Mr. Bergeron:** No, the legislation that created the B.C. Telephone Company declared the facilities and the works of B.C. Telephone Company to the general advantage of Canada, and they thus came under federal jurisdiction.

**Senator Isnor:** As a Nova Scotian I am

interested in what the effect will be on the Maritime Telegraph and Telephone Company, Ltd.

**Mr. Bergeron:** It will have no direct effect on Maritime Tel and Tel, first of all because C.N./C.P. have a very, very light operation in Nova Scotia. The only possible effect on Maritime Tel and Tel will be from the federal regulatory body, who will be able to know the price offered by C.N./C.P. for private lines, which they could not find out before because it was strictly private.

**Senator McGrand:** Will C.N./C.P. and all these new communications companies and businesses coming in use the telephone services of, say, The New Brunswick Telephone Company, Ltd., or in Nova Scotia the Maritime Tel and Tel?

**Mr. Bergeron:** You mean will they use their services?

**Senator McGrand:** Yes. Bell Canada are now selling stock in something new, Microsystems. Will they in any way use lines or communications owned by The New Brunswick Telephone Company or by Maritime Tel and Tel?

**Mr. Bergeron:** Microelectronics, for which Bell is selling stock, is not a communications company. It is a manufacturing subsidiary. Microelectronics are tiny bits of the elements they manufacture, which are used in satellites, transmission lines and such things. They do not make any communications and they do not generate any communication.

**Senator McGrand:** In respect of telecommunications, will they in any way use The New Brunswick Telephone Company line and Maritime Tel and Tel?

**Mr. Bergeron:** They do very often, but that is within the Trans-Canada Telephone System. In the nationwide communications there are two different organizations. One is C.N./C.P., which is a more recent organization, started in 1961 or 1962, on a microwave system; the other is T.C.T.S., of which Bell Canada is part, The New Brunswick Telephone Company—eight different companies representing almost every province. These companies have an inter-connecting agreement, and any telephone conversation or private line arrangement that needs to go from Halifax to Calgary, for example, would involve Maritime Tel and Tel, New Brunswick, Bell Canada, the Manitoba Telephone System,

Saskatchewan Telecommunications and the Alberta Government Telephones. They have an agreement to split the revenues derived from such an operation.

**Senator McGrand:** Will the rates of this service be under the control of the Canadian Transport Commission?

**Mr. Bergeron:** No. The Canadian Transport Commission only regulates Bell Canada rates. It has a side effect on these rates, but it is only a side effect; it is not a direct control over rates in the other provinces, but in Bell territory.

**Senator Fournier (Madawaska-Restigouche):** When you refer to the C.T.C., do you mean Central Terminal Control?

**Mr. Bergeron:** No, the Canadian Transport Commission.

**Senator Fournier (Madawaska-Restigouche):** There seems to be some confusion between these letters, because when we discuss the Railway Bill we talk about the C.T.C., which

is Central Terminal Control. It is not the same?

**Mr. Bergeron:** No.

**Senator Hollett:** Does this bill apply to Newfoundland, where we have no more railways? We now have buses. Does this apply there? I take it the buses will stop at many more places than the trains used to stop at.

**Mr. Bergeron:** This bill does not apply to transportation at all.

**Senator Hollett:** Not to transport?

**Mr. Bergeron:** No, just communications.

**Senator Hollett:** That is my misconception.

**The Acting Chairman:** Are there any further questions?

**Senator Fournier (Madawaska-Restigouche):** I move that we report the bill without amendment.

**Hon. Senators:** Agreed.

The committee adjourned.

is Central Terminal Control. It is not the same?

Mr. Bergeron: No.

Senator Hallett: Does this bill apply to Newfoundland? Where we have no more rail-ways? We now have buses. Does this apply there? I take it the buses will also be many more places than the trains used to stop at.

Mr. Bergeron: This bill does not apply to transportation at all.

Senator Hallett: Not to transport?

Mr. Bergeron: No, just communications.

Senator Hallett: That is my interpretation. The Acting Chairman: Are there any further questions?

Senator Fournier (Madawaska-Beauce): I move that we report the bill without amendment.

Hon. Senators: Agreed.

The committee adjourned.

Queens' Printer for Canada, Ottawa, 1919

...the bill is to be printed by the Queen's Printer for Canada, Ottawa, 1919.

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Senator Fournier (Madawaska-Beauce): Which you refer to the C.T.C., do you mean General Terminal Control?

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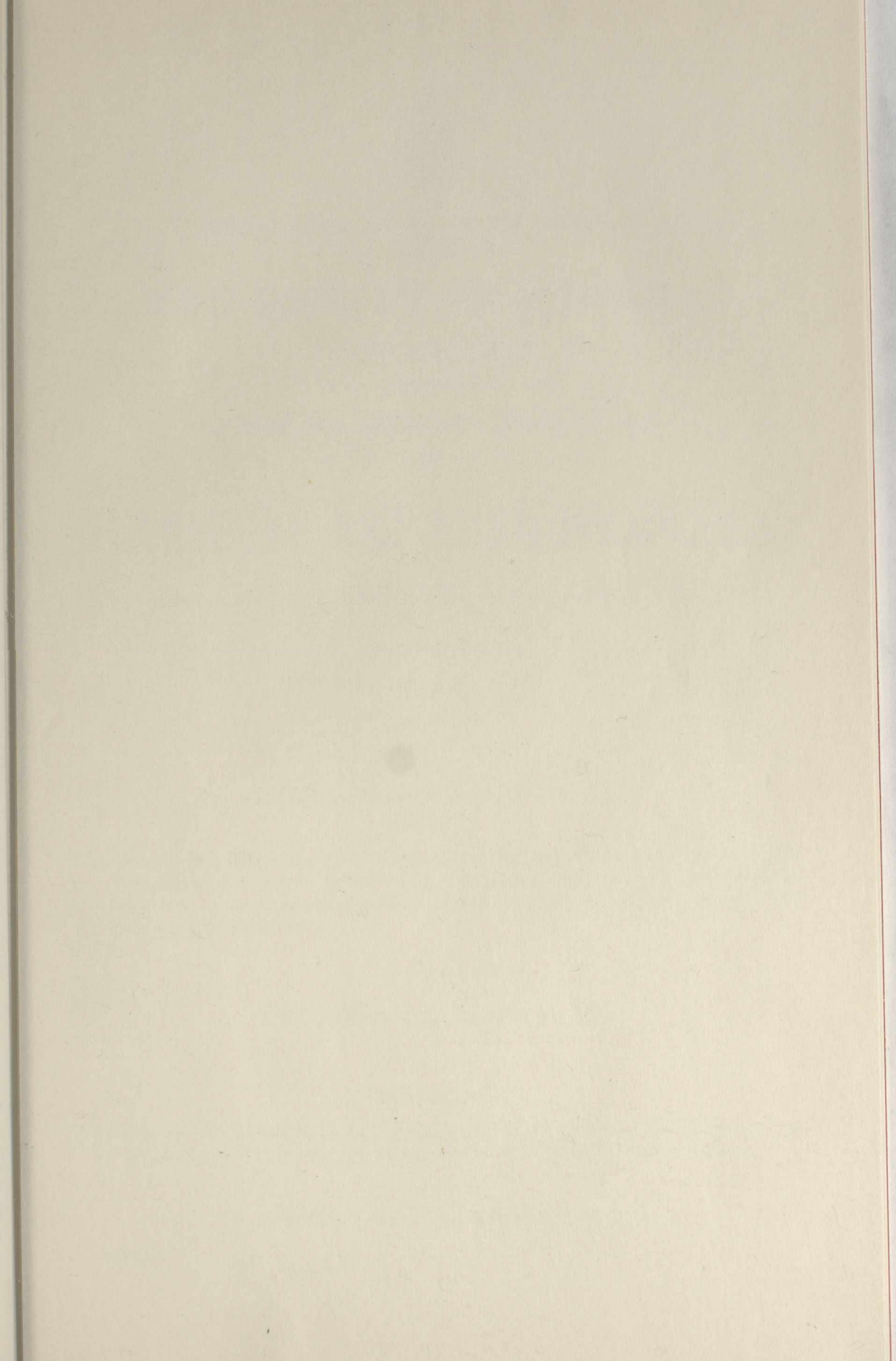
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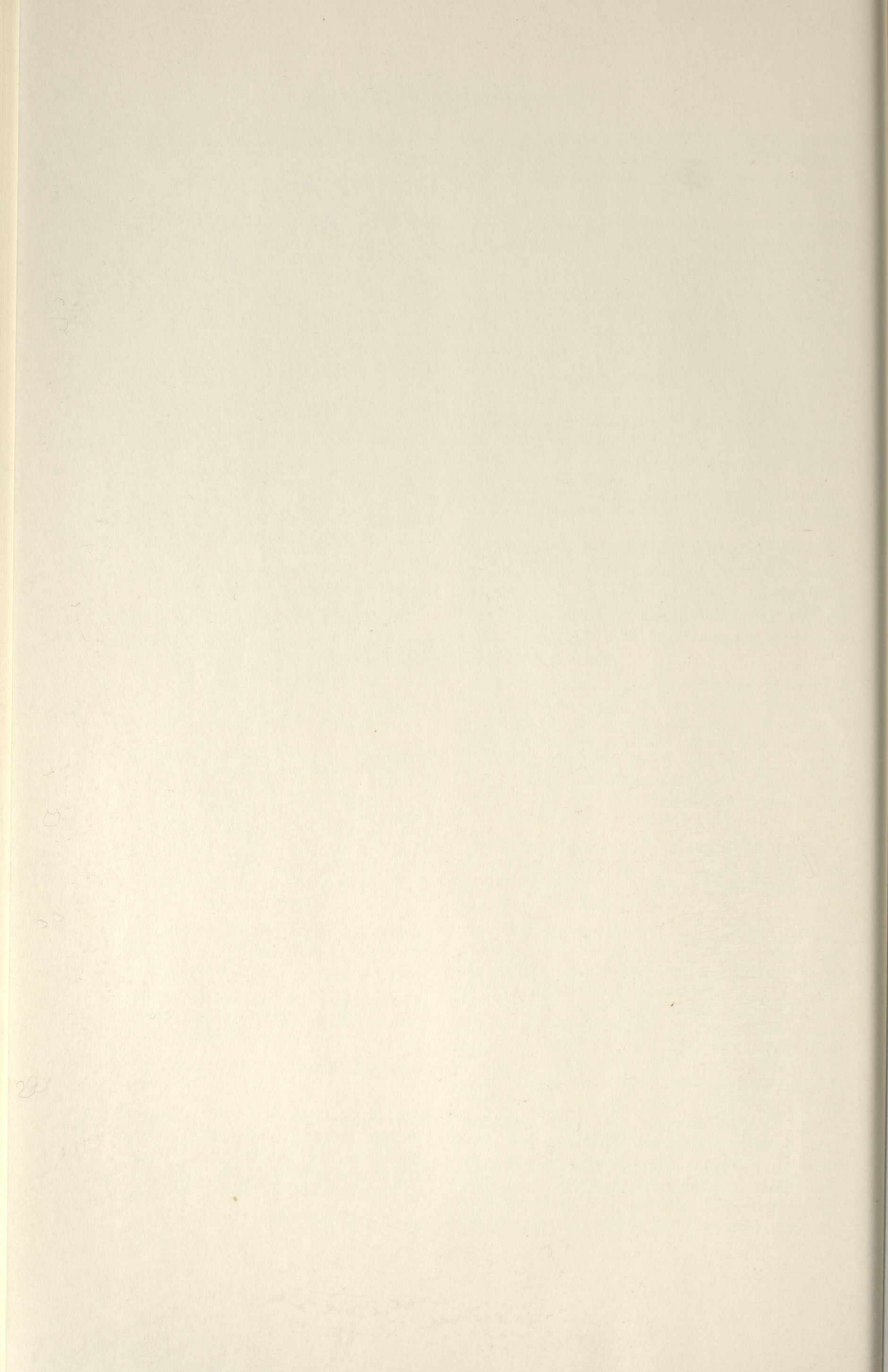
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Second Session—Twenty-eighth Parliament  
1969-70

# THE SENATE OF CANADA

PROCEEDINGS  
OF THE  
STANDING SENATE COMMITTEE  
ON

## TRANSPORT AND COMMUNICATIONS

The Honourable J. CAMPBELL HAIG, *Acting Chairman*

---

No. 3

---

*Complete Proceedings on Bill C-137,  
intituled*

"An Act respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another"

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THURSDAY, MARCH 19, 1970

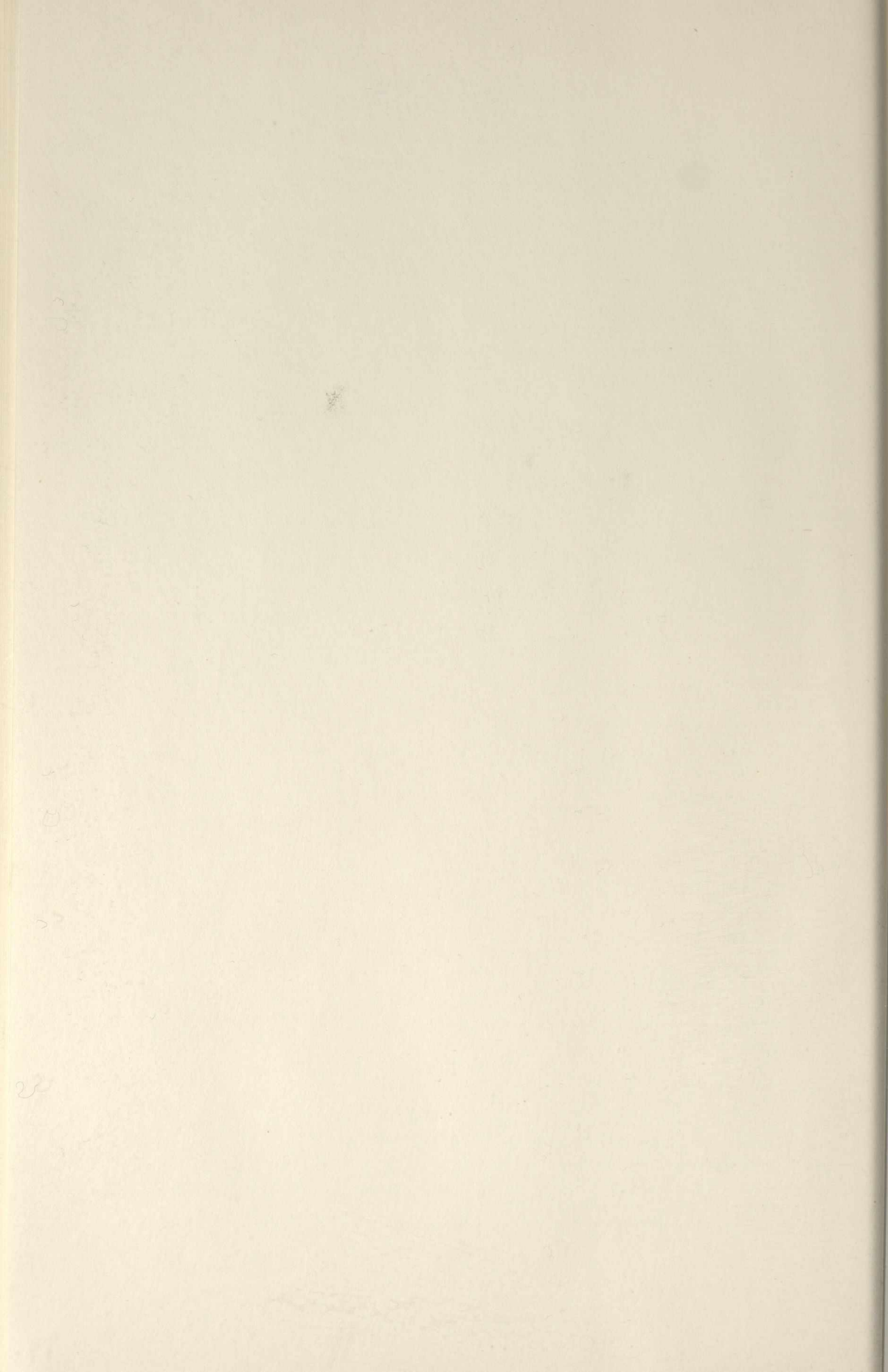
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WITNESSES:

*Department of Transport: Mr. Jacques Fortier, Q.C., Legal Counsel and  
Dr. Gordon Campbell, Director, Roads and Motor Vehicle Safety.*

---

REPORT OF THE COMMITTEE





Second Session—Twenty-eighth Parliament

1969-70

# THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

## TRANSPORT AND COMMUNICATIONS

The Honourable J. CAMPBELL HAIG, *Acting Chairman*

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No. 3

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*Complete Proceedings on Bill C-137,  
intituled*

“An Act respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another”.

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THURSDAY, MARCH 19, 1970

---

WITNESSES:

*Department of Transport: Mr. Jacques Fortier, Q.C., Legal Counsel and  
Dr. Gordon Campbell, Director, Roads and Motor Vehicle Safety.*

---

REPORT OF THE COMMITTEE



Second Session—Twenty-eighth Parliament  
1968-70

THE SENATE OF CANADA

STANDING SENATE COMMITTEE

ON PROCEEDINGS

TRANSPORT AND COMMUNICATIONS

The Honourable J. Campbell Haig, *Acting Chairman*

The Honourable Senators:

Aseltine	Hayden	Michaud
Blois	Hollett	Molson
Bourget	Isnor	Nichol
Burchill	Kinley	O'Leary ( <i>Carleton</i> )
Connolly ( <i>Halifax</i>	Kinnear	Pearson
North)	Langlois	Petten
Denis	Macdonald ( <i>Cape</i>	Rattenbury
*Flynn	Breton)	Robichaud
Fournier ( <i>Madawaska-</i>	*Martin	Smith
Restigouche)	McElman	Sparrow
Haig	McGrand	Welch—28.

\*Ex officio member

(Quorum 7)

Complete Proceedings on Bill C-187  
introduced

"An Act respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another."

THURSDAY, MARCH 19, 1970

WITNESSES:

Department of Transport: Mr. Jacques Fortier, Q.C., Legal Counsel and  
Dr. Gordon Campbell, Director, Roads and Motor Vehicle Safety.

REPORT OF THE COMMITTEE



MINUTE ORDER OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate, March 17, 1970:

"Pursuant to the Order of the Day, the Honourable Senator Petten moved, seconded by the Honourable Senator McGrand, that the Bill C-137, intituled: "An Act respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another", be read the second time.

After 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 Petten moved, seconded by the Honourable Senator Carter, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.

ROBERT FORTIER,  
*Clerk of the Senate.*

DEPARTMENT OF TRANSPORT:

Mr. Jacques Fortier, Q.C., Legal Counsel, and

Dr. Gordon Campbell, Director, Roads and Motor Vehicle Safety.

At 11.00 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

FRANK J. BEVIE,  
*Clerk of the Council.*

ORDER OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate, March 17,

1970:

"Pursuant to the Order of the Day, the Honourable Senator Pelton moved, seconded by the Honourable Senator McLeod, that the Bill C-137, intituled: "An Act respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another," be read the second time.

After 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 Pelton moved, seconded by the Honourable Senator Carter, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

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

ROBERT FORTIER  
Clerk of the Senate  
Hall  
Edmonton office 27.

Chairman  
Secretary

82-28  
Worship  
Chairman  
Secretary

(7 pages)

1970

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## MINUTES OF PROCEEDINGS

THURSDAY, March 19th, 1970.

(3)

Pursuant to adjournment and notice the Standing Senate Committee on Transport and Communications met this day at 10.10 a.m.

*Present:* The Honourable Senators Blois, Fournier (*Madawaska-Restigouche*), Haig, Hollett, Kinnear, Robichaud and Sparrow. (7)

*In attendance:*

E. Russell Hopkins, Law Clerk and Parliamentary Counsel; and  
Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel,  
and Director of Committees.

On Motion of the Honourable Senator Robichaud, the Honourable Senator Haig was elected *Acting Chairman*.

*Resolved:* That 800 copies in English and 300 copies in French of these proceedings be printed.

The following witnesses were introduced:

### DEPARTMENT OF TRANSPORT:

Mr. Jacques Fortier, Q.C., Legal Counsel; and  
Dr. Gordon Campbell, Director, Roads and Motor Vehicle Safety.

At 11.00 a.m. the Committee adjourned to the call of the Chairman.

**ATTEST:**

Patrick J. Savoie,  
*Clerk of the Committee.*

REPORT OF THE COMMITTEE

THURSDAY, March 19th, 1970.

The Standing Senate Committee on Transport and Communications to which was referred the Bill C-137, intituled: "An Act respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another", has in obedience to the order of reference of March 17th, 1970, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

J. CAMPBELL HAIG,  
Acting Chairman.

Patrick J. Savoie,  
Clerk of the Committee.

## THE STANDING SENATE COMMITTEE ON TRANSPORT AND COMMUNICATIONS

### EVIDENCE

Thursday, March 19, 1970

The Standing Senate Committee on Transport and Communications, to which was referred Bill C-137, respecting the use of national safety marks in relation to motor vehicles and to provide for safety standards for certain motor vehicles imported into or exported from Canada or sent or conveyed from one province to another.

**Senator J. Campbell Haig** (*Acting Chairman*) in the Chair.

**The Acting Chairman:** Honourable senators, we have a quorum. We have before us for consideration this morning Bill C-137, the Motor Vehicle Safety Bill. As witnesses we shall hear Dr. Gordon Campbell, Director of the Roads and Motor Vehicle Branch of the Department of Transport, and Mr. Jacques Fortier, Q.C., the Legal Counsel of the Department.

Upon motion, it was *resolved* that a verbatim report be made of the proceedings and to recommend that 800 copies in English and 300 copies in French be printed.

**The Acting Chairman:** Mr. Fortier, will you proceed?

**Mr. Jacques Fortier, Q.C., Counsel, Department of Transport:** Mr. Chairman and honourable senators, Bill C-173, in respect of motor vehicle safety, applies to new motor vehicles only, and would provide for the Governor in Council to make regulations prescribing safety standards for new motor vehicles sold in Canada, or imported or exported, or conveyed between the provinces.

The bill does not spell out what are the safety standards that must be applied on the part of manufacturers and importers of motor vehicles; it provides only authority to the Governor in Council to establish such standards.

The bill would provide for motor vehicles which comply with the safety standards applicable to such vehicles to have affixed on them the prescribed national safety mark before such vehicles may be sold in Canada or exported from Canada, or transported between provinces.

The bill provides that a manufacturer or distributor of motor vehicles will not apply to a motor vehicle the safety standard mark, nor sell a motor vehicle to which the safety standard mark has been applied, unless that motor vehicle does comply with the safety standards.

Under the National Trademark and True Labelling Act the expression "Canada Standard" is a national trademark, and the exclusive property in and the right to the use of that trademark is vested in the Crown in right of Canada.

The expression "safety standards" is defined in the bill in order to provide for the control of motor vehicle design, construction, and functioning not only from the standpoint of protection against injury and death, but also against "impairment of health" by providing for the control of motor vehicle exhaust. The said definition of "safety standards" would also permit regulations to be made limiting the noise emission from new motor vehicles with a view to the protection of persons against "impairment of health".

With respect to the importation into Canada of motor vehicles, the bill would provide for the making of regulations prescribing the safety standards to which such vehicles must comply as a condition of their importation into Canada, unless the motor vehicle being imported is to be used for exhibition or demonstration, or by a tourist.

**Senator Fournier (Madawaska-Restigouche):**  
Or by a tourist?

**Mr. Fortier:** Yes, by a tourist or by a person passing through Canada.

**Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel:** It would be a person from the States, probably.

**Senator Fournier (Madawaska-Restigouche):** Yes, I understand.

**Mr. Fortier:** The bill would also provide for the manufacturer and the distributor of new motor vehicles, or the importer of motor vehicles, for which safety standards are prescribed under the bill, to give notice of defects in a motor vehicle of which he is aware that affect its safe operation to the original purchaser and to subsequent purchasers under the warranty and to the Minister of Transport. The notice would state what is the defect, the safety risk involved, and the means to be taken to correct it. Upon receipt of the notice the Minister of Transport would provide for particulars to the provincial authorities.

The bill would also provide for the designation of inspectors by the Minister of Transport with power to search the premises of a manufacturer, distributor, importer, or consignee of imported motor vehicles, and with power to seize any motor vehicle in relation to which a violation of the act or regulations is believed to have been committed. The bill would also provide for the forfeiture, upon conviction, of a motor vehicle in relation to which an offence under the bill has been committed.

The bill provides for an annual report on the administration and enforcement of the act to be made to Parliament.

The bill also provides penalties for the following violations: For not giving notice of defects; for the illegal use of the national safety marks; for obstructing inspectors in the performance of their duties; for refusing assistance to inspectors; and for exporting or transporting between provinces new motor vehicles not having the national safety mark, or for selling a motor vehicle not having the national safety mark, or for applying the national safety mark when the vehicle does not comply with the prescribed safety standards. Penalties are also provided for the importation of motor vehicles which do not comply with the prescribed safety standards.

**Senator Hollett:** Will these regulations apply to the car that I have at the present time?

**Mr. Fortier:** It only applies to new vehicles or any motor vehicle which is imported, whatever the date of manufacture.

**Senator Hollett:** Practically all of them are imported.

**Mr. Fortier:** All imported motor vehicles and new motor vehicles manufactured in Canada.

**Senator Fournier (Madawaska-Restigouche):** After 1970.

**Dr. Gordon Campbell, Director, Roads and Motor Vehicle Safety Branch, Department of Transport:** After the act is proclaimed.

**Senator Blois:** Are there regulations to protect a dealer who has cars in stock?

**Dr. Campbell:** This act defines motor vehicle as any motor vehicle manufactured after the act comes into force. Prior to the proclamation of the act vehicles are not subject to this legislation.

**Senator Blois:** The reason for asking is that some of the dealers have several hundred cars in their yards. As I understand your explanation they would be exempt until such date as they are sold.

**Dr. Campbell:** That is correct, sir.

**Senator Fournier (Madawaska-Restigouche):** The date that they are manufactured is really the date that we are talking about.

**Dr. Campbell:** Yes.

**Senator Robichaud:** Has this bill been discussed with provincial authorities?

**Dr. Campbell:** Yes, sir. Discussions with the provinces have extended over a period of at least two years, initially at the official level. In January, 1969, the Minister of Transport met with all ten provincial ministers responsible for motor vehicle administration. At that time agreement was reached on the responsibilities of the two levels of government. This was followed by a second meeting of the Minister of Transport with his provincial colleagues in Fredericton in September, at which time the basic principles of the bill were reviewed and agreed upon.

**Senator Robichaud:** The principle of the bill was agreed upon. What about the proposed regulations? The regulations are really what will affect the provinces more than the principle of the bill or the bill itself.

**Dr. Campbell:** It was agreed that the initial regulations under this act would be very similar, in intent at least, to those currently in force in the United States. Therefore the

provinces are in agreement with the principles of the initial regulations. In addition, arrangements have been made for consultation at the official level with representatives from all provincial departments on new regulations prior to enactment. This is to ensure that there is no conflict between regulations under this act and those under existing provincial acts.

**Senator Robichaud:** Have all provinces agreed to this?

**Dr. Campbell:** Yes, all provinces have agreed to this, sir.

**Senator Fournier (Madawaska-Restigouche):** Are we not hiding something? Are we voting for a blind bill? What are the regulations? What are the regulations in the United States and what are we asked to do? What effect will these regulations have on the cost of my new car? Has that been given any consideration?

**Mr. Fortier:** The regulations, senator, are now being drafted. They will comprise 29 items or aspects of safety.

**Dr. Campbell:** I would be pleased to review the subject matter of the individual regulations if the honourable senator wishes.

**Senator Fournier (Madawaska-Restigouche):** I am in favour of the bill, because it is time to do something. However, I am very critical of it in some respects, because I believe we are voting for a blind bill. I feel that this is of such importance to the general public that recommendations should be more definitive as to what we are going to do. Some of these recommendations, I know, will cost a lot of money when they are totalled. We may discover that we are adding \$400 or \$500 to the price of our cars. The car manufacturers have their mouths open waiting for these developments, so we have to be on our guard. When I look over your recommendations, knowing very little about it, I cannot see exactly what you are going and getting at. I would be very happy if Dr. Campbell would go over some of the regulations and give us more information.

**Mr. Fortier:** Senator, may I point out that it would be impossible to include all the regulations in the bill. They are very voluminous; secondly, they will be the first regulations to be made under this new act, which is new legislation. As you know, regulations have to be revised from time to time. If they were

included as part of the bill we would have to come to Parliament even for a minor amendment of a regulation.

**Senator Fournier (Madawaska-Restigouche):** I understand that up to a point, but it is not clear yet. You have the regulations there and I have a copy, which was reproduced in the House of Commons *Debates* of January 29, 1970.

101: Control Location and Identification—Passenger Cars.

115: Vehicle Identification Number—Passenger Cars.

Are they not the same thing? Let us take one of these and analyse it.

**Dr. Campbell:** First may I answer your question on the cost of these items. The companies manufacturing and marketing motor vehicles in Canada have attempted voluntarily to comply with these regulations during the past two years, at the request of the Government. Therefore most of the features which will be included in the initial regulations have already been tested.

**Senator Fournier (Madawaska-Restigouche):** What regulations?

**Dr. Campbell:** They are not published yet.

**Senator Hollett:** You have a copy of the regulations in the United States.

**Dr. Campbell:** Yes sir.

**Senator Fournier (Madawaska-Restigouche):** Are we considering having the identification and serial number in one place? Some are in the trunks, some interposed between the seats, some in the hoods and some in the cowlings. Is that what we are after?

**Dr. Campbell:** This is correct with respect to number 115. It must have a unique serial number located in a place where it may be easily seen and identified. The reason is that the serial number is essential in locating vehicles which may contain safety defects in order that the manufacturer can notify the owner that there is a possible unsafe condition in the vehicle. Secondly, it is essential to have this serial number where it may be seen, so as to reduce the incidence of car theft. A very high percentage of stolen cars are involved in accidents.

Item 101 relates to the location of the instruments and controls in the vehicle. They must all be within reach of the driver when

sitting in a normal position with his seat belt fastened. On earlier model cars it was necessary to move in the seat to reach the key, for example, or it was necessary to move in order to see some of the instruments. We are attempting to cluster these so that they are easily visible and accessible to the driver. This will enable him to concentrate on the driving task rather than waste his efforts in attempting to reach some particular control.

**Senator Robichaud:** Items 101 and 115 are altogether different.

**Dr. Campbell:** They are different, yes.

**Senator Robichaud:** They are for different purposes. Different objectives?

**Dr. Campbell:** Yes, sir.

**Senator Fournier (Madawaska-Restigouche):** I have to disagree there. I believe they should be together, because we are talking about the same thing. Let us look at 103 and 104, which concern the windshield problem and defrosting and defogging, although I do not understand exactly what is meant by "defogging"; 104 deals with the wiping and washing systems and so on. What are we going to do there?

**Dr. Campbell:** These could have been included in one regulation. They were separated for convenience, I think, and because of the size of the regulations. This is a means of dividing them up. Windshield defrosting and defogging relates to the heating system in the vehicle, while the windshield wiping is external.

**Senator Fournier (Madawaska-Restigouche):** Number 105 deals with the service and emergency brakes, 106 with the hydraulic brake hoses, and 116 with the motor vehicle hydraulic brake fluids. There are three items relating to the brakes in three different standards.

**Dr. Campbell:** This permits flexibility. These all concern braking, and I am sure that many more regulations relating to vehicle braking will be included, perhaps with different numbers. For example, the quality of the brake linings themselves should be standardized. Number 105 relates to the design of the braking system, and primarily the fact that two independent braking systems are required on the automobile, one with its own master cylinder connected to the front wheels and a separate one with its separate master

cylinder connected to the rear wheels, so that if a failure occurs in the brake hose or the brake linings there is a reserve and braking on at least two wheels in an emergency. It will take longer to stop, but at least the driver will be able to stop the vehicle.

**Senator Fournier (Madawaska-Restigouche):** That is what we have had for a long time, only two brakes.

**Dr. Campbell:** For the past two years. It has been optional equipment available for perhaps six or seven years by some companies.

No. 106 relates to the hydraulic brake hose, and this is a strength test on material used in the hose to ensure that it will not rupture under normal service conditions, that it is durable and resistant to deterioration due to the environment.

No. 116 relates to the fluid used in the hydraulic braking systems. This contains viscosity specifications, the fluidity of the material, and in addition there is a provision that it will not vaporize in the system under pressure.

**Senator Fournier (Madawaska-Restigouche):** Do not we have that now? I think they are just trying to build up a balloon here with many of these things. Nos. 109 and 110 relate to tires and rims. Tires and rims are part of the wheel. I would say they go together, that you are talking about the same thing. I do not want to go through them all, but I merely express my feeling. In 208, 209 and 210 we are dealing with seat belts, assembly, installation and anchorage. I think they should be grouped together.

**Dr. Campbell:** The reason for separating tires and rims is that 109 is a tire specification and governs the manufacture of tires. It is of concern to the tire industry. No. 110, however, is a standard relating to the matching of tires and rim sizes and is directed more to the motor vehicle manufacturer.

**Senator Fournier (Madawaska-Restigouche):** What about 208, 209 and 210, the seat belt installation, assembly and anchorage?

**Dr. Campbell:** One of the specifications relates to the quality of the seat belt itself and is directed to the seat belt manufacturer, who may not necessarily be the manufacturer of the motor vehicle in which it is ultimately installed. The other two are related to the way in which the motor vehicle is designed to accommodate the seat belts.



**Senator Hollett:** Are you speaking of the American regulations now?

**Dr. Campbell:** Yes.

**Senator Hollett:** Is that what Senator Fournier is asking about?

**Senator Fournier (Madawaska-Restigouche):** No, the recommendations that will come forward after the bill is passed.

**Senator Hollett:** From whom?

**Mr. Fortier:** Once the regulations have been drafted, before they are submitted to the Governor in Council they will be published in the *Canada Gazette* in draft form, and the industry will have an opportunity to make representations.

**Senator Hollett:** Will they apply to cars imported prior to the passing of the bill?

**Dr. Campbell:** No, sir. Any vehicle manufactured prior to the passing of the bill will not come under this legislation.

**Senator Fournier (Madawaska-Restigouche):** I think it must be accepted that any recommendations that increase the price of the car will be welcomed by the manufacturers. That is unquestionable. However, if the manufacturers have to put them in at their own expense they will not take to it so easily. That is my experience.

**Mr. Fortier:** The bill does not contain any provision that the cost of complying with the regulations has either to be borne by the manufacturer or passed on to the public. The bill merely prescribes the standards that must be complied with. There is no provision in the bill dealing with who will eventually bear the cost.

**Senator Fournier (Madawaska-Restigouche):** I know who will bear the cost, and you know it too. We all know it.

**Senator Robichaud:** I understood the witness to say earlier that most of the requirements that will be included in the regulations attached to this bill have already been implemented by the manufacturers, but this bill will make them compulsory. Am I right or wrong?

**Mr. Fortier:** That is right. Once the bill receives Royal Assent and comes into force the regulations will be made, and they will be binding on manufacturers, distributors and importers.

**The Acting Chairman:** They actually come into force on proclamation, not on Royal Assent.

**Mr. Fortier:** On proclamation.

**The Acting Chairman:** There is Royal Assent, then the Governor in Council proclaims it and at that point the bill is in effect.

**Mr. Fortier:** That is right.

**Senator Fournier (Madawaska-Restigouche):** I am not by any means being critical, but I believe that behind this whole bill lies the question of safety. There are so many car accidents that it is becoming almost a crime. I am wondering what all these regulations will do to improve safety for the general public. I agree that it may help in some cases, but it does not seem to me that if we are really safety-minded and concerned we are not walking in the right direction, because this bill will have very little effect as far as reducing the number of accidents. I will not elaborate because I could take all morning to do that.

**Dr. Campbell:** This bill is only a part of the program of the office for which I have responsibility. In addition to the legislation on motor vehicle safety standards, we have been assigned responsibility for research and development related to all aspects of traffic safety—the driver, the road and the vehicle. We have estimated that, at most, the condition of the vehicle may be responsible for about 10 per cent of the accidents.

**Senator Fournier (Madawaska-Restigouche):** You say 10 per cent?

**Dr. Campbell:** Something of this order. It may be a contributing factor in up to 10 per cent of the accidents. The condition of the vehicle is significant. The first group, which is numbered in the 100 series, is related to crash survivability and this legislation should make a significant effect in this area.

**Senator Fournier (Madawaska-Restigouche):** What are you doing in the 100 series?

**Dr. Campbell:** The 100 series covers standards generally related to design to prevent collision in the first place. The 200 series is designed to help the occupant survive a crash if he becomes involved in a collision, and the ones which are numbered 300 will be standards related to conditions following the accident, such as a fire. He may survive the accident, but is killed in a fire following it. These

standards in the 200 series on crash survivability may reduce fatalities and serious injuries by as much as 50 per cent over previous model years that did not incorporate these features. We believe this percentage can be further reduced so that your odds of becoming injured or killed in an accident can be reduced to a very low level by packaging the occupant of the vehicle so that he will survive. I agree with you, sir, that other measures, such as improved driver training and road design, are necessary if we are to reduce substantially the number of collisions which still occur.

**Senator Fournier (Madawaska-Restigouche):** I do not disagree on these points and I think everybody means well. I am only interested in safe cars and the safety of their drivers and occupants. It is interesting to note that in New Brunswick regulations were passed within the last two years to force compulsory inspection of old cars, because everybody was blaming all accidents on the old cars. I agree with the new regulations which were passed. At one time it was compulsory to inspect old cars and then for a number of years it was not. Then once again it became compulsory for every old car to get an inspection. Nevertheless, we have had an increase in the number of accidents, and this has not merely been the result of too many old cars on the road. I agree with your figure that 10 per cent of accidents are caused by mechanical defects, but this means that 90 per cent of all accidents are caused by other reasons.

The ruling in New Brunswick was not really a serious matter, but it did remove a lot of old junk from the highways. When you do that you involve another problem which perhaps has nothing to do with this bill. You must remember that there are people living outside cities who have no means of transportation because of poor bus service or none at all. They find it necessary to move into the city, and they drive old cars because they cannot afford new ones. This causes a lot of hardship on a certain class of people. If the old car is taken off the highway there is no means of transportation. Whatever we do we always run into a snag.

I would like to see, as soon as possible, a decision made in these regulations as to the safety factor of automobile bumpers. Stronger bumpers on cars would save lives. The present bumpers are just chrome-plated ornaments. You have to be careful that you do not

kick them too hard, otherwise you make a dent in them. Another point is that we are getting desperate about the cost of car insurance. I am sure that the cars are designed today to cause a lot of damage, because you do not have to hit them very hard. The way the bumper is fastened in such a frail way there is no protection for the grill, which is very expensive. The way the radiator is mounted on the fenders, if you dent one of the fenders you move it back and twist the radiator. This results in a chain reaction. Even the smallest impact on the front bumper will cause \$400 or \$500 damage. All of this is because our cars are not built with safety in mind, but rather to serve the parts suppliers and the whole chain of manufacturers.

We can talk about car insurance and what we are going to do about it, but the first thing we should look for is to have a bumper such as we had 20 years ago when I used to work in a garage. When a car hit a telephone pole usually the only damage to the bumper was a dent. The bumper was set about 12 inches in front of the grill and fenders. I admit it did not look too good. Surely we should have a standard that insists there should be a certain distance between the car and the bumper of at least five or six inches. This would prevent a lot of damage. The bumper also should meet a certain standard of strength and quality. If my car collides with your car the chances are 99 to one that my bumper does not match yours. Why not standardize the height of bumpers across Canada.

I think that we have to sacrifice looks for safety and cost. If we do not do that then we will be paying a very high price. We would save a lot of money by lower insurance premiums. If you analyze motor vehicle accidents you can very quickly come to the conclusion that strong bumpers would save a great deal of money, and cut down the cost of insurance. This would be very beneficial, yet we do not seem to pay much attention to it.

**Senator Hollett:** Mr. Chairman, I wonder if I may interject a question. Dr. Campbell, can you give us some idea of the possible increase in cost of an ordinary motor car if these regulations go into effect?

**Senator Fournier (Madawaska-Restigouche):** I asked that question a few minutes ago, but I did not get an answer.

**Dr. Campbell:** As I pointed out earlier, most of the cars sold in Canada, and manufactured in Canada, incorporate the features that will

be included in these standards. It has been estimated that these standards increased the cost of motor vehicles by about \$500. Most of this equipment had been available as optional equipment prior to any regulation or agreement within the industry to include it on all vehicles. At that time I would judge that it would have cost perhaps \$200 to have all these features on the car, but by standardizing them on all vehicles the price has been brought down substantially.

**Senator Fournier (Madawaska-Restigouche):** Everybody is getting emotional about pollution. It is said that if we do not do anything about pollution we are going to die next year, and cars are being blamed for much of the pollution, and so on. We are trying to produce a device that will cost about \$100 per car to reduce the emission of carbon monoxide and especially of lead, but again, in my view, we are not looking the right direction. We have to use gasoline today that has a high lead content because the compression of the engines is so high. If engines with a compression ratio of 1 to 7 or 1 to 8 are built then standard gasoline can be used, and standard gasoline does not contain lead. If I have a car with an engine that develops 360 horsepower then I have at least 100 horsepower that I do not need because I cannot drive at over 60 or 70 miles an hour. Why should I have to have this extra horsepower and have to use leaded gasoline. Why not get after the manufacturers and have them cut down on the compression. Some manufacturers are doing it right now, and they advertise that regular gasoline can be used in their cars, but I see nothing here that leads to that.

**Dr. Campbell:** The initial regulations which we contemplate under this bill will relate to emissions of carbon monoxide and unburned hydro carbons, which is unburned gasoline. Following that, within a few years' time, we may include a third element, namely, the oxides of nitrogen. It has been estimated that these three compounds cause over half of the pollution by those substances in the air of our cities at the present time.

**Senator Fournier (Madawaska-Restigouche):** Did you say they cause over a half of the present pollution?

**Dr. Campbell:** In excess of one half of that type of pollution comes from the automobile. Engine modifications have been made in all domestically manufactured vehicles, and many of the imported vehicles manufactured

in Europe and Japan, which have reduced carbon monoxide and unburned hydro carbon emissions by 50 or 60 percent without any added devices. This is done by modifying the carburetion and the timing in the engine. So, we have achieved substantial reductions in the contribution to air pollution made by the motor vehicle by just design modifications, and this has not cost anything.

**Senator Fournier (Madawaska-Restigouche):** Is this available in Canada now?

**Dr. Campbell:** It is available in Canada, and it will be made compulsory under the regulations. All vehicles will be compelled to comply.

**Senator Fournier (Madawaska-Restigouche):** Will that be in the 300 series?

**Dr. Campbell:** This will be a separate series, but I do not know what number we will assign to it. In the United States, and particularly in California, they are now talking about very low limits on the emission of oxides of nitrogen and also of particular matter. These regulations are proposed for 1974. They will be very difficult to meet in the internal combustion engine, and if they are able to meet them in the internal combustion engine there is a good chance of a substantial increase in price.

At that time the Government may wish to consider whether it is worth it in Canada to add standards with respect to these two particular emissions at that cost, but I would seriously doubt that the standards which we contemplate in the next two to four years will add anything to the cost of the vehicles.

**Senator Sparrow:** Mr. Chairman, clause 4(1)(a) of the bill provides that the Governor in Council may prescribe the classes of motor vehicles to which the National Safety Marks may be applied, and this brings up a number of questions in my mind. Clause 2(1)(f) is the definition of "motor vehicle" and it includes the words "but does not include any vehicle designed for running upon rails". I am thinking about a vehicle that is designed to run on rails as well as on roads. I am wondering whether there should not be inserted something about vehicles designed exclusively for running on rails. What about a vehicle that is designed for running on both roads and rails?

**The Acting Chairman:** Is it used on the railways?

**Senator Sparrow:** Yes, and it is used on the highways as well. Would such a vehicle be precluded from the provisions of this bill?

**Dr. Campbell:** I have discussed this with our legal advisers in the Department of Justice, and it is their view that that particular vehicle about which you are talking would be included under this definition.

**Senator Sparrow:** Can you tell me on what basis they decided that?

**Dr. Campbell:** They said that because it was designed for running on roads, notwithstanding the fact that it was designed to run upon rails as well.

**Senator Sparrow:** I am thinking of the reverse situation. I am thinking of a machine that is designed to run on rails, but which is also able to run on roads. There are some such vehicles designed for getting into the north.

**Mr. Fortier:** If a vehicle is designed in such a manner that it can operate on both rails and highways then it would be subject to the safety regulations.

**Dr. Campbell:** This was the interpretation we received from the Department of Justice. It is possible that it may have to be tested in the courts.

**Senator Sparrow:** I am wondering if a word added to this definition now would preclude the necessity of its being tested in the courts, Mr. Chairman. You are better qualified than I to give an opinion on that.

**The Acting Chairman:** This paragraph defines a motor vehicle. As Dr. Campbell said, if it is adapted to run on rails, and it runs also on highways, then it comes under this definition.

**Senator Sparrow:** What about air cushion vehicles. Is an air cushion vehicle a vehicle that can be driven on roads?

**Mr. Fortier:** Yes, senator; an air cushion vehicle would.

**Dr. Campbell:** It is our opinion that air cushion vehicles could be classified under this act. However, at the present time I seriously doubt that the provinces would permit them to use the road system, because they side-slip due to inadequate control.

**Senator Sparrow:** The problem is that they may prohibit them, but they would not prohibit them crossing roads. Snowmobiles are allowed to cross roads. A farm tractor is a vehicle, but road is not defined in the act. Does this bill give the power to make safety regulations for tractors, which in theory are not designed to travel on a road but in fact do so for some distance. In particular, tractors cross roads and at the point they cross they are driven on the road.

**Dr. Campbell:** This definition includes any vehicle designed to travel on roads. It could include farm tractors, snowmobiles, air cushion vehicles, trail bikes, and so forth, which can operate on roads. We could classify them under this act and establish standards. Indeed, the Minister of Transport has indicated that consideration is being given at the present time to classifying snowmobiles under the act and establishing standards in the very near future.

**Senator Sparrow:** Will this include tractors?

**Dr. Campbell:** This is a possibility. Standards could be drafted to cover certain features of tractors at the present time such as installing slow moving vehicle emblems and side markings to point out crossings on roads.

**Senator Sparrow:** What is a definition of a road?

**Senator Fournier (Madawaska-Restigouche):** Do you mean a good road or a bad road?

**Senator Sparrow:** A street is defined as a road.

**Dr. Campbell:** Road is the generic term and would include a highway, street or freeway.

**Senator Sparrow:** Is road defined anywhere? Street is defined under provincial acts. A highway is a street under provincial acts.

**Dr. Campbell:** Road is defined in British common law. It is a general term and would include any right of way for the passage of citizens.

**Senator Fournier (Madawaska-Restigouche):** I see that the fines are very heavy, going up to \$200,000, which we do not see very often. Who is going to pay the fines? Supposing I am a car dealer and I buy 100 cars from General Motors and they are not up to standard. Will General Motors be fined or will I?

**Dr. Campbell:** The act applies only to manufacturers, distributors and importers, so it would be the manufacturer, not the dealer.

**Senator Hollett:** The employee or agent, too.

**Dr. Campbell:** Of a manufacturer.

**Senator Fournier (Madawaska-Restigouche):** Why is the amount so high, \$200,000? We do not see that very often.

**Dr. Campbell:** These are very large corporations that...

**Senator Fournier (Madawaska-Restigouche):** Two hundred dollars means nothing.

**Mr. Fortier:** It is a maximum fine, senator.

**Senator Fournier (Madawaska-Restigouche):** I know it is the maximum, but it is still \$200,000.

**Mr. Fortier:** Each offence is aimed either at the manufacturer, importer or distributor. On the other hand, there are some offences for obstructing inspectors. That is the fine under section 17, which is a much less maximum of \$5,000 if committed by a corporation, if by an individual \$1,000. It depends also as to whether the prosecution is by way of summary conviction or by way of indictment.

**The Acting Chairman:** Dr. Campbell, where is this mark going to be applied on the vehicle? On the engine, body, dashboard, or where?

**Dr. Campbell:** In the case of the ordinary passenger car probably on the trailing edge of the door, so that it is visible to the purchaser and owner of the vehicle.

**Senator Fournier (Madawaska-Restigouche):** But you have two serial numbers, the engine and the body. Will they be incorporated on the same plate?

**Dr. Campbell:** No, the engine serial number will be on the engine. The body serial number will be located on the dashboard behind the windshield, so that it can be seen from the outside. The national safety mark and the certificate accompanying it will be on a plaque, probably attached to the trailing edge of the door.

**The Acting Chairman:** Who will apply the mark?

**Dr. Campbell:** It can only be applied by manufacturers, distributors or importers within Canada.

**The Acting Chairman:** After complying with your regulations?

**Dr. Campbell:** That is correct.

**Senator Hollett:** I move that the bill be reported.

**The Acting Chairman:** It is moved that I shall report the bill without amendment.

**Senator Fournier (Madawaska-Restigouche):** On division.

**Hon. Senators:** Agreed.

The committee adjourned.

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WEDNESDAY, JUNE 10, 1970

WITNESSES:

Department of Transport: Mr. Jacques Fortier, Q.C.; Legal Counsel: Shipping Federation of Canada: Mr. J. Brisset, Q.C.; Chamber of Shipping of British Columbia: Mr. J. J. Burke; Dominion Marine Association: Capt. F. R. Harwood; Federation of St. Lawrence River Pilots: Mr. Alain Lortie, Counsel; National Pilots Committee of the Canadian Merchant Service Guild: Mr. Reynold Longin.

REPORT OF THE COMMITTEE

Dr. Campbell: In the case of the ordinary passenger car parked on the trailing side of the road, at least it is the passenger and owner of the vehicle.

Senator Fournier: (Madawaska-Hastings) But you have two serial numbers, the engine and the body. Will they be kept on the same plate, and how?

Dr. Campbell: On the engine serial number will be on the engine. The body serial number will be located on the dashboard behind the windshield, so that it can be seen from the outside. The national safety mark and the certificate accompanying it will be on a plaque, probably attached to the trailing edge of the door.

The Acting Chairman: Why will apply the mark?

Dr. Campbell: It can only be applied by manufacturers, distributors or importers within Canada.

The Acting Chairman: After complying with your regulations?

Dr. Campbell: That is correct, yes.

Senator Hallett: I move that the bill be reported.

The Acting Chairman: It is moved that the bill report the bill without amendment.

Senator Fournier: (Madawaska-Hastings) On division.

His Excellency: (Madawaska-Hastings) The committee adjourned to Tuesday.

Canada, Ottawa, 1970

The Acting Chairman: (Madawaska-Hastings) It is moved that the bill report the bill without amendment.

Senator Fournier: (Madawaska-Hastings) On division.

His Excellency: (Madawaska-Hastings) The committee adjourned to Tuesday.

Canada, Ottawa, 1970

The Acting Chairman: (Madawaska-Hastings) It is moved that the bill report the bill without amendment.

Senator Fournier: (Madawaska-Hastings) On division.

His Excellency: (Madawaska-Hastings) The committee adjourned to Tuesday.

Dr. Campbell: The law applies only to manufacturers, distributors and importers. It would be the manufacturer, not the dealer. A dealer must have a dealer's license. Senator Hallett: The purpose of the bill is to have a law that will give the bill a...

Dr. Campbell: Of a manufacturer. Senator Fournier: (Madawaska-Hastings) Why is the amount so high, \$200,000? We do not see that very often.

Dr. Campbell: These are very large corporations that...

Senator Fournier: (Madawaska-Hastings) Two hundred dollars means nothing. Mr. Fournier: Is a maximum for a senator.

Senator Fournier: (Madawaska-Hastings) It is the maximum, but it is still \$200,000.

Mr. Fournier: Each offence is almost either at the manufacturer, importer or distributor. On the other hand, there are some offences for obstructing inspectors that is the fine under section 17, which is a much less maximum \$5,000 if committed by a corporation, it is \$1,000 if committed by an individual. It depends also as to whether the prosecution is by way of summary conviction or by way of indictment.

The Acting Chairman: Dr. Campbell: Where is this mark going to be applied on the vehicle? On the engine, body, dashboard or elsewhere?

Dr. Campbell: It will be applied to the engine, body, dashboard or elsewhere.

The Acting Chairman: (Madawaska-Hastings) It is moved that the bill report the bill without amendment.

Senator Fournier: (Madawaska-Hastings) On division.

His Excellency: (Madawaska-Hastings) The committee adjourned to Tuesday.

Canada, Ottawa, 1970

The Acting Chairman: (Madawaska-Hastings) It is moved that the bill report the bill without amendment.

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Canada, Ottawa, 1970

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Senator Fournier: (Madawaska-Hastings) On division.



Second Session—Twenty-eighth Parliament

1969-70

# THE SENATE OF CANADA

## PROCEEDINGS

OF THE

STANDING SENATE COMMITTEE

ON

# TRANSPORT AND COMMUNICATIONS

The Honourable J. CAMPBELL HAIG, *Chairman*

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No. 4

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*Complete Proceedings on Bill S-23,  
intituled*

*“An Act to postpone the expiration of certain provisions  
of An Act to amend the Canada Shipping Act”.*

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WEDNESDAY, JUNE 10, 1970

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### WITNESSES:

*Department of Transport: Mr. Jacques Fortier, Q.C., Legal Counsel; Shipping Federation of Canada: Mr. J. Brisset, Q.C.; Chamber of Shipping of British Columbia: Mr. J. J. Burke; Dominion Marine Association: Capt. P. R. Hurcomb; Federation of St. Lawrence River Pilots: Mr. Alain Lortie, Counsel; National Pilots Committee of the Canadian Merchant Service Guild: Mr. Reynald Langlois.*

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REPORT OF THE COMMITTEE



Second Session—Twenty-eighth Parliament  
1969-70

THE STANDING SENATE COMMITTEE  
ON  
TRANSPORT AND COMMUNICATIONS

The Honourable J. Campbell Haig, *Acting Chairman*

The Honourable Senators:

Aseltine	Hayden	Michaud
Blois	Hollett	Molson
Bourget	Isnor	Nichol
Burchill	Kinley	O'Leary
Connolly ( <i>Halifax</i>	Kinnear	Pearson
North)	Langlois	Petten
Denis	Macdonald ( <i>Cape</i>	Rattenbury
*Flynn	Breton)	Robichaud
Fournier ( <i>Madawaska-</i>	*Martin	Smith
<i>Restigouche</i> )	McElman	Sparrow
Haig	McGrand	Welch—28.

\*Ex officio member

(Quorum 7)

"An Act to postpone the expiration of certain provisions  
of an Act to amend the Canada Shipping Act."

WEDNESDAY, JUNE 10, 1970

WITNESSES:

Department of Transport: Mr. Jacques Fortier, O.C., Legal Counsel; Ship-  
ping Federation of Canada: Mr. J. Brisson, O.C.; Chamber of Shipping  
of British Columbia: Mr. J. J. Burke; Dominion Marine Association:  
Capt. P. R. Harcourt; Federation of St. Lawrence River Pilots: Mr.  
Aislin Fortier, Counsel; National Pilots Committee of the Canadian  
Merchant Service Guild: Mr. Reynald Langlois.

REPORT OF THE COMMITTEE



## ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate, Thursday, June 4, 1970:

"Pursuant to the Order of the Day, the Honourable Senator Petten moved, seconded by the Honourable Senator McGrand, that the Bill S-23, intituled: "An Act to postpone the expiration of certain provisions of An Act to amend the Canada Shipping Act", be read the second time.

After 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 Petten moved, seconded by the Honourable Senator McGrand, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

ROBERT FORTIER,  
*Clerk of the Senate.*

The following witnesses were heard:

Department of Transport:

Mr. Jacques Fortier, Q.C., Legal Counsel.

Shipping Federation of Canada:

Mr. J. Brisset, Q.C.

A telegram, and copies of letters related thereto, were tabled by the witness.

Chamber of Shipping of British Columbia:

Mr. J. J. Burke.

Demition Marine Association:

Capt. P. R. Hurcomb.

Federation of St. Lawrence River Pilots:

Mr. Alain Lortie, Counsel.

A memorandum prepared by the Department of Transport in reply to the "Consideration of the role of Government by Province", addressed to the Administrator of Maritime Services of the Department of Transport under date of May 13, 1970, was tabled by the witness.

National Pilots Committee of the Canadian Merchant Services Guild:

Mr. Reynald Langlois.

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate, Thursday, June 4,

1870:

"Pursuant to the Order of the Day, the Honourable Senator Patten moved, seconded by the Honourable Senator McGeach, that the Bill 2-23 intituled: 'An Act to amend the provisions of certain provisions of an Act to amend the Canada Shipping Act,' be read the second time.

After 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 Patten moved, seconded by the Honourable Senator McGeach, that the Bill be referred to the Standing Senate Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.

ROBERT FORTNER

Clerk of the Senate

## MINUTES OF PROCEEDINGS

WEDNESDAY, June 10, 1970.

(4)

Pursuant to adjournment and notice the Standing Senate Committee on Transport and Communications met this day at 11.00 a.m.

*Present:* The Honourable Senators Aseltine, Bourget, Flynn, Haig, Hollett, Kinnear, Langlois and McGrand. (8)

*In attendance:* E. Russell Hopkins, Law Clerk and Parliamentary Counsel, and Pierre Godbout, Assistant Law Clerk and Parliamentary Counsel, and Director of Committee.

On Motion of the Honourable Senator Langlois, the Honourable Senator Haig was elected Chairman.

Bill S-23, intituled: "An Act to postpone the expiration of certain provisions of An Act to amend the Canada Shipping Act", was considered.

*Resolved:* That 800 copies in English and 300 copies in French of these proceedings be printed.

The following witnesses were heard:

*Department of Transport:*

Mr. Jacques Fortier, Q.C., Legal Counsel.

*Shipping Federation of Canada:*

Mr. J. Brisset, Q.C.

*A telegram, and copies of letters related thereto, were tabled by the witness.*

*Chamber of Shipping of British Columbia:*

Mr. J. J. Burke.

*Dominion Marine Association:*

Capt. P. R. Hurcomb.

*Federation of St. Lawrence River Pilots:*

Mr. Alain Lortie, Counsel.

*A memorandum prepared by the above-named federation in reply to the "Consideration of the role of Government in Pilotage", addressed to the Administrator of Maritime Services of the Department of Transport under date of May 13, 1970, was tabled by the witness.*

*National Pilots Committee of the Canadian Merchant Service Guild:*

Mr. Reynald Langlois.

On Motion of the Honourable Senator Flynn it was RESOLVED to report the Bill with the following amendment:

Page 1: Strike out lines 9 to 12, both inclusive, and substitute therefor the following:

“(3) On the later of

(a) the 31st day of December, 1970,

or

(b) such day, not later than six months after the 31st day of December, 1970, as may be fixed by a proclamation of the Governor in Council issued after that date,

or such sooner day as this section is repealed, this section shall cease to have any force or effect.”

At 12.25 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Georges A. Coderre,  
Clerk of the Committee.

The following witnesses were heard:

Department of Transport:

Mr. Jacques Fortier, Q.C., Legal Counsel.

Shipping Federation of Canada:

Mr. J. Brisson, Q.C.

A telegram, and copies of letters related thereto, were tabled by the witness.

Chamber of Shipping of British Columbia:

Mr. J. J. Burke.

Dominion Marine Association:

Capt. P. R. Hurcomb.

Federation of St. Lawrence River Pilots:

Mr. Alain Lortie, Counsel.

A memorandum prepared by the above-named federation in reply to the “Consideration of the role of Government in Pilots”, addressed to the Administrator of Maritime Services of the Department of Transport under date of May 13, 1970, was tabled by the witness.

National Pilot Committee of the Canadian Merchant Service Guild:

Mr. Reynald Langlois.

REPORT OF THE COMMITTEE

WEDNESDAY, June 10th, 1970.

The Standing Senate Committee on Transport and Communications to which was referred the Bill S-23, intituled: "An Act to postpone the expiration of certain provisions of An Act to amend the Canada Shipping Act", has in obedience to the order of reference of June 4th, 1970, examined the said Bill and now reports the same with the following amendment:

Page 1: Strike out lines 9 to 12, both inclusive, and substitute therefor the following:

"(3) On the later of

(a) the 31st day of December, 1970,

or

(b) such day, not later than six months after the 31st day of December, 1970, as may be fixed by a proclamation of the Governor in Council issued before that date,

or such sooner day as this section is repealed, this section shall cease to have any force or effect."

Respectfully submitted.

J. CAMPBELL HAIG,  
Chairman.

REPORT OF THE COMMITTEE

Washington, June 10th, 1970.

The Standing Senate Committee on Transport and Communications to which was referred the Bill S-22, intituled: "An Act to postpone the expiration of certain provisions of the Canada Shipping Act", has in obedience to the order of reference of June 2nd, 1970, examined the said Bill and now reports the same with the following amendment:

Page 17 strike out lines 7 to 12, both inclusive, and substitute therefor the following:

"(2) On the later of  
(a) the 31st day of December, 1970,

or  
(b) when day is later than six months after the 31st day of December, 1970, any certificate issued by a proclamation of the Governor in Council issued before that date, or such sooner day as this section is repealed, this section shall cease to have any force or effect."

Respectfully submitted,

J. CAMPBELL HAIG,  
Chairman

## THE STANDING SENATE COMMITTEE ON TRANSPORT AND COMMUNICATIONS

### EVIDENCE

Ottawa, Wednesday, June 10, 1970

The Standing Senate Committee on Transport and Communications, to which was referred Bill S-23, to postpone the expiration of certain provisions of An Act to amend the Canada Shipping Act, met this day at 11 a.m. to give consideration to the bill.

**The Clerk of the Committee:** Honourable senators, there is a quorum present, and the first order of business is the election of a chairman.

**Senator Langlois:** I move that Senator Haig be elected the permanent chairman of this committee.

**Senator Flynn:** I am happy to second that motion.

**The Clerk of the Committee:** Is it agreed that Senator Haig be the chairman of this committee?

**Hon. Senators:** Agreed.

**Senator J. Campbell Haig (Chairman)** in the Chair.

**The Chairman:** Thank you very much, honourable senators.

We shall proceed now to our consideration of Bill S-23, an Act to postpone the expiration of certain provisions of an Act to amend the Canada Shipping Act. We have as witnesses today Mr. Jacques Fortier, Counsel, Department of Transport.

Mr. J. Brisset, Q.C., and Captain J. F. Aspin are representing the Shipping Federation of Canada; Mr. J. J. Burke is representing the Chamber of Shipping of British Columbia; Captain P. R. Hurcomb is representing the Dominion Marine Association; Mr. Alain Lortie, Counsel, is representing the Federation of St. Lawrence River Pilots; and Mr. Reynald Langlois is representing the National Pilots Committee of the Canadian Merchant Service Guild.

I shall now ask Mr. Fortier to open the proceedings.

**Mr. Jacques Fortier, Counsel, Department of Transport:** Mr. Chairman and honourable senators, the report of the Royal Commission on Pilotage was received two years ago, and that report raised a doubt, in view of the existing provisions of the Canada Shipping Act, as to the validity of the pilotage by-laws and the pilots' licences that had been made and issued under authority of the act. In order to validate these by-laws and licences pending legislative action to correct what was not considered to be sufficient in the act, Parliament in 1969 passed an act to amend the Canada Shipping Act, which states that all the by-laws, licences and orders made under the existing provisions of the act would be deemed to have the same force and effect as if they had been made by an Act of Parliament that authorized the making of such by-laws and orders, and the issuing of such licences.

That particular amendment that was made in 1969 expires at the end of June of this year, and the Department of Transport is not yet in a position to introduce corrective legislation. The discussions with the various pilots' organizations and associations of owners are continuing, and it is expected that later this year legislation will be ready to be introduced. The purpose of this bill is to continue in force what Parliament passed last year in order to validate what was done under the existing provisions of the act. Unless this is done the administration of the pilotage section of the act will not be possible until corrective legislation is enacted at a later date.

**The Chairman:** I call now upon the Shipping Federation of Canada.

**Mr. Jean Brisset, Counsel, Shipping Federation of Canada:** Mr. Chairman and honourable senators, I represent the Shipping Fed-

eration of Canada. I have no prepared statement, but I shall be very brief in my remarks.

I had the honour of appearing before this committee in March, 1969 when the other Bill S-23 was being considered. What I should like to do, if I may, is read a telegram that was addressed yesterday by the Shipping Federation of Canada to the Marine Administrator, when it learned that the hearings on this bill were taking place today. This telegram, as I have said, is addressed to the Marine Administrator, and it will show you the position taken by the Federation. It reads as follows:

The Shipping Federation of Canada proposes to appear tomorrow with the Canadian Chamber of Shipping and the Dominion Marine Association at the hearings on Bill S-23 before the Senate Committee on Transport and Communications not to oppose the Bill per se, but to seek a declaration of the Government's intended policy in matters of pilotage as our membership is very much in the dark in this respect. In our letter of Nov. 11, 1968, we informed your Department that our Federation was fully in accord with the recommendations of the Royal Commission on Pilotage as contained in the first volume released in July 1968, and would support legislation implementing them and reiterated such accord in a letter dated June 3, 1970 addressed to the Marine Administrator in response to a letter dated Feb. 3, 1970 from the Assistant Deputy Minister, Marine which seemed to imply that the Government had other plans albeit indefinite. It is essential that our membership representing practically all Ocean ships trading into Canadian pilotage waters be made aware of the nature of the pilotage organization which the Government is contemplating and be told when legislation is likely to be introduced especially since nearly two years have elapsed since the release of the first report of the Royal Commission and all interested parties including your Government have agreed that it was sufficiently comprehensive to enable the drafting of the legislation required to set up a proper administrative scheme.

If I may be permitted to do so, Mr. Chairman, I should like to table this telegram and the letters to which it refers. One of those

letters, I might say, was tabled at the hearing in 1969, but it will make things simpler if it is tabled again at this time.

**The Chairman:** Is that agreed to by the committee?

**Hon. Senators:** Agreed.

**Mr. Brisset:** There is one word of explanation I should like to give here. You will have observed that on February 3 a letter was received from the Marine Administrator seeking the views of the industry with respect to some new plans for the reorganization of pilotage. In this letter, as you will see from the record that will be filed, it seemed to be intimated that the Government was no longer willing to enact legislation in accordance with the recommendations of the commission. I must say that my reason for the delay in replying to this letter is that it came at a most inappropriate time, during the height of the negotiations which were taking place between the industry and the pilots at the time on matters of tariff. There had been a stoppage of work in the St. Lawrence River a few weeks earlier and the subsequent negotiations were, I must say, long and arduous. We realized that we were back in the same difficulties that existed in 1962 when the Royal Commission was appointed. The industry was asked to negotiate tariffs with pilots, something which it had opposed back in 1962 and something which had given rise to the strike and other difficulties which occurred at that time. These negotiations terminated towards the end of May and then the letter was sent to the marine administrator by the federation, again restressing that the federation was in accord with the recommendations of the pilotage commission.

We are at a disadvantage to comment on the present bill with respect to the delay sought by the Government. In this sense we realize, of course, since there is no legislation introduced at the moment and Parliament will likely adjourn in two weeks, that the date of June 30 is very close to us. Whether there should be a further delay until June 30 of 1971 is a matter on which we cannot really pass judgment. I think it would be of interest, both to this committee and of course to the industry, to know what the government is intending to do.

I should point out to the committee that back in 1969 in the house, on a question from



the Leader of the Opposition, the then Minister of Transport said:

The government has not yet made a decision on whether to implement Recommendation 39 of the Report of the Royal Commission on Pilotage.

It is anticipated that revised legislation to replace the present provisions of Part VI of the Canada Shipping Act will be introduced late in 1969 or early in 1970.

I also recall in July 1968 when the first volume of the commission report was released and the Prime Minister himself issued this statement saying that immediate steps would be taken to implement those recommendations. Nearly two years have elapsed since then and we still—I speak of the industry—do not know what the Government intends to do. This concludes my remarks. Mr. Chairman, if there are any questions I would be pleased to answer them.

**The Chairman:** We usually proceed with the briefs and then ask questions.

**Senator Smith:** On a point of order, I think our practice is when a witness has made a statement involving controversy with the opinions of the Government, someone from the Public Service or the Government should make comments and, of course, both of these witnesses should then be questioned on what they have said. I think the record would be much more orderly if there were questions at this time to ask this particular witness so that they can be answered right now. I am not insisting on this, but I make it as a suggestion.

**The Chairman:** I bow to your superior judgment.

**Senator Flynn:** Mr. Chairman, I remember when Mr. Brisset appeared before this committee two years ago, and we enacted this provision to delay until June 30 and the problem of the legality of certain orders in council. We were given assurance by the department that legislation would be coming before this date of June 30. The answer should probably come from the officials of the department in this respect.

Mr. Brisset, do you see any other solution since no legislation is ready and as you have noted we have only three weeks left? Is there anything else that can be done at this time and, if any, what is the special prejudice, not general prejudice, resulting from this?

**Mr. Brisset:** The special prejudice, as we have realized this year, is the state of flux, not knowing what is going to be the policy of the Government. This makes the negotiations extremely difficult. They were difficult this year, as I explained earlier and there was even a stoppage of work for a few days. I assume this will come up again next year.

**Senator Flynn:** When next year?

**Mr. Brisset:** They usually take place before the opening of the season of navigation.

**Senator Langlois:** Early in the year?

**Mr. Brisset:** Yes, in January or February.

**Senator Flynn:** It appears impossible to get a statement from the department as to what its intentions are at this time since it is a question of policy. However, what do you suggest? Do you suggest we should have the date of December 31 instead of June 30?

**Mr. Brisset:** I am in the hands of the committee in this respect. If it could help in hurrying things up I would certainly respectfully suggest to you a date of December 31.

**Senator Robichaud:** I have a supplementary, Mr. Chairman. I understand Mr. Brisset, your concern is not with this particular bill, but it is with the amendments of the Canada Shipping Act in general as it refers to the pilotage.

**Mr. Brisset:** We are most anxious to know what the future holds for us in this regard, since two years have already gone by.

**Senator Robichaud:** I fully understand you are anxious, but I think you will agree that answers which you are speaking about today are really Government policy.

**Senator Flynn:** What we could probably do, after we have heard the witnesses is to call back Mr. Fortier and ask him whether it would be possible to bring some legislation before December 31, 1970.

**Senator Langlois:** Mr. Brisset, you tabled some documents a while ago in which there was a reference apparently to a new proposal made by the Government to the Shipping Federation. Is this new proposal also tabled with your letters?

**Mr. Brisset:** Yes, it is included with the documents I have attached to the telegram which I read before this committee.

**Senator Langlois:** Am I correct, after hearing your statement this morning, that you are opposed to this new proposal?

**Mr. Brisset:** Yes.

**Senator Langlois:** Am I also correct in interpreting your statement this morning as being in favour of this bill, but that it is too long a delay and it should be shortened to some four or five months hence?

**Mr. Brisset:** To say I am in favour of the bill is perhaps not putting it correctly. I realize that there are no other alternatives, whether we like it or not, and when granting additional delay it is the question of how long. If there are ways of accelerating the legislative process in the Government to introduce legislation earlier than another year from now, we would welcome this opportunity.

**Senator Langlois:** I was not inquiring as to your dislike of the bill and whether or not you approve of it. I was interested in whether you felt the bill was necessary, probably not in its present form but in some form.

**Mr. Brisset:** I agree.

**Senator Robichaud:** Possibly, Mr. Chairman, this would be the right time to have comments from the representatives of the department.

**Senator Flynn:** I was wondering if the other people who are represented here have the same views. Before we call on Mr. Fortier, possibly it would be better to hear the other views.

**Senator Langlois:** In order to avoid repetition.

**Senator Flynn:** It would give Mr. Fortier a chance of rebuttal.

**The Chairman:** I am pleased to introduce the Chamber of Shipping of British Columbia, represented by Mr. J. J. Burke.

**Mr. J. J. Burke, Chamber of Shipping of British Columbia:** Mr. Chairman and honourable senators, I represent the Canadian Chamber of Shipping. One of our constituent members, the Chamber of Shipping of British Columbia, has asked me to appear before the committee simply to endorse the views already so ably expressed by the Shipping Federation of Canada, by Mr. Brisset. I have nothing whatever to add to Mr. Brisset's comments.

**The Chairman:** Thank you very much, Mr. Burke. Are there any questions? I now introduce the Dominion Marine Association, represented by Captain P. R. Hurcomb.

**Captain P. R. Hurcomb, Dominion Marine Association:** Mr. Chairman and honourable senators, I am General Manager of Dominion Marine Association which represents the inland shipping—Canadian Registry ships trading in the Great Lakes and St. Lawrence River. I will try to be very brief.

I subscribe to everything Mr. Brisset has said, but I wish to add a special aspect which applies to our industry—perhaps alone. In the first volume of this Royal Commission report, which came out in 1968, the Prime Minister's Office issued a statement saying:

...A small task force under the direction of the Department of Transport will be set up to launch an early review of the report with a view to expediting implementation of the recommendations. The Government intends to proceed quickly with preparation of the appropriate legislation...The majority of the recommendations of the commission appear acceptable in broad terms.

Mr. Chairman and gentlemen, that was two years ago. Shortly after that the department asked all elements of the industry to subscribe to legislation which would cure the legal defects that Mr. Brisset mentioned. This meant some sacrifice, particularly to us, because one of the allegedly illegal aspects was a matter that comes very close to our business, and we might well have availed ourselves of this illegality to our financial advantage. Therefore, in agreeing to the restraints asked for by the department two years ago, we made it conditional upon the new legislation, that is the substantive legislation, being introduced by March 31, 1969 at the latest. This was not accepted by the department, apparently, because last year they introduced the earlier bill S-23. That bill set a deadline of December 31, 1969, or such date not later than 12 months after December 31, 1969, as may be fixed by proclamation. We protested that extended period, but it went through, as you know. Therefore, the date then became December 31, 1969.

We expressed the fear that this would simply result in the department delaying, shelving its efforts and taking the "urgent tag" off its efforts to draft the new legislation. Unfortunately, that fear or apprehension,

which was expressed by me in this august body over a year ago, has proved to be well founded.

Some time early in 1970—I have not the exact date—the Department of Transport did obtain a proclamation which was published in the Canada Gazette extending the period to June 30, 1970—the date that is almost upon us. They now come to you, honourable senators, asking for another year on this matter. This, in our view, is utterly absurd. Apparently nothing has been done in the two years that have elapsed since the statement of principle. Nothing of any value has happened, and they are now asking for another year, and if they are able to obtain this delaying legislation then I suppose we will have another period during which they will relax and attend to other matters. In our view, this is just not good enough.

Honourable senators, this is not complicated legislation. We are dealing here with the administration of 500 pilots. It is an important function—that is true—but there is nothing very difficult or complex about it.

Finally, I wish to take exception—I am sure it is not the right thing to do, but I must do it—to the speech of the honourable senator who moved the second reading of Bill C-23. I know that his information came from the department, but that information seemed to imply that the need for another extension arises from some delay on the part of ourselves and the pilots in answering a new proposal that the department put up to us. This is about as far from the truth, Mr. Chairman and honourable senators, as one could get.

Up to February, 1970, when this new proposal was made, a year and a half had elapsed during which we heard virtually nothing about what they were or had been doing. In February the then assistant deputy minister put up as a kind of trial balloon what, as far as we knew, was his own personal view, and asked us what we thought of it. We have since told him what we thought of it, but that, I assure you, has nothing to do with the long delay.

I have talked too much, Mr. Chairman and honourable senators, but we do strongly protest this effort. We are determined to take every possible measure to press this thing on, and with great respect we ask this honourable body to recommend an amendment limiting the time, but limiting it finally to December

31, 1970. We think that this is very reasonable on our part, and all that they can reasonably expect or ask for.

**Senator Flynn:** Would the witness be more explicit as to the financial problems involved? Would you tell us the things of which you can take advantage if you are not to continue with the declaration that these orders in council respecting pilotage are valid until a certain date? Would you kindly be more explicit about that?

**Captain Hurcomb:** I will, sir. The masters of inland shipping which trades almost solely in the waters of the Great Lakes and the St. Lawrence River down to the Gulf are naturally fully aware of the local conditions. Therefore, the need for pilots—and this applies particularly from Quebec City down river—is not really an urgent need. We can do without them. We are satisfied of this. Yet, under the by-laws we are obliged to pay for a pilot even if we do not take one. The particular by-law to which I refer is one of those that Mr. Justice Bernier in his report indicated he thought was invalid. Indeed, gentlemen, if I had time to bore you with the legal aspects I rather suspect those of you who are lawyers on this committee would agree that it is invalid.

Therefore, were it not for this remedial legislation we could, commencing last season and this season, have said: "Sorry, but unless we take on a pilot we are not going to pay for one." Our hands are tied by this legislation, which was supposed to be of a temporary nature.

**Senator Flynn:** Are you suggesting that the coming legislation might change the situation as far as this is concerned; that you might be free not to use pilots, or, at least, not to pay pilotage dues in this area that you mentioned?

**Captain Hurcomb:** We hope and believe that this will be the case.

**Senator Flynn:** Is that a recommendation from the Royal Commission?

**Captain Hurcomb:** The royal commission recommended one method of achieving our objective. There are other methods than this one. Their suggestion was that the masters of our ships, and the mates, be given certificates which would enable their ships to be exempted from the requirement to take on pilots.

**Senator Flynn:** I was wondering whether the section which we adopted in the form of a bill was preventing you from legally seeking any remedy that you thought you had under the circumstances, and described in the report of the royal commission. I thought they were just saying that the orders in council were invalid, but that would not prejudice any private claim or...

**Captain Hurcomb:** I know exactly what you mean, sir, and it is an interesting point, but I think after examining the legislation fully we have found that it effectively tied our hands, and the saving provision you mention simply safeguarded claims that had been asserted.

**Senator Flynn:** That is right, claims that had been asserted before the coming into force of the act.

**Captain Hurcomb:** That is it exactly. In the Great Lakes, of course, we have statutory exemption from pilotage. In fact, we feel this should be carried through to the St. Lawrence. I hope that that answers your question.

**Senator Langlois:** And you have statutory payment of pilotage dues too.

**Captain Hurcomb:** In the Great Lakes?

**Senator Langlois:** Yes.

**Captain Hurcomb:** No, there are no pilotage dues in the Great Lakes for ships of United States registry or Canadian registry.

**Senator Flynn:** But you have no amendments to propose that would deal with your specific problem in the meantime?

**Captain Hurcomb:** It is a difficult situation. We agreed when Mr. Baldwin, the then Deputy Minister of Transport, came to us—I do not want to overstate it, but he did ask us to restrain ourselves in the interests of the whole system. We say that to open one aspect of what is virtually—if I may be forgiven the expression—a can of worms might be dangerous. If we allow one worm to escape then chaos will result. So, we agreed to the initial position on this legislation. It is just the length of time that we are objecting to.

**Senator Flynn:** I remember now what you told us the last time, but you said today that you consider you are not further obliged by your commitment to let matters stand for a while. To be logical, you should seek an amendment which would enable you to take whatever position you deem is equitable so

far as you are concerned, at least from the date of June 30 until legislation is introduced and passed.

**Captain Hurcomb:** You are perfectly right, sir, and indeed we have no moral obligation, obviously, but we have been led to believe by statements made by the minister in the house, such as Mr. Brisset read, that we were on the brink of seeing this new, substantive legislation in the next month or two from then. We have been led along this garden path, and we felt that to interject what would be in effect a private bill catering to our special demands and requirements would delay this thing.

**Senator Flynn:** But in practice you are willing to continue until December 31, 1970?

**Captain Hurcomb:** We see no other choice.

**Senator Flynn:** But is that your proposal, or did you indicate that you wanted to be free to invoke the irregularity of certain orders in council?

**Captain Hurcomb:** The season, sir, is one-third over. As you know, the inland shipping season is of about eight months' duration, and usually around December 1st the season is over. We have had to soldier along up to this point, and we would be willing to carry on for another three or four months in the interests of the general stability of the industry. This may sound sanctimonious and smug, but we mean it. However, we feel that enough is enough, and this delay is going too far.

**Senator Flynn:** Are you suggesting that the delay should not extend beyond December 31, 1970, for the special reasons you have indicated?

**Captain Hurcomb:** Exactly, sir.

**Senator Peitten:** Captain, as the mover of the motion for the second reading of the bill, I would like to ask you a question. In February, I understand, the department asked you or your association for your comments. When did you reply?

**Captain Hurcomb:** I personally had several conversations with Mr. Gordon Stead, who was then the assistant deputy minister, in which I expressed our views. We made our formal reply only a week or so ago. I am not sure of the exact date.

**Senator Robichaud:** The mail is quite slow these days.

**Captain Hurcomb:** We replied on June 3, last week. But, sir—and I do apologize for what I had to say...

**Senator Petten:** No apology is necessary.

**Captain Hurcomb:** ...but I know that the information you gave was supplied to you, and as Mr. Stead put it to us I was not sure whether it was just his idea or whether it had some sort of government blessing behind it, and naturally he could not tell us. It was just another little side issue that was brought up 18 months after the principles were enunciated.

**Senator Petten:** But if you had answered it more quickly and formally, would not your position now be stronger? You say that the department is dragging its heels. Perhaps they could say that they did so because they did not get the information from you.

**Captain Hurcomb:** It is a very interesting device that the department is using. I suppose one could say they have dragged their heels for 18 months, and we have dragged ours for a month or two.

**Senator Smith:** You have dragged them for four months. Let us keep the record accurate.

**Captain Hurcomb:** Mr. Chairman, we did have talks with Mr. Stead. We knew that he was consulting with others, and that these consultations were still in progress. Whether we made our reply as perhaps we should have done in March or April, I do not think is part of the essence of the problem.

**Senator Langlois:** Captain Hurcomb, Mr. Brisset has indicated this morning that the shipping federation was in favour of the recommendations of the royal commission. Am I to understand your hesitation of four months before replying to the new proposals put forward by the department is an indication that you do not share the opinion of the Shipping Federation of Canada?

**Captain Hurcomb:** In November, 1968, a couple of months after the royal commission's report came out, we expressed concurrence in the principles enunciated in the first volume.

**Senator Langlois:** Have you changed your mind since?

**Captain Hurcomb:** Our position is that we want exemption from pilotage, and what happens from there on is not really our concern. If we are successful in getting the kind of

exemptions we feel we should have in the circumstances, then the nature of the organization becomes not our affair. But, we would still subscribe to the general principles enunciated by the commission. Mr. Stead's proposals were a brand new idea. He said perhaps the Government should get out of the pilotage entirely. Please correct me if I am mistaken, but I did not think the pilotage commission went into this aspect.

**Senator Langlois:** The suggestion was made to the commission.

**Captain Hurcomb:** In the report. It is a brand new concept. We said, "Holy smoke, what is this? Either the Government or perhaps Mr. Stead is changing views and ignoring the report."

**Senator Langlois:** You have stated this morning that any future legislation would be very simple and you resolved it merely to a question of expenditure for your interests. Is that coupled with the question of safety in navigation and shipping?

**Captain Hurcomb:** Indeed, it is.

**Senator Langlois:** That is more important than money.

**Captain Hurcomb:** Yes, indeed it is. My point is that it is not so complicated that it ought to take two years to devise the legislation required to deal with it.

**Senator Langlois:** You do not want a hazardous case on the Great Lakes.

**Captain Hurcomb:** The Great Lakes safety record is known to be perhaps the best record in the world.

**Senator Langlois:** You are using pilots.

**Captain Hurcomb:** We are not using pilots.

**Senator Langlois:** On the St. Lawrence River you are.

**Captain Hurcomb:** I dislike to enter into a controversy, sir. I want to point out that during the period in which there were four or five disasters in the St. Lawrence a number of years ago, in every single case the ships had pilots aboard.

**Senator Langlois:** The pilots were not always aware of the condition and the ships' crews were.

**Captain Hurcomb:** I should not engage in a controversy with you.

**Senator Langlois:** I just want the facts.

**Senator Flynn:** The problem is that you are not obliged to take a pilot today, but you are obliged to pay for the pilot. As far as security is concerned, if you are not obliged to take a pilot, I suggest the problem is not exactly the same as you put it.

**Senator Langlois:** It is a question of safety.

**Captain Hurcomb:** In other words, Mr. Chairman, this is exactly it. The legislation recognized that we do not need pilots, but simply said we have to pay our tribute in the monetary form. This is really what the legislation means.

**The Chairman:** Are there any further questions?

**Captain Hurcomb:** Thank you.

**The Chairman:** Representing the Federation of St. Lawrence River Pilots, we have Mr. Alain Lortie, Counsel.

**Mr. Alain Lortie, Legal Adviser to the Federation of the St. Lawrence River Pilots:** Mr. Chairman, Honourable Senators, my name is Alain Lortie; I am a lawyer and I represent the Federation of the St. Lawrence River Pilots, which in turn represents 350 pilots from Les Escoumins to the Lakehead. I have here with me the President of the Federation, Mr. Paul Bailly, as well as a number of pilots from all the six associations affiliated to the Federation with members in every pilotage district along the St. Lawrence river and in the Great Lakes.

Without going into a lengthy history of the administration of pilotage services over the last ten years, I would nevertheless remind you that the Federation co-operated with the Royal Commission on Pilotage, submitting to it in 1963 a documented brief containing specific proposals for a new Pilotage Act. In July 1968, upon publication of Part 1 of the Commission's report—which, as you have heard many times this morning, revealed numerous illegalities in pilotage administration—the Federation agreed with the other interested parties on the need to maintain the *status quo* in pilotage pending passage of a new Act. In accordance with this position, the Federation supported the first Bill S-23. I am reminding you of these facts, because as far as the Federation is concerned, pilots did not appear before your Committee in 1969. It was also agreed that the Department would lose no time in studying the Commission's recommen-

dations, and would in addition consult the parties with a view to submitting new pilotage legislation to Parliament as speedily as circumstances would allow. It must be admitted that the Department of Transport did indeed appoint a committee, and that this Committee did meet with pilot's associations in the fall of 1968. The Federation submitted its comments in writing, first in preliminary form in November 1968, and then in their final form in April 1969. However, as my predecessors this morning have pointed out, it was not until early February 1970, or 18 months after publication of the report, that the Department first notified those concerned of its reactions to the Royal Commission's recommendations. By the Department's own admission—as shown clearly by the documents laid before you this morning—its new proposals do not seem to have been contemplated by the Royal Commission or, indeed, by any of the parties concerned. Nevertheless, the Federation went to the trouble of consulting each of its members, and it informed the Department of its reactions to the new proposals on May 13, that is, after about three months had elapsed. I should point out here that the tariff review negotiations involved the pilots as well as the Shipping Federation and the Dominion Marine Association.

In another area, I wish to state that there was no work stoppage by pilots during January 1970. Pilots from Quebec City to Montreal were merely taking part in their annual meeting, which has been held at that time for many years past, and in view of the situation and the serious doubts experienced by the pilots, it was not surprising that most of them saw fit to attend the meeting in order to learn what was going on.

**Senator Flynn:** A real study session.

**Mr. Lortie:** It was an annual general meeting.

**Senator Langlois:** Not a day of prayer!

**Mr. Lortie:** No, and I think the newspapers were wrong to mention prayer.

So if after 12 years, the preparation of a new Pilotage Act does not seem to have made any more progress, it is certainly not because the pilots have been holding up the work. You will agree with me that in the circumstances, the pilots have lost no time. We are anxious to dispel any contrary impression that may have been created in your minds.

Today we face a new set of circumstances in which, unfortunately, no one can change anything of significance. For legal reasons, it now seems impossible to extend beyond June 30, 1970 the provisions legalizing the *status quo*. We are also bound to agree that it will not be possible to pass a new Pilotage Act in the time remaining, and that in order to avoid complete chaos in the pilotage field, temporary legislation must again be enacted to guarantee the validity of a large number of regulations and orders in council essential to the proper conduct of pilotage services. For these reasons, Mr. Chairman and Honourable Senators, the Pilots' Federation can but support Bill S-23.

**Senator Flynn:** You have no objection to the December 31 date that has been suggested?

**Mr. Lortie:** The December 31 date seems appropriate to us, inasmuch as it will give the Government time to submit a new Act to Parliament for study. However, I would stress at this time that it is essential at all times to have a situation in which the legal positions are clear.

**Senator Flynn:** You are in agreement with everyone that the sooner the necessary legislation is introduced and passed and the situation normalized, the better it will be for all concerned?

**Mr. Lortie:** That is correct.

Furthermore, Mr. Chairman, and possibly at the risk of going outside study of the Bill, I would like to say that the pilots cannot help thinking aloud and wondering what is happening to this new Pilotage Act. The Royal Commission noted grave shortcomings in the Transport Department's administration of pilotage services under existing regulations. The Commission suggested specific remedies for the ills complained of not only by the pilots but also by the shipowners and agents.

Without accepting all the Commission's recommendations, the pilots do feel that they constitute a valid basis for discussion. Such other interested parties as the Shipping Federation and the Dominion Marine Association have made similar comments. More than 18 months after the appearance of Part 1 of the report, and at a time when the Department has made known its reactions to the report for the first time, they want to set aside the Commission's central recommendations. There are grounds for wondering whether the Department's statement of February 3, 1970

reflects the conclusions of its own Task Force. If so, why this almost total rejecting, not so say ignoring, of the Commission's recommendations? If not, what were the conclusions of the departmental Task Force, and what has become of it? The pilots are wondering what to make of this new situation. But can they be blamed at this point for wondering what the Department's intentions are, and what approach is being adopted in the preparation of the new legislation? Mr. Chairman, the pilots fear a recurrence of the same administrative shortcomings and the problems behind the deep unrest that led the Government to appoint the Royal Commission in 1962.

The situation we have described has its roots in the past. The current reorganisation of the Department under a new Minister and Deputy Minister (Marine) allows us to hope for a break with that inglorious past.

We accordingly hope very much that the official representatives of the Department of Transport can reply today to the questions that the pilots are asking aloud before you. We also hope that the Department will very soon answer the questions raised by the proposals of February 3, 1970 in the minds of the pilots. With your permission, Mr. Chairman and Honourable Senators, I should therefore like to present the Pilots' Federation's reply to the Department's statement. I have a copy of it here.

**Senator Flynn:** What is the date on it?

**Mr. Lortie:** It is dated April 1970; it was drawn up during April, the consultations took place then, but it was not forwarded to the Department until May 13. That completes my prepared statement, and I thank you on behalf of the pilots accompanying me for having allowed us to express our point of view. I shall naturally be glad to answer any questions anyone may have.

**Senator Langlois:** Mr. Lortie, I understand you have your full executive with you today?

**Mr. Lortie:** I think that is correct. I think only the Great Lakes pilots are missing, but all the districts are represented here.

**The Chairman:** You are the federation that sent the wire yesterday?

**Mr. Lortie:** Yes.

**The Chairman:** I have it translated as the Federation of the Pilots of St. Laurent. Is that St. Lawrence?

**Mr. Lortie:** St. Lawrence, yes.

**The Chairman:** The Translating Bureau must have been weak here then. You sent us a wire in French?

**Mr. Lortie:** Requesting the privilege of appearing before the committee.

**The Chairman:** Any questions?

Thank you very much, Mr. Lortie.

Next we will hear from Mr. Raynold Langlois of the National Pilots Committee of the Canadian Merchant Service Guild.

**Mr. Raynold Langlois, National Pilots Committee of the Canadian Merchant Service Guild:** Mr. Chairman, honourable senators, I represent the National Association of Canadian Marine Pilots, which is the new name for the association described earlier by yourself, sir. This association represents marine pilots from the whole of Canada. The association, in the fulfillment of its goals, appeared before the Royal Commission on Pilotage and attended its hearings throughout Canada. I am the spokesman for the association today, and have been instructed as such to submit the association's views on Bill S-23.

I have been asked to draw your attention especially to the importance of this bill. This cannot be looked at by itself. At first sight the bill seems rather unimportant, and its brevity certainly seems to give this impression. However, one must refer to the original act—an act to amend the Canada Shipping Act, 1968-1969, Statutes of Canada Chapter 53, the act this bill seeks to amend—in order to realize the importance of the bill presently before you. As was said earlier, section 7 of what I will call the original act was passed to cover certain illegalities in the pilotage system uncovered in Part I of the report of the Royal Commission on Pilotage made public in July, 1968. It is worthy of noting that these illegalities were uncovered by the commission when it reviewed the performance of the Department of Transport through the years as pilotage authority. The commission's criticism of the Department of Transport was very severe, and it must be said that ample basis for this criticism was found in the magnitude of the illegal procedures and by-laws uncovered by the commission in its report.

As soon as Part I of the report was made public, the Department of Transport hastened to convene a meeting of pilots and shipping organizations to discuss the problems arising

from the illegalities uncovered, the DOT fearing that "mavericks," either from the industry or amongst the pilots, would jeopardize the whole pilotage system by taking advantage of these illegalities. A meeting took place on July 31, 1968, and was followed by a further meeting on August 7, 1968. The close approximation of these two meetings is an indication of the rush. There was a consensus reached at these meetings, which resulted in a great part in Bill S-23, the original bill. It is obvious that at that time, although the parties agreed to cover the illegalities in question they emphasized the urgent necessity for the Government to propose new pilotage legislation which would settle the problems that brought the royal commission into existence in the first place.

Mr. Chairman and honourable senators, although our association can only, like the others who have appeared before you this morning, recognize the necessity for these illegalities to remain covered until new legislation is introduced, we cannot on the other hand in so doing act as what I would call an accomplice to the Department of Transport's inability to respond to date to the recommendations made to the Royal Commission on Pilotage.

It must be borne in mind that if the problems relating to marine pilotage were of such importance on November 30, 1962, to appoint a royal commission to consider and report upon the remedial action to take in the circumstances; if on the other hand the situation was such as to warrant urgent consultations of all concerned in July, 1968, in the light of the illegalities uncovered at that time by the royal commission; if it was also urgently necessary to enact such exceptional legislation as section 7 of what I have termed the original bill passed in 1969; and finally, if the inadequacy of the present system was so apparent at that time that all the parties agreed in 1968 that emphasis should be put to the proposed new pilotage legislation within, as was suggested by many, 12 months, what can now justify the delays that make this bill necessary?

The pilots, Mr. Chairman and honourable senators, are not to blame for this situation. They co-operated with the Department of Transport in order to permit the present system to survive during the term of the royal commission, and they hasten to respond to any request from that department for statements as to their views on various recommendations contained in the reports



published to date. Yet, on the other hand, the only semblance of proposals ever submitted by the department on the future of the pilotage service was dated February 3, 1970, and we replied on April 13, 1970, within the delay that was fixed by the proposer. We say "semblance of proposals," because, as was pointed out in our reply, the Department of Transport merely emphasized its future role in the administration of pilotage, and on the other hand completely neglected to state the objectives to be achieved in the construction of new pilotage legislation. That is to say that, after eight years of royal commission and two years of studying its reports rendered to date, the department, which has always had the responsibilities in pilotage matters, was not even capable of putting forth proposals answering the following basic questions:

What objectives are to be sought in the construction of the new pilotage system?

What should be the definition of a pilot?

When speaking of safety with respect to pilots, what are the hazards to be guarded against?

What should be the criteria for the designation of pilotage waters?

What should be the criteria of competence, experience and character in the licensing of new pilots?

What should be the standards of the pilotage services to be provided for the users of that service in relation to the volume of traffic and size of the district?

We raised many more questions in our answer in April 1970, and answers have not been obtained.

Mr. Chairman and honourable senators, if we bring these matters to your attention today it is in the hope that Parliament will use its authority to force the new heads of the Department of Transport to make use of the enormous amounts of money and efforts spent to diagnose and solve the problems of the pilotage system in Canada—problems that we realize were created long before they took up their present positions.

The pilots form a very small portion of the Canadian public, but they are conscious of the importance of their task. The fact that they are not very numerous makes them realize that in the eyes of the public it might be felt that they have already taken up too much of your time. Their main function is to protect the Canadian public against the ill effects of marine casualties, and we have had recent

incidents in Canadian waters that are an adequate illustration of the importance of this function.

All the pilots want is fair treatment, and the Royal Commission on Pilotage reports published to date have certainly borne out their contention to the effect that in the past in many cases they have not been fairly treated. They are extremely concerned by the accumulation of delays in proposing new pilotage legislation, and cannot help but be extremely apprehensive as to the true reasons behind such accumulation of delays.

Mr. Chairman and honourable senators, we pray that you realize that the Department of Transport have in the past usurped the powers of Parliament in enacting regulations in the administration of the pilotage service, thus making section 7 of the original act necessary in order to give a legal basis to enactments which have been adopted by Parliament. We ask that they not do this again through their inertia, because if a royal commission was appointed in 1962, and if section 7 of the original bill was made to expire on December 31, 1969, it is our opinion that Parliament had resolved to solve the problems of pilotage in that delay.

We say it is time that the new heads of the Department of Transport declare what solutions they intend to propose, and that they propose them.

Thank you, Mr. Chairman and honourable senators, for giving us the opportunity to express our views.

**The Chairman:** Mr. Langlois you mentioned illegalities. What do you mean by that?

**Mr. Langlois:** The Canada Shipping Act authorizes the adoption of by-laws, and certain by-laws in the administration of pilotage that were adopted could have no legal foundation in that act. In other words, they went beyond the delegated powers given to the Governor in Council.

**The Chairman:** Being a western lawyer, may I ask, what does a pilot do?

**Mr. Langlois:** What does he do?

**The Chairman:** Yes.

**Mr. Langlois:** That is a very broad question.

**The Chairman:** He comes out on a pilot boat and gets on a ship and pilots it in, is that right?

**Mr. Langlois:** He gives the local knowledge to the people otherwise responsible for the navigation of the ship. In other words, he is an adviser.

**The Chairman:** He takes it into the port and out of the port?

**Mr. Langlois:** Not only in ports, Mr. Chairman. He will also navigate the vessel in respect of waters such as the St. Lawrence River and other restricted waters in Canada. If you are from the western part of Canada, you may know that all along the British Columbia coast where we have members, where these are designated pilotage waters, pilots from that area will assist the masters and mates on the ships with their local knowledge.

**The Chairman:** How many are there in Canada?

**Mr. Langlois:** I would say 550, approximately.

**The Chairman:** Are you running short of men?

**Mr. Langlois:** Not necessarily, sir.

**The Chairman:** Are there any further questions?

**Senator Kinnear:** I thought you said that in the past the pilots were badly treated. Did you make that statement?

**Mr. Langlois:** I said, honourable senator, that in the past the royal commission on pilotage certainly...

**Senator Kinnear:** Would you give an instance? Unlike the chairman, I am from a place where I see ships every day.

**Mr. Langlois:** In order to comprehend fully the extent of my statement, one must go back to the circumstances that preceded the forming of the Royal Commission on Pilotage. The relationship between the industry and the pilots was extremely difficult and it certainly was not enhanced by the presence of the Department of Transport. There were conditions of work, remuneration, appointment of new pilots, licensing of pilots, workloads, and so on.

**Senator Kinnear:** I know quite a few pilots and I did not think they were very dissatisfied.

**Mr. Langlois:** They are dissatisfied in many parts of the country.

**Senator Kinnear:** What about the treatment today?

**Mr. Langlois:** I think the Royal Commission on Pilotage—and I am expressing a personal opinion—did something to help cool the problem, because it brought the industry and the pilots together and they both expressed their problems openly to the commission and one realized the problems of the other. It seems at present that the big problem is always the middle man, which is the department in this case. There are negotiations, for example, of tariffs—the industry and the pilots, the main people concerned, what are they going to pay? They agree. Yet it takes three or four months for these agreements to find their way into regulations and by-laws. In the meantime, the pilots are not getting the salary raises which have been agreed by the industries. This certainly does not help and this is why they feel they have not been properly treated in many instances.

**The Chairman:** In other words, if you make a contract with an industry as to certain conditions of work and salary or remuneration, does that have to be approved by the department and put in the form of regulations?

**Mr. Langlois:** Yes sir. This is the case. This is one of the things pointed out by the royal commission. The royal commission stated that under the Canada Shipping Act as it was originally conceived the pilot was envisaged as being a private contractor and should be free to make whatever arrangements he felt were proper with the ship he was serving. But through the years, the Department of Transport and the Government started to control pilotage more and more and introduced more and more regulations restricting the freedom of contract between the pilots and the industry. These are the by-laws in many cases that were declared ultra vires and invalid by the Royal Commission on Pilotage.

**The Chairman:** Are there any further questions. Thank you very much. Honourable senators, we have a suggestion made by the Canada Shipping Federation of Canada that this act be amended to expire December 31, 1970. Is there any further discussion on that suggestion?

**Senator Flynn:** I think we should hear from Mr. Fortier to find out whether he would be in agreement with this suggestion.

**The Chairman:** Mr. Fortier.

**Mr. Fortier:** Mr. Chairman and honourable senators, the officers of the Department of Transport, the Marine Services Division of the Department of Transport, hope to have legislation ready before the end of 1970. However, I must point out that the legislative program for this session is closed and that the amendment to the pilotage provisions of the Shipping Act are included in the program for next year, the next session.

**Senator Aseltine:** When?

**Mr. Fortier:** This session will close early in 1971, I understand, and the new session, the session of 1971 will open immediately after.

**Senator Flynn:** You know more than we do.

**Senator Aseltine:** Who told you that?

**Senator Smith:** Thank you for the information.

**Senator Langlois:** It is a very well informed guess that you make, Mr. Fortier?

**Senator Flynn:** Mr. Fortier, the enactment of the 1969 read "on the later of the 31st December 1969 or such date being not later than twelve months after the 31st day of December 1969." I understand that the department did not take advantage of the full year. There was a proclamation fixing the day of the 30th June instead of December 31st, 1970, as he was entitled to do.

**Mr. Fortier:** We were entitled to do it, yes, senator. It was not done because at the time it was the firm intention to have legislation ready. However, Mr. Stead, the Assistant Deputy Minister, Marine, and his officers, came to the conclusion not only to implement the report of the Royal Commission, but to revamp part 6 of the Canada Shipping Act which deals with pilotage. It was decided to try to enact legislation that would decontrol pilotage from the Department of Transport and give more governing powers and duties to the various associations of pilots, and this proposal is, I understand, from Captain Grace who represents the Marine Services Division of the Department still under discussion.

**Senator Flynn:** What would be your reaction, Mr. Fortier, to an amendment to the Act which would read as follows:

On the later of the of (a) 31st December, 1969, or (b) such a day not later than June 30th, 1971, as may be fixed by proclamation of the Governor in Council issued before that date, or such sooner

day as this section is repealed, this section shall cease to have any force or effect.

In other words, the amendment would be an incitement to the Government and the Department to try to bring in legislation and have it adopted before December 31st, 1970? It would give you the same leeway, except that you would be pressed by the date of December 31st, and you would have to ask the Government for a proclamation if you were not ready before the end of this year.

**Senator Langlois:** What you are suggesting, Senator Flynn, is a wording similar to that contained in the original bill.

**Senator Flynn:** Yes, *mutatis mutandis*.

**Mr. Fortier:** I cannot see that the Department would have any objection. The only thing I would like to say is that we have been told by the Cabinet that the legislative program for the 1970 session is closed.

**Senator Flynn:** Yes, you have been told that, but I think as far as Parliament is concerned, we have to push on the Government—not only on you or the Department, but on the Government. I mean by that that I would not assess the responsibility only on the Department or its officials. It is the responsibility of the Government to bring in legislation, and if we were to adopt this thing, well, the Government would have to take the responsibility of a proclamation to use the additional delay of six months from January 1st, 1971 to June 30th, 1971. And in this case I think if nothing is done before that ultimate date, the complaints that we have heard today would be doubly and triply justified.

Therefore, I move, if I have a seconder...

That section 1 be amended by replacing the words between brackets there as follows:

(3) on the later of (a) the 31st day of December, 1970, or, (b) such day, not later than six months after the 31st day of December, 1970, as may be fixed by a proclamation of the Governor in Council issued before that date, or such sooner day as this section is repealed, this section shall cease to have any force or effect.

**The Chairman:** Senator Langlois seconds that.

**Senator Flynn:** I am not asking you to give us your blessing on this.

**Senator Smith:** Mr. Chairman, may I ask if anyone has any copies of what Senator Flynn has just read out?

**Senator Flynn:** I am not changing the whole bill. I am using the same device we used last year, except I am changing the date.

**Senator Bourget:** Mr. Hopkins will read it.

**Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel:** Subsection (3), which is here altered, would now read, as I understand the suggested amendment, as follows:

(3) On the later of

- (a) the 31st day of December, 1970, or
- (b) such day, not later than six months after the 31st day of December, 1970, as may be fixed by a proclamation of the Governor in Council issued before that date,

or such sooner day as this section is repealed, this section shall cease to have any force or effect.

That parallels precisely the amendment Parliament adopted in 1969.

**The Chairman:** In other words, as I understand it, Senator Flynn, you are amending the proposed bill here to cover the expiry of these licences to pilots and apprentices, to expire on either the 31st day of December, 1970, or such later date, not later than six months after that date, as may be fixed by proclamation. In other words, the effect is to say to the department to get busy and introduce regulations and by-laws or legislation or a proclamation.

**Senator Langlois:** In other words, we are really giving a gentle push to the department.

**Senator Flynn:** Or to the Government.

**The Chairman:** I would say "a big slap".

**Senator Flynn:** I wanted to be fair to the officials of the department, because Mr. Fortier has explained that he was told by the Government that their legislative program was full. It seems to me the Government may find a way to introduce legislation soon.

**Senator Langlois:** You do not have to apologize. It is your role to criticize the Government.

**Senator Asetline:** We will have a new session next fall, will we not?

**Senator Smith:** I would like to hear Mr. Fortier make a statement on this proposal before we vote on it.

**Mr. Fortier:** Essentially, it gives us what we are seeking by this bill, subject to the condition that the Minister of Transport must, before the end of 1970, if our legislation is not ready, go back to the Government to seek a six-months' extension.

**Senator Langlois:** And explain the delay to the Government.

**The Chairman:** You have heard the proposed amendment. Are there any further questions or discussion? All those in favour? Opposed?

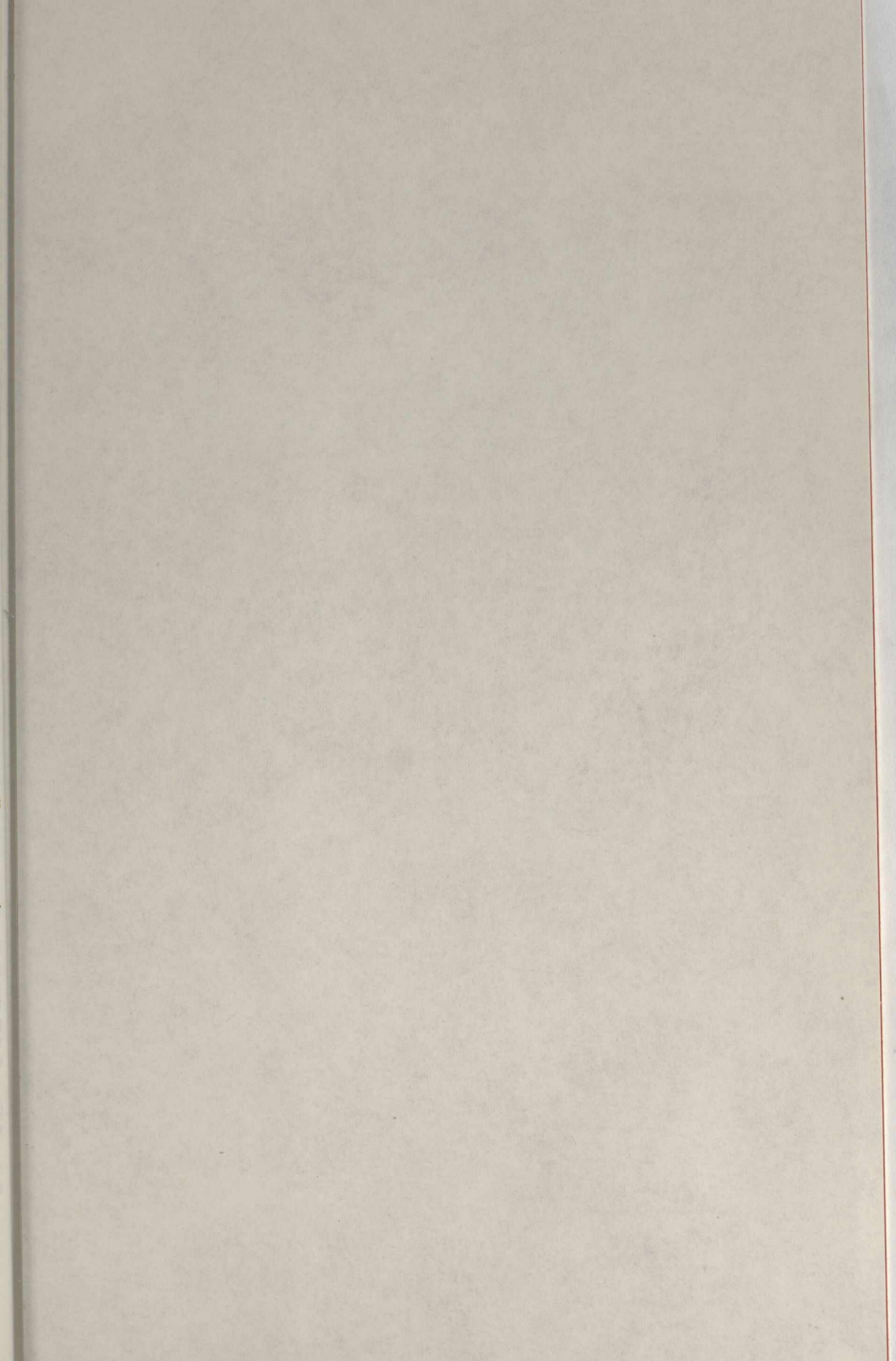
**Hon. Senators:** Carried.

**The Chairman:** May I report the bill, as amended?

**Hon. Senators:** Agreed.

The committee adjourned.

Queen's Printer for Canada, Ottawa, 1970



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Senator Flynn: Or to the Government.  
The Chairman: I would say "a big day".

Senator Flynn: I wanted to be fair to the officials of the department, because Mr. Foran has explained that he was told by the Government that their legislative program was full. It seems to me the Government may find a way to introduce legislation soon.

Senator Langdon: You do not have to apologize. It is your right to criticize the Government.

Senator Langdon: It will have a new version and that will not?

Senator Langdon: I would like to hear Mr. Foran make a statement on this proposal before we vote on it.

Mr. Foran: Essentially, it gives us what we are asking for this bill, subject to the condition that the Minister of Transport must, before the end of 1970, if our legislation is not ready, go back to the Government to seek a six-month extension.

Senator Langdon: And explain the delay to the Government.

The Chairman: You have heard the proposed amendment. Are there any further questions or discussion? All those in favour? Opposed?

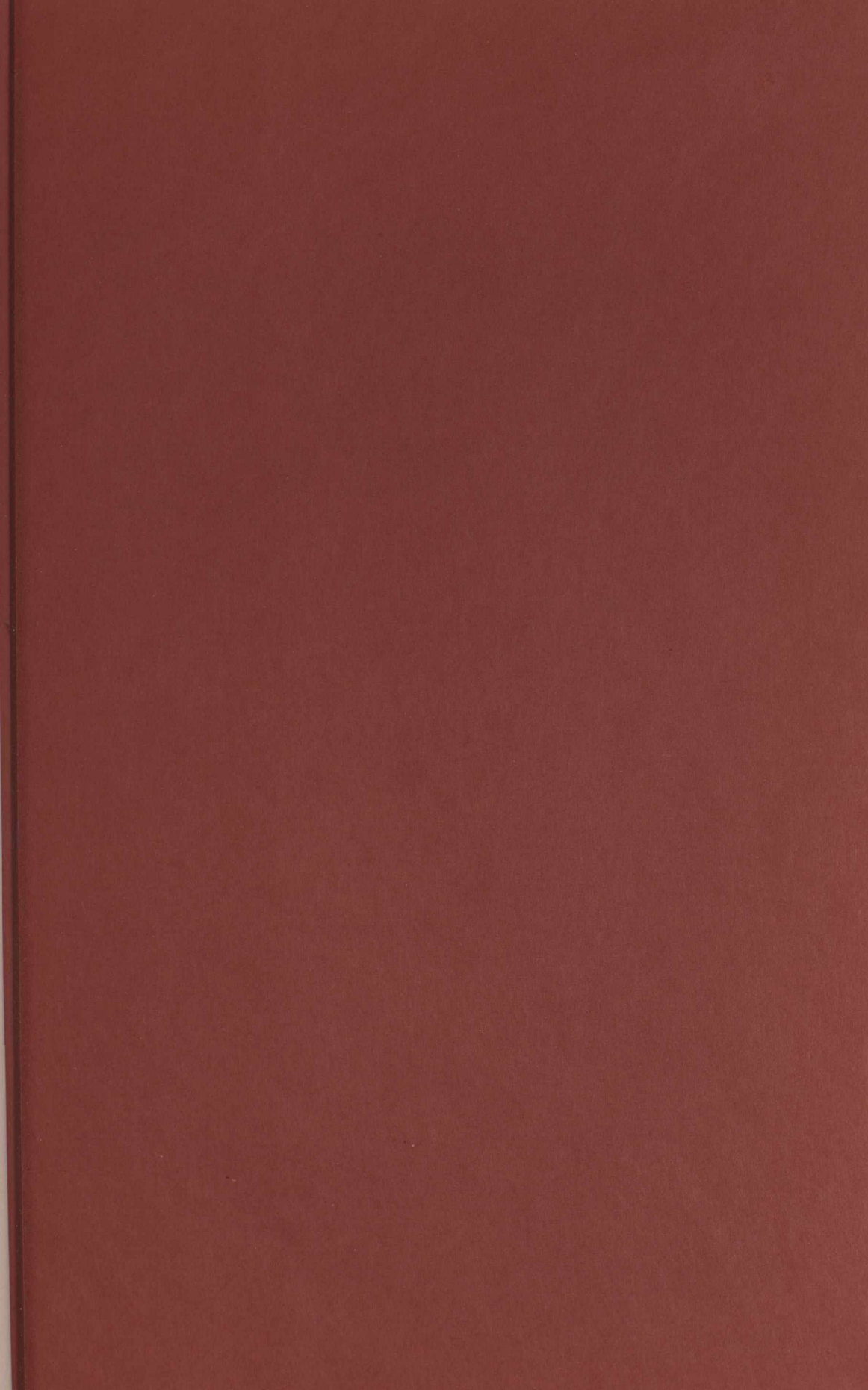
Hon. Senator: Carried.

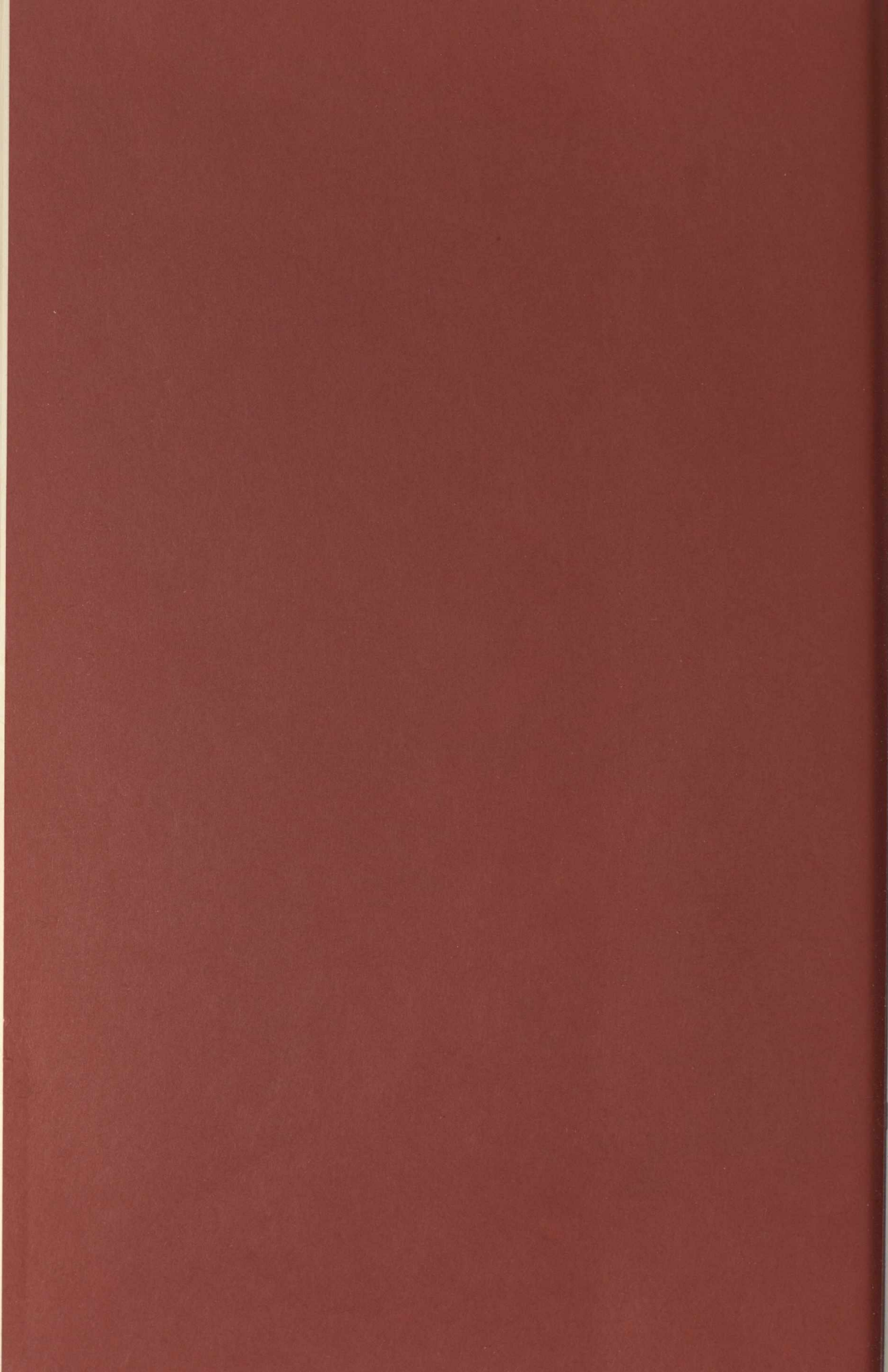
The Chairman: May I report the bill as amended?

Hon. Senator: Agreed.

The amendment adopted.

23









Second Session—Twenty-eighth Parliament

1969-70

# THE SENATE OF CANADA

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STANDING SENATE COMMITTEE

ON

# TRANSPORT AND COMMUNICATIONS

The Honourable J. CAMPBELL HAIG, *Chairman*

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## INDEX

### OF PROCEEDINGS

(Issues Nos. 1 to 4 inclusive)

Prepared

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INDEX

OF PROCEEDINGS

(Issues Nos. 1 to 4 inclusive)

## INDEX

### Air Canada

- Aircraft, new 1:24, 1:25
- Annual report 1:24
- Borrowings 1:22-24
- CNR investment 1:23
- New York terminal 1:25

### Bergeron, Gilles, Assistant Deputy Minister, Operations, Communications Department

- Railway Act, an Act to Amend, Bill C-11, explanation 2:7, 2:8

### Bills

- C-7 —Canadian National Railways Financing and Guarantee Act, 1969 1:10-28
- C-11 —An Act to amend the Railway Act 2:6-9
- C-137—Motor Vehicle Safety Act 3:6-15
- S-17 —An Act to incorporate ICG Transmission Limited 1:6-10
- S-23 —An Act to postpone the expiration of certain provisions of an Act to amend the Canada Shipping Act 4:7-22

### Brisset, Jean, Counsel, Shipping Federation of Canada

- Canada Shipping Act, Bill S-23, comments 4:9-11

### Burke, J. J., Chamber of Shipping of British Columbia

- Canada Shipping Act, Bill S-23, comments 4:12

### Campbell, Dr. Gordon, Roads and Motor Vehicle Safety Branch, Transport Department

- Motor Vehicle Safety Act, Bill C-137, provisions 3:8

### Canada Shipping Act, an Act to Postpone Expiration of Certain Provisions of, an Act to Amend, Bill S-23

- Amendment "date, section repeal" 4:21, 4:22
- Comments

- Canadian Merchant Service Guild 4:18, 4:19
- Chamber of Shipping of British Columbia 4:12
- Dominion Marine Association 4:12, 4:13
- Federation of the St. Lawrence River Pilots 4:16, 4:17
- Shipping Federation of Canada 4:9-12

- Pilotage by-laws, pilots' licences, validity 4:9

- Purpose 4:9
- Reported to the Senate as amended 4:7, 4:22

### Canadian Merchant Service Guild

- Canada Shipping Act, Bill S-23, comments 4:18, 4:19

### Canadian National Railways Financing and Guarantee Act, 1969, Bill C-7

- Air Canada 1:22
- Authorization of Parliament 1:13-17
- Borrowings 1:21, 1:22, 1:25
- Expenditures, branches 1:17, 1:19
- Monies provided 1:11, 1:12, 1:17
- Purpose 1:11, 1:13
- Reported to the Senate without amendment 1:6, 1:28
- Title misleading 1:18

### Canadian National Railways System

- Air Canada investment 1:23
- Branch lines 1:19, 1:20
- Companies in system 1:25, 1:26
- Construction contracts 1:20, 1:21

### Chamber of Shipping of British Columbia

- Canada Shipping Act, Bill S-23, comments 4:12

### Computer Sciences Canada Limited

- CN/CP majority interest 2:7

### Cooper, G.M., General Solicitor, Canadian National Railways

- Canadian National Railways Financing and Guarantee Act, 1969, Bill C-7, purpose 1:11

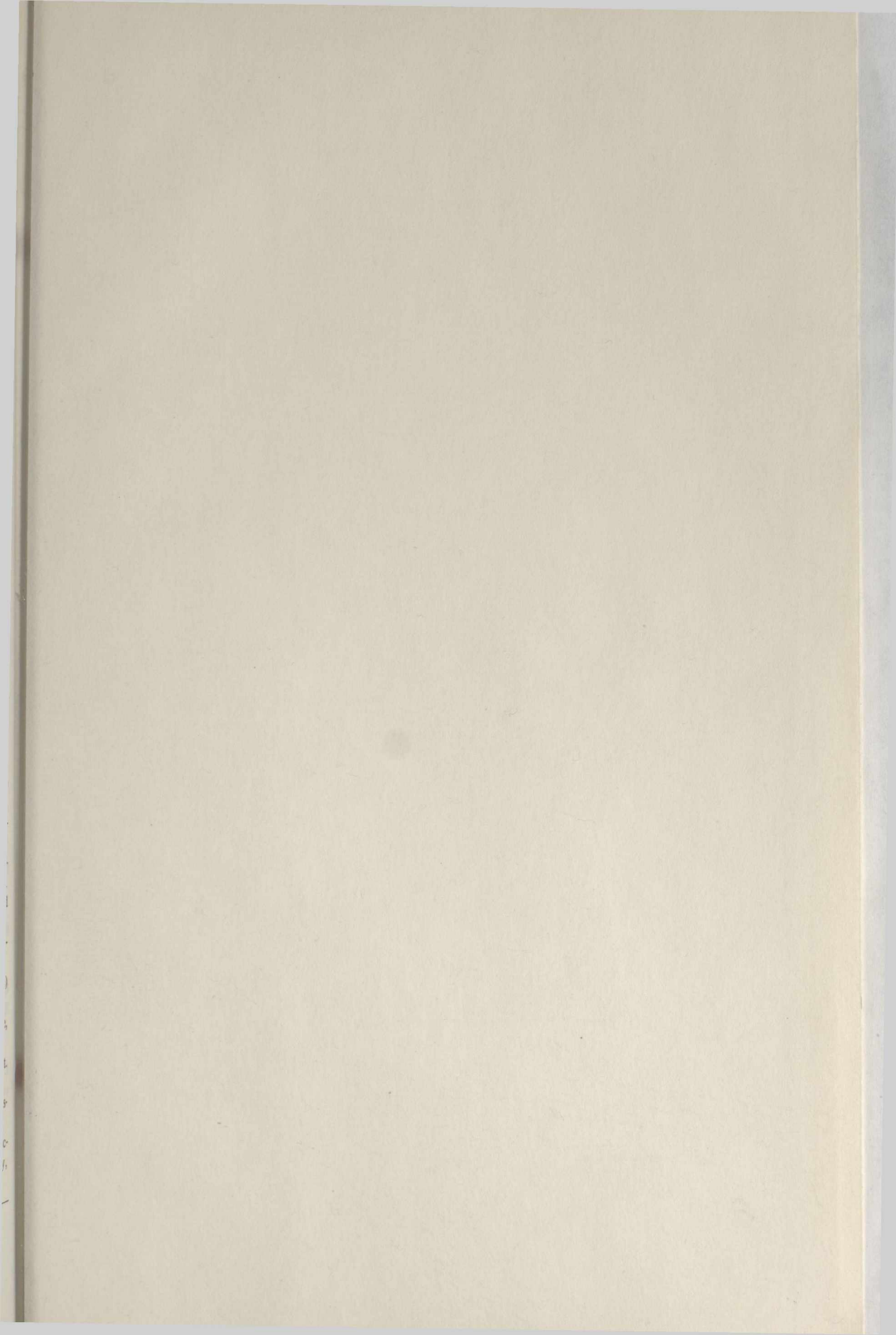
### Dominion Marine Association

- Canada Shipping Act, Bill S-23, comments 4:12, 4:13

### Federation of the St. Lawrence River Pilots

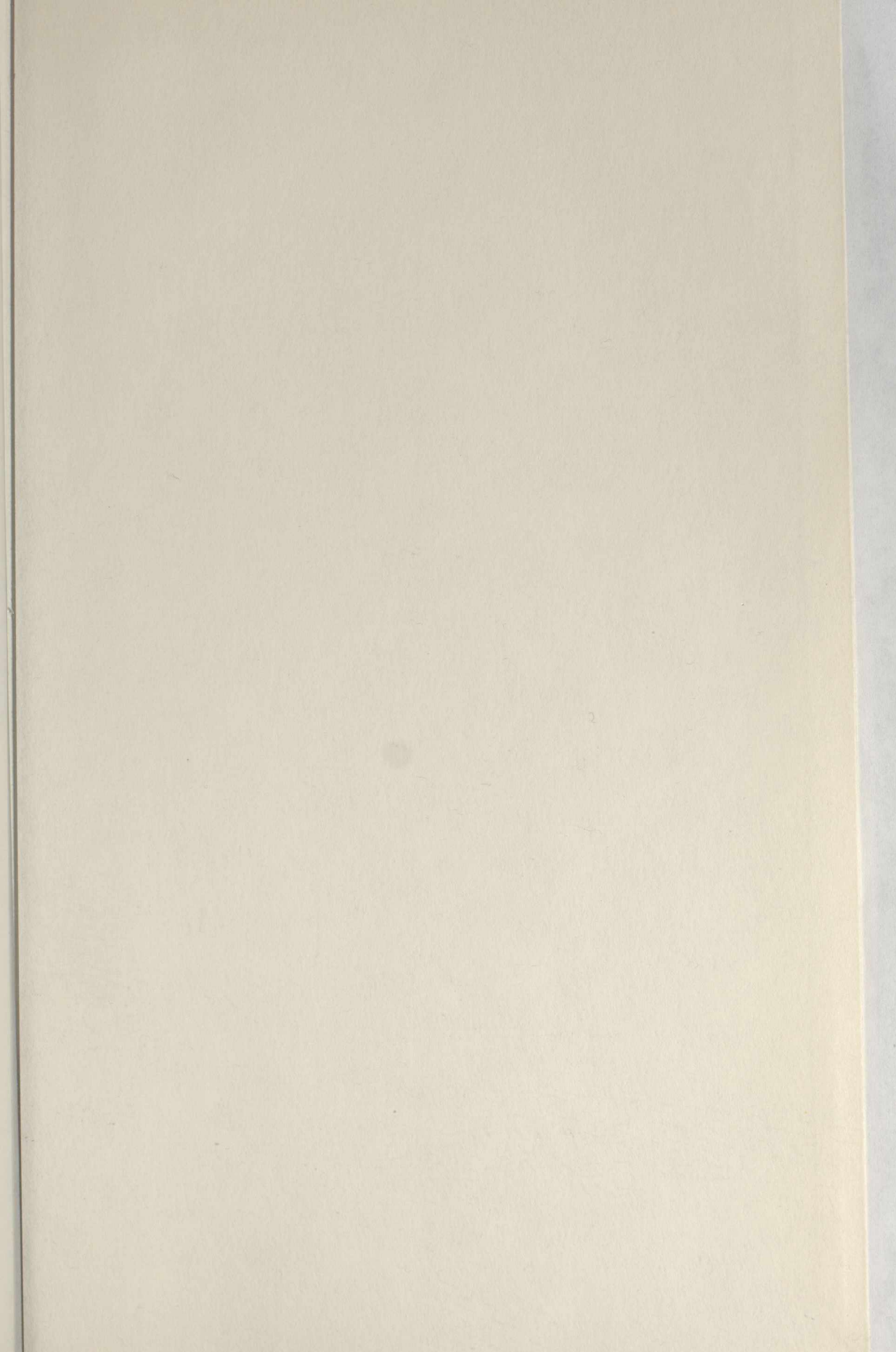
- Canada Shipping Act, Bill S-23, comments 4:16, 4:17

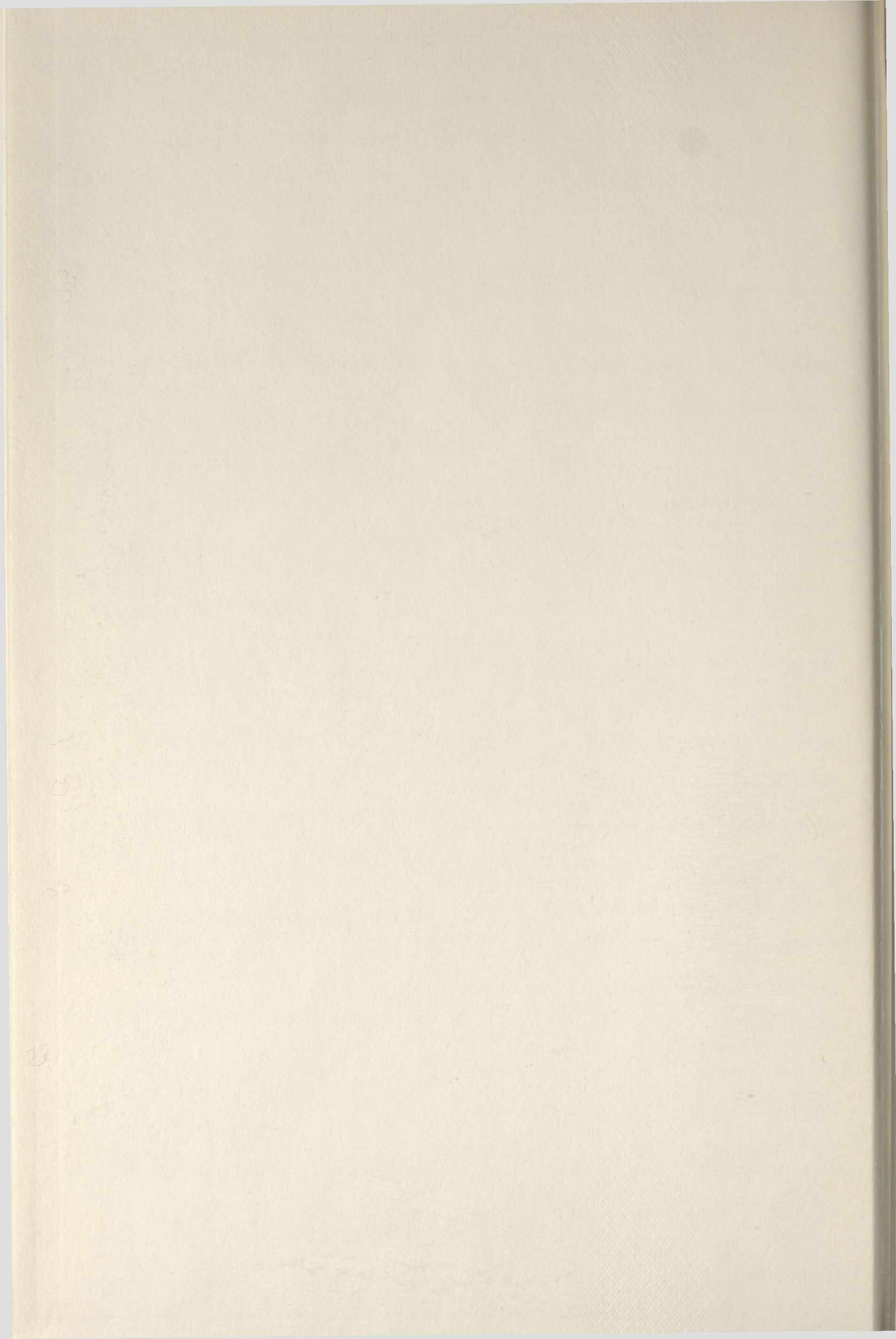
- Fortier, Jacques, Q.C., Counsel, Transport Department**  
 Canada Shipping Act, Bill S-23, purpose 4:9  
 Motor Vehicle Safety Act, Bill C-137, provisions 3:7
- Graham, R.G., Chairman, Inter City Gas Limited**  
 Transmission line, service 1:8-10
- Hurcomb, Captain, P.R., Dominion Marine Association**  
 Canada Shipping Act, Bill S-23, comments 4:12, 4:13
- ICG Transmission Limited**  
 Canadian control 1:10  
 Inter City Gas Limited, parent company 1:7  
 Revenue 1:10  
 Transmission line, service 1:8-10
- ICG Transmission Limited, an Act to Incorporate, Bill S-17**  
 Purpose 1:7, 1:8  
 Reported to the Senate without amendment 1:6, 1:10
- Inter City Gas Limited**  
 Parent company of ICG Transmission Limited 1:7
- Laing, H.D., Assistant Vice-President (Finance) Air Canada**  
 Air Canada report 1:24
- Langlois, Raynold, National Pilots Committee, Canadian Merchant Service Guild**  
 Canada Shipping Act, Bill S-23, comments 4:18, 4:19
- Lortie, Alain, Legal Adviser, Federation of the St. Lawrence River Pilots**  
 Canada Shipping Act, Bill S-23, comments 4:16, 4:17
- Motor Vehicle Safety Act, Bill C-137**  
 Air pollution 3:13  
 Fines 3:14, 3:15  
 Identification, serial number 3:9, 3:15  
 Motor Vehicle, definition 3:13, 3:14  
 Provincial agreement 3:9  
 Provisions 3:6-9, 3:11, 3:13-15  
 Regulations 3:9-13  
 Reported to the Senate without amendment 3:6, 3:15
- Railway Act, an Act to Amend, Bill C-11**  
 Purpose 2:7, 2:8  
 Reported to the Senate without amendment 2:6, 2:9
- Shipping Federation of Canada**  
 Canada Shipping Act, Bill S-23, comments 4:9-12
- Sweatman, Alan, Legal Counsel, ICG Transmission Limited**  
 ICG Transmission Limited Act, Bill S-17, purpose 1:7
- Vaughan, R. T., Q. C., Vice-president and Secretary, Canadian National Railways; Secretary, Air Canada**  
 Canadian National Railways Financing and Guarantee Act, 1969, Bill C-7-1:11
- Witnesses**  
 -Bergeron, Gilles, Assistant Deputy Minister, Operations, Communications Department 2:7-9  
 -Brisset, Jean, Counsel, Shipping Federation of Canada 4:9-12  
 -Burke, J. J., Chamber of Shipping of British Columbia 4:12  
 -Campbell, Dr. Gordon, Roads and Motor Vehicle Safety Branch, Transport Department 3:8-15  
 -Cooper, G. M., General Solicitor, Canadian National Railways 1:11-24  
 -Fortier, Jacques, Q. C., Counsel, Transport Department 3:7, 3:8, 3:10, 3:14, 3:15, 4:9, 4:21  
 -Graham, R. G., Chairman, Inter City Gas Limited 1:8-10  
 -Hurcomb, Captain P. R., Dominion Marine Association 4:12-16  
 -Laing, H. D., Assistant Vice-President (Finance) Air Canada 1:24, 1:25  
 -Langlois, Raynold, National Pilots Committee, Canadian Merchant Service Guild 4:18-20  
 -Lortie, Alain, Legal Adviser, Federation of St. Lawrence River Pilots 4:16-18  
 -Sweatman, Alan, Legal Counsel, ICG Transmission Limited 1:7-9  
 -Vaughan, R. T., Q. C., Vice-President and Secretary, Canadian National Railways; Secretary, Air Canada 1:11-28



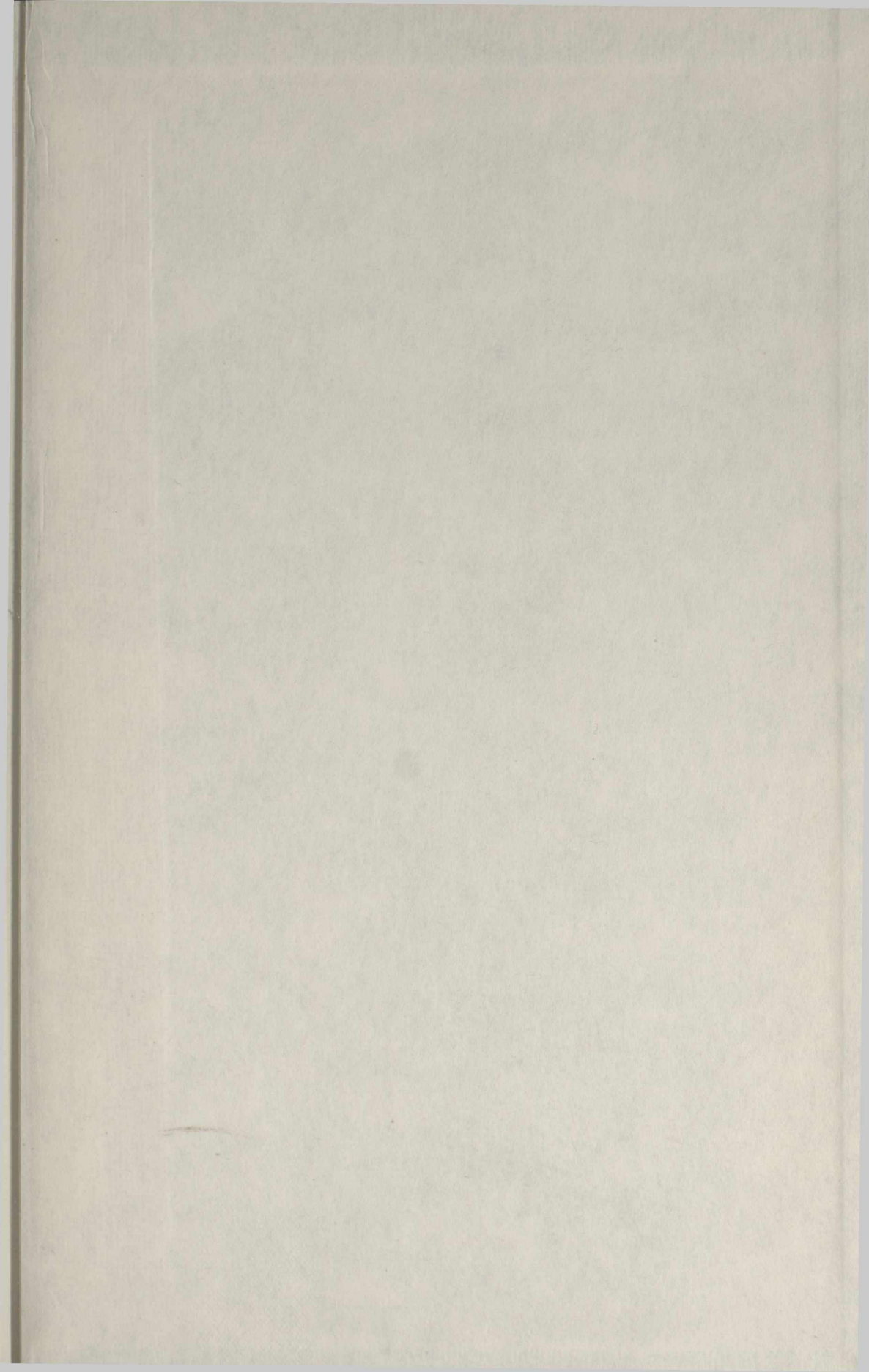
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<p>1. <i>...</i></p> <p>2. <i>...</i></p>	<p>...</p> <p>...</p>
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<p>9. <i>...</i></p> <p>10. <i>...</i></p>	<p>...</p> <p>...</p>
<p>11. <i>...</i></p> <p>12. <i>...</i></p>	<p>...</p> <p>...</p>
<p>13. <i>...</i></p> <p>14. <i>...</i></p>	<p>...</p> <p>...</p>
<p>15. <i>...</i></p> <p>16. <i>...</i></p>	<p>...</p> <p>...</p>
<p>17. <i>...</i></p> <p>18. <i>...</i></p>	<p>...</p> <p>...</p>









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